

**In the Name of the People**

**Presidency of the Republic**

Based on the enactments of the Council of Representatives as ratified by the President of the Republic, and in accordance with the provisions of Article 61 (1) and Article 73 (3) of the Constitution.

The Following Law is passed:

**Law No. (39) of 2015**

**Anti-Money Laundering and Counter-Terrorism Financing Law**

**Section 1**

**Definitions**

**Article 1-** For the purposes of this Law, the following expressions shall have the meaning indicated next to them:

1. **The Bank:** The Central Bank of Iraq
2. **The Governor:** The Governor of the Central Bank of Iraq
3. **The Council:** The Anti-Money Laundering and Counter-Terrorism Financing Council.
4. **The Office:** The Anti-Money Laundering and Counter-Financing of Terrorism Office.
5. **Funds:** Assets and properties regardless of the way acquired, such as local currency, foreign currencies, financial and commercial instruments, deposits, current accounts, financial investments, deeds and documents in any form including electronic and digital, precious stones and metals and any asset with financial value such as immovable or movable assets and rights, interests and profit vested therein, whether inside or outside Iraq, and any other type of funds approved by the Council for the purposes of the present Law, in a statement published in the Official Gazette.
6. **Proceeds of Crime:** Funds derived or obtained, directly or indirectly, wholly or partly, through the commission of a predicate offense.
7. **Predicate Offense:** Any crime under Iraqi Law be it a felony or a misdemeanor.
8. **Financial Institution:** Any natural or legal person exercising one or more of the following activities or transactions for or on behalf of a customer:

- a. Acceptance of deposits and other repayable funds from the public, including private banking services;
- b. Lending;
- c. Financial leasing;
- d. Money or value transfer services;
- e. Issuance and managing means of payment such as credit and debit cards, bills, traveler's checks, electronic money...;
- f. Financial guarantees and commitments;
- g. Trading in the following:
  - (1) money market instruments including checks, bills, and certificates of deposit;
  - (2) Financial derivatives;
  - (3) foreign exchange;
  - (4) exchange, interest rate and financial index instruments;
  - (5) negotiable securities;
  - (6) Commodity futures trading;
- h. Participation in securities issuing, and provision of financial services related to such issuing;
- i. Individual and collective portfolio management;
- j. Safekeeping and administration of cash or liquid securities on behalf of other persons;
- k. Investing, administering or managing funds on behalf of other persons;
- l. Concluding life insurance contracts and other types of investment related insurance as a provider or broker of the insurance contract;
- m. Exchange of cash or banknotes
- n. Any other activity determined by a decision of the Council of Ministers, based on the proposal of the Council, and published in the official gazette.

**9. Designated Non-Financial Businesses and Professions (DNFBPs), including:**

- a. Real estate agents whenever they initiate transactions related to real estate selling or purchasing, or both, for a customer;
- b. Jewelers and traders in precious metals and stones when engaging in any cash transaction of a value determined by a statement issued by the Chairman of the Council and published in the Official Gazette;
- c. Lawyers or accountants, practicing as independent professionals or as partners or employees in specialized firms when they prepare, execute, or conduct transactions for their customers in relation to any of the following activities:
  - (1) Purchase or sale of real estate;

- (2) Management of a customer's funds, securities or other assets;
  - (3) Administration of bank accounts, saving accounts or securities accounts;
  - (4) Organization of subscriptions in the establishment, operation, or management of companies;
  - (5) Establishment, operation or management of legal persons or legal arrangements;
  - (6) Buying or selling companies.
- d. Company and Trust Service Providers when they prepare for or carry out transactions for a customer on a commercial basis. These services include:
- (1) Acting as a formation agent of legal persons;
  - (2) Acting as or arranging for another person to act as a commissioned director or partner in a partnership company, or in a similar position in legal persons.
  - (3) Providing a registered office, business address, and correspondence, postal or administrative address for a legal person or legal arrangement.
  - (4) Acting as or arranging for another person to act as trustee or an equivalent function for a trust fund or any other legal arrangement.
  - (5) Acting as, or arranging for another person to act as a nominee shareholder; or
  - (6) Any other activity or profession added by virtue of a Council of Ministers' Resolution based on the Council's suggestion, and published in the official gazette.

**10. Terrorism Financing:** Any act committed by a person who, by any means, directly or indirectly, willfully, collects or provides funds, or attempts to do so from a legal or illegal source, with the knowledge that they will be used or with the intent that they should be used, in full or in part, in order to carry out a terrorist act or for the benefit of a terrorist organization or a terrorist. The act shall be considered terrorism financing regardless of the occurrence of the crime and of the country where this act occurs or where the terrorist or terrorist organization exists.

**11. Terrorist Act,** includes:

- a- Any act criminalized as such in the Iraqi law.
- b- Any act constituting a crime according to the definitions stipulated in the Convention for the Suppression of Unlawful Seizure of Aircrafts (1970), the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971), the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons (1973), the Convention on the Punishment of Crimes against Internationally Protected Persons (1974), the International Convention against the Taking of Hostages (1979), the Convention on

the Physical Protection of Nuclear Material (1980), the Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988), the convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988), the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988), the International Convention for the Suppression of Terrorist Bombings (1997) or any other international convention or protocol concerning terrorism financing to which the Republic of Iraq is signatory;

- c- Any act intended to cause death or an attack on the safety of a civilian, or any other person not taking part in the hostilities in a situation of armed conflict, when the purpose of such act is to cause fear among a population, or to compel a Government or an international organization to do or abstain from doing any act;

**12. Terrorist:** Any natural person who commits a terrorist act as a perpetrator or an accomplice, or a person who incites others to commit a terrorist act even if the act is not perpetrated, colludes or agrees on the commission of such act, in any means , directly or indirectly, or attempts to commit such act.

**13. Terrorist Organization:** An agreement between two or more persons to commit terrorist acts, by any means, directly or indirectly, whether specified or unspecified acts, acts providing or facilitating the perpetration of the same, whenever the agreement is organized, even if at its beginning, continuous or for short period, whether the crime did or did not occur, or any group of terrorists committing any of the following acts:

- a- Intentionally perpetrating or attempting to perpetrate terrorist acts, by any means, directly or indirectly.
- b- Acting as an accomplice in a terrorist act
- c- Organizing or directing others to commit a terrorist act
- d- Contributing intentionally to the commission of a terrorist act with a group of persons acting with a common purpose, with the aim of furthering the terrorist act or with the knowledge of the intent of the group to commit the terrorist act.

**14. Beneficial Owner:** The natural person who ultimately owns or exercises direct or indirect control over a customer or the natural person on whose behalf a transaction is being conducted. It also includes those persons who ultimately exercise effective control over a legal person or legal arrangement.

- 15. Seizure:** The temporary prohibition of movement, transfer, exchange or use of funds or proceeds of crime, based on a decision from the competent Court or authority, for the period of the decision's validity.
- 16. Freezing:** The prohibition of transfer, use or movement of funds, instruments or other instrumentalities belonging to designated persons or entities or those controlling them, based on a decision from the competent court, administrative body or the Committee for the freezing of terrorist assets, pursuant to the freezing mechanism based on actions taken by the UN Security Council or as per the Security Council's resolutions throughout the period of the resolution's validity.
- 17. Supervisory Authorities:** An authority with the responsibility to license, or authorize, in order to supervise and ensure compliance of FIs and DNFBPs with AML/CFT requirements. These include the Ministry of Trade, Ministry of Industry, Central Bank of Iraq, Iraqi Securities Commission, Insurance Diwan and any other body which competence as a Supervisory Authority is stipulated in a resolution of the Council of Minister based on the suggestion of the Council and published in the official gazette.
- 18. Suspicious Transaction:** Any transaction thought to be carried out wholly or partially with proceeds of a predicate offense.
- 19. Legal Arrangements:** a relationship established pursuant to a contract between two or more parties that does not result in the emergence of a legal person, such as trust funds or other similar arrangements.
- 20. Shell Bank:** a bank that is incorporated or licensed in a country or jurisdiction in which it has no physical presence and that is not affiliated with a regulated financial group subject to effective banking regulation and supervision.
- 21. Financial Group:** Any group comprising a parent company or its subsidiaries or any legal person that exercises control over its branches and subsidiaries.
- 22. Customer:** any person that undertakes or attempts to undertake any of the following with a financial institution or a DNFBP:
- a. Any person for whom a transaction, business relationship or account is arranged, opened or undertaken.

- b. Any signatory to a transaction, business relationship or account.
- c. Any person to whom an account, rights or obligations under a transaction have been assigned or transferred.
- d. Any person who is authorized to conduct a transaction, or to control a business relationship or an account.

**23. Occasional Customer:** A customer who does not have a business relationship that is expected to continue with an institution.

**24. Business Relationship:** the relationship arising between the FI or DNFBP and its customer connected with the activities and services offered thereto, and which is expected to have an element of duration.

**25. Bearer Negotiable Instruments (BNIs):** monetary instruments in bearer form such as travelers checks, negotiable instruments including checks, promissory notes and money orders that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery.

## **Section 2**

### **Money Laundering Crime**

**Article 2-** Any person who commits one of the following acts shall be considered a perpetrator of a Money Laundering Crime:

**First:** Converting, transferring or substituting funds by a person who knows or should have known that such funds are proceeds of crime, with the purpose of disguising or concealing the illicit origin thereof, or helping the perpetrator or accomplice of such offense or the predicate offense evade legal consequences for his/her acts;

**Second:** Disguising or concealing the true nature, source, location, status, disposition, movement or ownership of such funds, or rights pertaining thereto by a person who knows or should have known that such funds are proceeds of crime.

**Third:** Acquiring, possessing or using funds by a person who knows or should have known that such funds are proceeds of crime.

**Article 3-** Conviction of the accused of committing a money laundering offense shall not require a ruling regarding the predicate offense from which the funds were obtained.

**Article 4-** Conviction of a person for any predicate offense shall not preclude conviction of that same person for a money laundering offense. Provisions on multiple crimes and sanctioning from the Penal Code shall apply.

### **Section 3**

#### **The Anti-Money Laundering and Counter-Terrorism Financing Council**

##### **Article 5-**

**First:** A council under the name of (Anti-Money Laundering and Counter-Terrorism Financing Council) shall be established in the Bank. It shall be composed of:

- a- The Governor Chairman
- b- Director General of the AML Office Member and Deputy Chairman
- c- A representative of each of the following entities, holding a position not inferior to Director General :

##### Members

- 1- Ministry of Interior.
- 2- Ministry of Finance.
- 3- Ministry of Justice.
- 4- Ministry of Trade.
- 5- Secretariat General of the Council of Ministers.
- 6- Ministry of Foreign Affairs.
- 7- National Intelligence Department.
- 8- National Security Department.
- 9- Securities Commission.
- 10-Counter-Terrorism Department.
- d- A judge, classified as a 3<sup>rd</sup> grade judge as a minimum, to be nominated by the Supreme Judiciary Council.

**Second:** The Deputy Chairman shall replace the Chairman in his absence.

**Third:** The Chairman of the Council may invite anyone he deems fit to the Council's meetings for consultation purposes, without granting such person the right to vote.

**Fourth:** The Governor shall nominate a rapporteur for the Council, who notifies members of session dates and agendas, records minutes, writes correspondence, communicates the same to relevant bodies and follows up on the enforcement of the Council's decisions.

**Article 6-** The Council's Chairman shall issue the bylaws specifying the Council's course of action, sessions, quorum and any other matters.

**Article 7-** The Council shall have the following mandate:

**First:** Drawing, developing and following up on the implementation of policies and regime for AML/CFT and counter-financing of the Proliferation of Weapons of Mass Destruction.

**Second:** Proposing AML/CFT-related draft laws, regulations and instructions.

**Third:** Developing, following up on and disseminating means and standards of uncovering ML/FT typologies.

**Fourth:** Issuing regulations including thresholds on cash and negotiable instruments, for the purpose of covering them by the ML/FT monitoring efforts, and publishing the same in the official gazette.

**Fifth:** Drawing and setting up suitable training programs for all personnel working in AML/CFT.

**Sixth:** Identifying and assessing money laundering and terrorism financing risks in Iraq and regularly updating such information.

**Seventh:** Facilitating the exchange of information and coordination between relevant parties.

**Eighth:** Studying the reports submitted by the Office on AML activities in the Republic of Iraq.

**Ninth:** Following up on international developments in the field of AML/CFT, and proposing required actions in this respect.

**Tenth:** Submitting reports and providing consultancy to the Government on money laundering and terrorism financing.

- Eleventh:** Managing the record keeping of statistics submitted by the Office and other competent authorities on information related to money laundering and terrorism financing in the Republic of Iraq.
- Twelfth:** Taking active counter-measures, proportional to the amount of risk against countries that do not apply international standards of AML/CFT.
- Thirteenth:** Following up on the implementation of AML/CFT policies by competent authorities.
- Fourteenth:** Submitting an annual report to the Cabinet on the Council's activities and efforts, national, regional and international developments in the AML/CFT field, and the Council's proposals with respect to enhancing oversight systems.
- Fifteenth:** Following up on the enforcement of penalties imposed for non-compliance with UNSCRs that relate to TF and the suppression and disruption of proliferation of weapons of mass destruction.
- Sixteenth:** Providing recommendations to the Cabinet on binding financial activities and DNFBPs to implement requirements stipulated in the present Law.
- Seventeenth:** Proposing the designation of competent supervisory authorities for the purposes of implementing the provisions of the present Law.

## Section 4

### The Anti-Money Laundering and Counter-Financing of Terrorism Office

#### Article 8-

**First:** An Office known as the Anti-Money Laundering and Counter-Financing of Terrorism Office shall be established at the Bank at the level of Public Department. The Office shall be a legal person with financial and administrative independence, and shall be represented by the Director General of the Office or anyone he/she authorizes to represent him/her.

**Second:** The Office shall be directed by an employee whose title is Director General, holding a first university degree as a minimum requirement, having experience and competence and a minimum actual service period of fifteen (15) years, to be appointed according to the Law.

**Third:** The Director General shall be assisted by an Assistant Director General.

**Article 9-**The Office, shall have the following mandate, at the State central level:

#### **First:**

- a- Receiving or obtaining, the reports or information on transactions suspected to include proceeds of predicate offenses or linked to money laundering or terrorism financing from reporting entities.
- b- Analyzing reports or information. The Office may, in carrying out its functions, obtain from reporting entities or any other entity any additional information it deems useful for analysis, within the timeframe it specifies.
- c- Suspending the execution of financial transactions for a maximum period of seven (7) working days, whenever fears arise of smuggling the proceeds or prejudice the flow of analysis.
- d- Referring reports based on reasonable grounds of suspicion of money laundering, terrorism financing or predicate offenses to the public prosecution presidency to take legal action in this respect, and notifying relevant authorities.

**Second:** Preparing and submitting an annual report to the Council on the Office's activities, ML/FT related activities, and statistics on suspicious transaction reports and AML/CFT trends, mechanisms, methods and status. The report shall be published in the version approved by the Council.

**Third:** Exchanging AML/CFT-related information with relevant bodies in State departments and the public sector, and coordination therewith in this respect.

**Fourth:** Participating in the representation of the Republic of Iraq at international organizations and conferences in the field of AML/CFT.

**Fifth:** Creating a database of the information made available to the Office, to be adopted as a national center for collection, analysis and dissemination of such information on potential cases of money laundering and terrorism financing, and developing suitable means to facilitate the task of judicial and other competent authorities in the implementation of the provisions of the present Law.

**Sixth:** Collecting and analyzing extensive statistics on matters related to the Office's functions.

**Seventh:** Holding training courses for relevant employees to keep them abreast with the developments in the ML/FT field.

**Eighth:** Notifying supervisory or other competent authorities of the violation of any FI or DNFBP of the provisions hereof.

**Ninth:** Providing technical advice on signing conventions and treaties related to money laundering and terrorism financing.

## **Section 5**

### **Obligations of FIs and DNFBPs**

#### **Article 10-**

**First:** Financial institutions and DNFBPs shall take the following Customer Due Diligence (CDD) measures:

- a. Identify and verify the identity of the customer and beneficial owner through using reliable, independent source documents, data or information.
- b. Identify and verify the identity of any person acting on behalf of customer including evidence that such person is properly authorized to act in that capacity.
- c. Understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship.
- d. Understand the ownership and control structure of legal persons and arrangements.

- e. Monitor the business relationship on an ongoing basis and examine any transactions carried out to ensure they are consistent with their knowledge of the customer, commercial activities and risk profile, and where required, the source of funds.

**Second:** CDD measures shall be applied in the following cases:

- a- Before or during the course of opening an account or establishing a business relationship with a customer.
- b- Carrying out a transaction above the threshold set by the Chairman of the Council through a statement published in the Official Gazette for an occasional customer, whether conducted as a single transaction or several transactions that appear to be linked. If the value of the transaction is not known at the time of execution, the identity of the customer shall be verified as soon as the transaction amount is established or whenever it reaches the set threshold.
- c- Carrying out a wire transfer for an occasional customer above the threshold set by the Chairman of the Council through a statement published in the Official Gazette;
- d- Whenever there is a suspicion of money laundering or terrorism financing;
- e- Whenever doubts exist about the veracity or adequacy of previously obtained customer identification data.

**Third:** Financial institutions and DNFBPs may delay the verification of the customer or beneficial owner identity until after the establishment of the business relationship as per regulations issued by Supervisory authorities.

**Fourth:** CDD rules for financial institutions shall be established in instructions issued by the Governor.

**Fifth:** Where a financial institution or DNFBP is unable to comply with CDD obligations, it shall refrain from opening the account, commencing the business relationship or carrying out the transaction or any transactions; or it shall terminate the business relationship where it is already established and report the customer to the Office.

**Sixth:** Financial institutions and DNFBPs shall apply CDD measures to their existing customers based on materiality and risks at appropriate times, given the validity and adequacy of information obtained in the past.

**Article 11-** FIs and DNFBPs shall maintain records of the following information and documents for five (5) years after the business relationship with the customer has ended, the

account was closed, or the transaction was carried out for an occasional customer, whichever is longer, and ensure that such records are available to competent authorities in a timely manner.

**First:** Copies of all records, information and documents obtained during the due diligence process. Including identification documents of customers, beneficial owners, accounting files and business correspondences.

**Second:** All records of transactions, both domestic and international, attempted or executed.

Such records must be sufficiently detailed to permit the reconstruction of each individual transaction;

**Third:** Copies of suspicious transaction reports sent to the Office and documents related thereto for at least five years after the date the report was made or a ruling was issued in a lawsuit thereof.

**Fourth:** Records related to the risk assessment or any underlying information from the date it was carried out or updated.

**Article 12** - Financial institutions and designated non-financial businesses and professions shall fulfill the following obligations:

**First:** Establishing and implementing AML/CFT programs including:

- a- Assessing the money laundering and terrorism financing risks related to their business, including identification, assessment and understanding of risks, taking effective mitigation measures and providing supervisory authorities with such risk assessment.
- b- Putting in place policies, procedures, systems and internal controls for the implementation of AML/CFT obligations, in order to mitigate risks identified in the assessment.
- c- Establish and implement adequate standards of integrity when selecting employees.
- d- Implementing ongoing training for officers and employees to ensure a better understanding of money laundering and terrorism financing risks, and enhance their ability to identify irregular or suspicious transactions and behavior, respond accordingly and efficiently implement necessary measures.

- e- Establishing an independent audit function to assess the effectiveness of policies and procedures and their implementation.

**Second:** Refraining from opening or maintaining anonymous accounts or accounts under fictitious names.

**Third:** Abiding by received names of barred persons, natural or legal, against which decisions have been taken from local or international authorities relevant to money laundering and terrorism financing.

**Fourth:** Refraining from disclosing to the customer, beneficiary or any other person except competent authorities in the implementation of the present provisions, any legal procedures taken regarding transactions or financial activities suspected of money laundering or terrorism financing.

**Fifth :** a- Report to the Office without delay any transaction or attempted transaction if they suspect that such transaction involves money laundering or terrorism financing using the reporting form prepared by the Office.

b- Attorneys and other independent legal professionals and accountants are not required to report a transaction under item (a) if the relevant information was obtained in circumstances where they are subject to professional secrecy.

**Sixth:** Provide the Office with information and documents it requires in a timely manner.

**Seventh:** all records should be submitted to courts and other competent authorities, when required.

**Eighth:** Refraining from dealing or entering into a business or banking relationship with a shell bank or correspondent financial institution that allows its accounts to be used by a shell bank.

**Ninth:** Refraining from dealing with any financial institution that provides services to internationally banned financing institutions.

### **Article 13-**

**First:** a. Obligations of financial institutions by virtue of the present Law, regulations, instructions, internal systems and statements issued by virtue thereof shall apply to branches and majority owned subsidiaries of institutions operating outside the Republic of Iraq as long as these provisions are not contradictory to provisions of laws in effect in the other country.

b. Financial institutions shall apply these obligations at the level of the financial group including the information exchange policy and procedures within the financial group.

**Second:** Financial institutions that have branches and majority owned subsidiary companies in countries where laws prohibit the implementation of the provisions of the present Law must notify the supervisory authority to this effect.

**Article 14-** Financial Institutions shall establish a special administrative department for combating money laundering and terrorism financing to follow-up on the implementation of the provisions of the present Law and its instructions.

## Section 6

### Terrorist Funds Freezing Committee

**Article 15 -** A committee known as the Terrorist Funds Freezing Committee shall be formed at the Secretariat of the Bank to be responsible for freezing the funds of terrorists or other assets of persons designated by the UN Sanctions Committee established pursuant to UN Security Council resolutions when issued under Chapter VII of UN Charter, persons designated locally or based on the request of another country according to UNSCRs.

The committee is to be formed of:

**First:** The Deputy Governor of the Central Bank of Iraq - Chairman

**Second:** The AML/CFT Office Director General - Deputy Chairman

**Third:** A representative of the following bodies, holding a position not inferior to Director General or Brigadier-General for army staff:

- a- Ministry of Finance
- b- Ministry of Interior.
- c- Ministry of Foreign Affairs
- d- Ministry of Justice
- e- Ministry of Trade
- f- Ministry of Communications
- g- Commission of Integrity

h- Counter Terrorism Department.

i- National Intelligence Department.

**Article 16** - The Committee shall have the following mandate:

**First-** Disseminate names of persons whose funds are frozen upon publishing them on the UN Sanction Committee official website to competent authorities, without delay, for the purpose of taking necessary measures for freezing other funds or assets of designated persons and entities or funds of persons and entities working on their behalf, for their interest or under their instruction. This includes other funds and assets derived or generated from properties owned or controlled, directly or indirectly, by those persons or entities connected therewith. The committee may freeze funds and assets of branches and spouses of any designated person whenever justified.

**Second-** Preparing a local list of names of terrorists and terrorist organizations against which freezing standards apply, based on information provided by relevant authorities.

**Third-** Receiving requests sent to the Ministry of Foreign Affairs from foreign countries with respect to freezing funds and other assets of persons residing in the Republic of Iraq or abroad, verifying the availability of standards of freezing and issuing its decision accordingly.

**Article 17:**

**First:** Applications to object to listings in the unified list received from the Sanctions Committee shall be submitted to the competent authority of the UN Security Council or to the Committee.

**Second:** Applications to object to listings in the local or international freezing lists shall be submitted by concerned parties to the Committee for examination. The Committee shall decide to keep, remove or amend the applicant's name or amend the scope of the freezing procedure. Such decision may be subject to appeal, according to the law.

**Article 18** - Freezing lists shall be published in the official gazette.

**Article 19** - FIs and DNFBPs and any other party shall comply with the freezing of funds and other assets as stipulated in freezing decisions issued or reported by the Committee and shall promptly inform the Committee of any information they have in this respect.

**Article 20** -

**First:** Every stakeholder may submit a written request to the Committee to obtain a permit to use all or part of the frozen funds for the following reasons:

- a- Payment of the necessary basic expenses of the person whose funds are frozen or any his dependents, including foodstuffs, rent, or mortgage, medicines, medical treatment, taxes, insurance premiums and public service charges.
- b- Payment of fees and administration, services and maintenance expenses.
- c- Any other necessary reasons.

**Second:** The Committee may approve of the permit stipulated in item (First) above and impose conditions it deems suitable.

**Third:** The Committee's approval shall only enter into force three (3) days after notifying the UN Sanctions Committee with no objection by the competent committee.

**Article 21** - FIs and DNFBPs or any other person holding funds frozen by virtue of a decision issued according to item (First) above shall not dispose thereof and shall inform the authority that enacted the freezing procedure and the Office of such.

**Article 22-** The mechanism of receiving and disseminating lists issued by the Security Council and procedures of delisting, name correction, dealing with humanitarian cases and everything regarding freezing procedures as per the unified list received from the UN Sanctions Committee and local lists set up by the Committee at the national level or international lists set up according to requests from other countries, the Committee's workflow and meetings, shall be organized by virtue of regulations issued by the Cabinet.

**Section 7**  
**Seizure of Funds**

**Article 23 -**

**First:** The investigation magistrate and the Court, may, at the request of the Public Prosecutor, Governor or Office, implement a seizure of funds related to a money laundering or terrorism financing crime. This shall not preclude implementation of the seizure process directly by the competent judicial authority, when necessary, even if no request is submitted in that regard.

**Second:** Seizure may be implemented before filing a complaint or submitting a notice or upon submittal thereof or in any phase of the lawsuit, until the ruling of the court is definitive.

**Third:** Funds, proceeds, instrumentalities or tools used or meant to be used in committing a money laundering or terrorism financing crime or a predicate offence, or any property of equivalent value shall be subject to seizure, whether in the possession or under disposition of the accused or a third party.

**Article 24 -**

**First:** If seizure is implemented before filing a complaint, the requesting party shall file the complaint against the holder of the seized funds within three months of the date of the decision to seize the funds.

**Second:** The accused whose funds are seized, the person in whose hands funds are seized and the party claiming rightful property of withheld funds, may file an appeal to the judicial authority that issued the decision within 8 days from the date he/she was notified or made aware of the seizure decision.

**Third:** If the party requesting seizure does not file its complaint against the party whose funds are seized within the period stated in item (First) above, the seizure decision shall be rescinded and all its legal implications cancelled.

**Fourth:** If the complaint is filed within the period specified in item (First) above, the judicial authority in charge of the lawsuit shall decide to maintain, amend, or rescind the seizure as it deems fit based on the case facts and appeals submitted to it against the seizure.

## **Article 25 -**

**First:** The seizure based on the provisions of this section shall be considered provisional, and the Civil Pleadings Law shall apply to its implementation, appeals against it, and the management of seized funds and the claiming of such funds, provided it does not contradict the provisions of the present Law.

**Second:** If the lawsuit is terminated for any legal cause, before a ruling is issued, the ongoing seizure remains in force. The relevant administrative authority shall file a civil action for rights and damages included in the penal lawsuit, within thirty (30) days of the date of their notification of the lawsuit's termination, else the seizure decision is rescinded and seized funds returned to their eligible owners.

**Third:** If the accused party is convicted, seizure shall remain in force and be considered executive seizure when the ruling becomes definitive.

**Fourth:** ruling of innocence, non-responsibility, acquittal or dismissal of a case, whenever definitive, shall be considered a decision to rescind the seizure decision and return seized funds to the party whose funds were seized even when such is not expressly stated in the ruling.

## **Section 8**

### **Competence of Supervisory Authorities**

## **Article 26 -**

**First:** Supervisory authorities shall, in addition to their powers stipulated in other laws, have the following powers:

- a. Developing inspection procedures and follow-up methods and standards to ensure compliance of financial institutions and DNFBPs with AML/CFT obligations set out in the Law.
- b. Using the power granted to them by Law in cases where FIs and DNFBPs violate their obligations.
- c. Cooperating and exchanging information, with competent authorities in the implementation of the present Law and with competent foreign counterparts in the field of AML/CFT.
- d. Ensuring the implementation of branches and majority owned subsidiaries of financial institutions outside Iraq are implementing procedures stipulated in the present Law and all

regulations, instructions, statements, controls and orders issued by virtue of the present Law, as much as permitted by legislations of the countries in which such branches and subsidiaries operate.

- e. Verifying the compliance of financial institutions and DNFBPs under their supervision or oversight with obligations set out in the present Law and all regulations, instructions, statements, controls and orders issued by virtue of the present Law. Authorities may use their supervisory powers to that effect.
- f. Informing the Office without delay of any information related to suspicious transactions that may be related to money laundering, its predicate offenses, or terrorism financing.
- g. Setting the necessary conditions for owning, managing or contributing directly or indirectly in the establishment, management or operation of a financial institution or a DNFBP.
- h. Identifying circumstances where it is possible for FIs and DNFBPs to delay the verification of the identity of the customer or beneficial owner until after the establishment of the business relationship.
- i. Issuing guidelines to assist FIs and DNFBPs in complying with the obligations stipulated herein.

**Second:** The chief executive of the supervisory authority may issue instructions, controls or orders to facilitate the implementation of the powers stipulated herein.

## **Section 9**

### **International Cooperation**

**Article 27-** Offenses of money laundering and terrorism financing are considered crimes for which letters rogatory, legal assistance, coordination, cooperation and extradition are allowed according to the provisions of conventions to which the Republic of Iraq is signatory.

**Article 28-** Requests for extradition or legal assistance, according to the provisions of the present Law, shall not be fulfilled unless the laws of the requesting country and of the Republic of Iraq both sanction the crime subject of the request or a similar crime. The double incrimination principle shall apply regardless of whether the laws of the country requesting assistance place the crime in the same category or denominate the crime using the same term as the one used in Iraqi laws, provided that the criminal act concerned in the request is a crime according to the laws of the country requesting assistance.

## **Article 29-**

**First:** The Office may exchange information automatically or upon request with any counterpart foreign agency that carries out similar duties and is subject to similar obligations of confidentiality, regardless of the nature of such foreign agency, on the basis of reciprocity and as per the provisions of international or bilateral agreements.

**Second:** Information stipulated in item (First) above may not be used for purposes other than combating money laundering, terrorism financing and the predicate offenses. It is not allowed to disclose such information to any third party without the approval of the providing party.

**Third:** The Office may exchange information with non-counterparts which may not directly provide the Office with information, through one or more domestic or foreign authorities.

**Article 30-** Competent judicial authorities, upon request of a judicial authority of another country based on an agreement signed with the Republic of Iraq or on the principle of reciprocity, may decide to track, seize or restrain funds, proceeds, revenues, instrumentalities and tools used or intended to be used in committing a ML crime, its predicate offense or a terrorism financing crime or their corresponding value, in way that does not without contradict Iraqi laws and without prejudice to the rights of bona fide third parties.

**Article 31-** Competent Iraqi authorities shall implement irrevocable penal rulings issued by competent foreign judicial authorities related to the confiscation of funds resulting from ML/FT crimes and their revenues, according to the rules and procedures included in bilateral or multilateral conventions to which Iraq is signatory.

**Article 32-** It is allowed to enter into bilateral or multilateral conventions regulating the manner of disposing of the funds obtained through a confiscation ruling in ML/FT crimes by Iraqi or foreign judicial authorities, including rules for the distribution of these funds between the parties to the convention in accordance with its provisions.

**Article 33-** Every party made aware of requests for legal assistance, as stipulated herein, shall maintain the confidentiality of such requests. It is not allowed to disclose the same to any other party without the approval of the party submitting the information.

## Section 10

### Cross-Borders Transportation of Funds and Bearer-Negotiable Instruments

#### Article 34-

**First:** Any person who enters or leaves Iraq shall declare, upon request of a representative of the General Administration of Customs, that he/she is in possession of funds, currency, bearer negotiable instruments or is transporting such items into or out of Iraq through a person, shipping company, and postal service or through any other means. Disclosure shall include the value of such funds or instruments.

**Second:** The General Administration of Customs may request additional information from the person about the origin of such funds, currency, or bearer negotiable instruments and the intended use thereof.

**Third:** The information stipulated in items (First) and (Second) above shall be referred with a true and exact copy of the Declaration to the Office.

#### Article 35-

**First:** The General Administration of Customs has the power to seize funds and bearer negotiable instruments in case of non or false disclosure or if there are reasonable grounds to believe that they are proceeds of a predicate offense or crimes of money laundering or terrorism financing or were to be used for such purposes.

**Second:** The Office shall issue a recommendation to lift the seizure stipulated in item (First) above, or to refer the seized funds to the judiciary within seven (7) days from the date of it being notified of the decision.

## Section 11

### Sanctions

**Article 36-** Any person who commits a money laundering offense shall be punished by imprisonment for up to 15 years and a fine of no less than the full and up to five times the value of the funds that were the objects of the offense.

**Article 37-** Any person who commits a terrorism financing offense shall be punished by life imprisonment.

**Article 38-**

**First:** A ruling shall be issued to confiscate funds subject of the crime stipulated herein, their proceeds or instrumentalities used or intended to be used in committing the offense. In case it is not possible to confiscate or execute the ruling on such funds, their equivalent value is confiscated, whether in possession of the accused or a third party, without prejudice to the rights of bona fide third parties.

**Second:** Proceeds of crime intermingled with property obtained from legal sources are subject to the confiscation measures stipulated in item (First) above, within the limits of the value estimated for proceeds and their profits.

**Third:** The termination of a penal lawsuit shall not preclude any ruling on the confiscation of funds resulting from money laundering or terrorism financing transactions.

**Fourth:** Any contract, agreement or other legal instrument shall be considered null and void if its parties knew, or had reasons to believe, that the purpose thereof was to avoid confiscation of ML or FT instrumentalities, revenues or proceeds of crime, without prejudice to the rights of bona fide third parties.

**Article 39-**

**First :** A financial institution shall be punished with a fine of no less than twenty five million (ID 25,000,000) and up to two hundred fifty million (ID 250,000,000), in either of the following cases:

- a- Failure to keep records and documents to record its domestic and international financial transactions, containing adequate information to identify such transactions, and maintain the same for the period stipulated in the present Law.
- b- Opening an account, accepting deposits or accepting funds and deposits of unknown sources or under fictitious or bogus names.

**Second:** A penalty of imprisonment for up to three (3) years and a fine of no less than fifteen million (ID 15,000,000) and up to fifty million (ID 50,000,000) or any of these two, shall be imposed on anyone who:

- a- Refrains from submitting STRs to the Office, or intentionally submits false information.
- b- Discloses to the client, beneficiary or any party except the competent authorities and bodies, the implementation of the provisions hereof regarding any action of reporting, investigation or inspection taken with respect to financial transactions suspected to involve ML or FT, or the information related thereto.

**Article 40-** Any chairman or member of the Board, owner, director or employee of a financial institution who violates any of the obligations stipulated herein deliberately or through gross negligence shall be punished with imprisonment and a fine of up to one hundred million (ID 100,000,000) or one of these two penalties.

**Article 41-** Any person, who abstains from submitting information to the Office within seven days from being notified to submit the same, shall be punished with imprisonment for up to 1 year.

**Article 42-** Any person who establishes or attempts to establish a shell bank in Iraq shall be punished with imprisonment for no less than three (3) years and a fine of no less than ten million (ID 10,000,000) and up to one hundred million (ID 100,000,000), or either one of both sanctions.

**Article 43-** Any person, upon entering or departing from the Republic of Iraq, and when required by the representative of the General Administration of Customs, who fails to declare or provides false information regarding funds, currency, or bearer negotiable instruments he/she holds or is transporting into or out of Iraq through a person, shipping company, postal service or through any other means, shall be punished with imprisonment for up to two (2) years and a fine of no less than the value of the funds subject of the crime and up to three times that value.

**Article 44-** Anyone who violates the provisions of the present law except for Articles 37, 38, 41, 42 and 43 shall be punished with imprisonment and a fine of no less than one million (ID 1,000,000) and up to twenty five million (ID 25,000,000), or either of these penalties.

**Article 45-** Supervisory Authorities shall take the following actions without prejudice to penal sanctions, in the event of violation by FIs or DNFBPs of the provisions hereof:

**First:** Issuing an order to cease the activity leading to the violation.

**Second:** Withdrawing the work license according to the law.

**Third:** Issuing warnings by notifying the violating entity of the necessity to address the violation within a suitable timeframe specified by the Authority.

**Fourth:** Banning individuals from working within the relevant sector for a period to be specified by the Supervisory Authority.

**Fifth:** Restricting the powers of directors or requesting their replacement.

**Sixth:** Collecting an amount of no less than two hundred fifty thousand (ID 250,000) and up to five million (ID 5,000,000) for each violation.

**Article 46-**

**First:** Without prejudice to the penal liability of the natural person, as stipulated herein, the legal person shall be held accountable for the crimes stipulated herein perpetrated by its representatives, directors or agents for its interest and on behalf of it, and shall be punished with the fine and confiscation decided for the crime, as stipulated herein.

**Second:** The legal person shall be jointly liable for complying with the financial penalties and damages awarded if the crime is committed by one of its employees, on its behalf and in its interest.

**Article 47-** Any person who takes the initiative to notify any competent authority of the existence of a criminal agreement to commit a ML/FT crime, and of the participants therein, before occurrence of the crime and when competent authorities search for and track such perpetrators, shall be exempted from the penalty stipulated herein. The Court may exempt such person from, or mitigate, the penalty, if they alert authorities after the occurrence of the crime, provided that it should facilitate arresting the perpetrators and seizing the funds subject of the crime.

**Article 48-** There shall be no penal or disciplinary liability for any person who in good faith reports any suspicious transaction based on the provisions of the present Law or submits information or data in that regard, even if it is proved incorrect.

## **Section 12**

### **General and Final Provisions**

**Article 49-** The present provisions shall apply to ML crimes committed in the Republic of Iraq, even if the predicate offenses generating such funds occur outside the Republic of Iraq, provided that these are punishable by the laws of such state and the laws of the Republic of Iraq.

**Article 50-** It is not allowed to put an employee of the Office on trial for a crime committed during his/her exercising of his/her official function, or as a result thereof, without permission of the Governor.

**Article 51-** No bank shall be incorporated in the Republic of Iraq if it has no physical presence therein and if it is not affiliated to an organized financial group subject to effective supervision from competent supervisory authorities.

**Article 52-** Confidentiality provisions stipulated in any law shall not preclude the implementation of the provisions of the present Law.

#### **Article 53-**

**First:** No employee of the Council or the Office may disclose information he/she has access to or knowledge of given his/her position, whether they came to know it directly or indirectly. Disclosure of such information is forbidden in any manner, other than for the purposes of the present Law. This prohibition remains in force until after the employee's end of service.

**Second:** The provisions of Item (First) above apply to persons who obtain information, whether directly or indirectly, given their connection to the Council or the Office.

**Article 54-** A criminal court specializing in ML cases shall be formed at the Supreme Judiciary Council. Other courts at the appeals districts may be formed, when necessary, through a declaration to be issued by the President of the Supreme Judiciary Council and published in the Official Gazette.

**Article 55-** The order of the Coalition Provisional Authority (Dissolved) No. 93 for 2004 (Anti-Money Laundering Act) shall be cancelled.

**Article 56-**

**First:** It is allowed to issue regulations to facilitate the implementation of the provisions hereof.

**Second:** The Governor may issue instructions and bylaws to facilitate the implementation of the provisions hereof.

**Article 57 -** This Act shall enter into force once published in the official gazette.

## **Explanatory Statement**

In order to curb money laundering and terrorism financing activities those have become increasingly exacerbated in the present time,

Given the fast-paced technological advances in the banking industry and finance sector, allowing for a diversity of methods of financial fraud,

Given the negative effects of such activities on our economy and society,

In order to face criminal activities and combat and impede their sophisticated methods

Given the need to establish a Council and Office for Anti-Money Laundering and Counter-Financing of Terrorism to implement relevant tasks in combating Money Laundering and Terrorism Financing,

And in order to decide on penalties for perpetrators of such crimes,

The present Law is enacted