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Legislation

No. 39

## Anti-money Laundering and Terrorist Financing law

No. (39) Of 2015

With the Rule of Procedures

قانون مكافحة غسل الأموال وتمويل الإرهاب

Translated in

مع النظام الداخلى

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**In the name of people  
Presidency of republic**

### **Resolution no (42)**

Based on what the parliament had been decided in accordance with the provisions of the Item (First) of article (61) and the Item (Third) of Article (73) of the constitution, the president decided on 27/ 10/ 2015 issuing the following law:

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### **No (39) of 2015 Anti-money Laundering and Terrorist Financing Law**

#### **Chapter One Definitions**

#### **Article 1**

For the purposes of this law, the following terms shall have the meanings indicated thereto:

First: Bank: Central Bank of Iraq.

Second: Governor: Governor of Central Bank of Iraq.

Third: Council: Council of Anti-money laundering and terrorist financing.

Fourth: Bureau: Bureau of Anti-money laundering and terrorist financing.

Fifth: Funds: Assets or properties which obtained by any means, such as national currency, foreign currency, commercial and financial instruments, deposits, current accounts, financial investments, cheques and instruments whatever their form,



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including electronic or digital, precious stones, commodities, and all that have financial value, whether real estate or movable property and rights related thereto, the interests and profits that comes from those funds, whether they are inside or outside Iraq and any other type of funds decided by the board for the purposes of this law in a statement to be published in the official gazette.

Sixth: Crime proceeds: Funds generated or obtained directly or indirectly, in whole or part, from the commission of one of the original offences.

Seventh: Original crime: Every crime in Iraqi law, including felonies or misdemeanours.

Eighth: Financial institution: Any natural or legal person who conducts one activity or more of the following process for the benefit of or on behalf of a client:

- a. Receiving deposits and other money to pay from the public, such as private banking services.
- b. Lending.
- c. Financial leasing.
- d. Money or value transfer services.
- e. Issuing or managing payment methods as debit and credit cards, bills of exchange, cheques, tourist instruments, electronic funds and others.
- f. Financial commitments and guarantees
- g. Dealing or trading in the following:
  1. Money market appliances such as cheques, bills of exchange and certificates of deposits.
  2. Financial derivatives.
  3. Foreign exchange.
  4. Currency exchange tools, interest rates and financial indicators.
  5. Tradable securities.
  6. Future contracts for basic commodities.
- h. Participating in the issuance of securities and providing financial services related to these issues.
- i. Individual or collective portfolios management.
- j. Preserving or managing cash or liquid securities on behalf of others.
- k. Investing, managing, or operating properties and funds or on behalf of others.
- l. Issuing life insurance and other insurance policies related to investment as insurer or mediator for insurance contract.
- m. Exchanging money or coins.



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- n. Any other activity or operation to be determined by a decision of the Council of Ministers based on the proposal of the council and published in the Official Gazette.

Ninth: Designated non-financial Business and professions including the following:

- a. Real estate mediators whenever they initiate transactions related to sale or purchase of real estate or both for the benefit of clients.
- b. Goldsmiths and dealers of precious metals or gemstone whenever they participate in monetary transactions whose value is determined by a statement issued by the chairman of council and published in the Official Gazette.
- c. Lawyers or accountants, whether they are practicing their profession freely, partners or workers in specialized companies, this upon their preparing, implementing or carrying out transactions for the benefit of their clients in connection with any of the following activities:
  1. Buying or selling real estate.
  2. Managing client's funds, securities or other assets.
  3. Managing bank accounts, saving accounts or securities accounts.
  4. Organizing contributions to the establishment, operation or management of companies.
  5. Establishing, operating or managing legal persons or legal arrangements.
  6. Buying or selling companies.
- d. Providers of Company service and credit funds and other companies when their preparing or carrying out transactions for the client on a commercial basis. These services shall include:
  1. Working as a founding agent for the legal persons.
  2. Working or arranging for another person to act as an authorized director or a partner in a solidarity company or in a similar position in the legal person.
  3. Providing a registered Bureau, workplace, correspondence address, postal address or administrative address for a company or any legal person or legal arrangement.
  4. Acting or arranging for another person to act as a trustee of a credit fund or doing a similar work in favour of a legal arrangement.
  5. Acting or arranging for another person to behave as a nominal shareholder.
  6. Any other activity or profession to which an addition decision of the council of ministers shall be issued on the proposal of the council and published in the Official Gazette.

Ninth: Terrorist financing: Every act committed by any person who, by any means, directly or indirectly, willingly provides or collects funds, or attempts to do so from legitimate or illegitimate source with the intention of using



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them with the knowledge that those funds shall be used wholly or partially in the implementation of terrorist act, or by a terrorist or terrorist organization, whether the crime occurred or not and regardless of the state in which this act occurs or in which the terrorist or terrorist organization presents.

Eleventh: The terrorist act includes:

- a. Every act is criminalized in this description in Iraqi law.
- b. Each act constitutes a crime in accordance with the definitions stipulated in the Convention of Preventing the Illegal Seizure of Aircrafts of (1970), the Convention for Suppression of Crimes Against Safety of Civil Aviation of (1971), the Convention of Prevention and Punishment of Crimes Committed Against Persons Covered by international Protection of (1973), the Convention for Punishment of Crimes Committed Against Persons Covered by International Protection of (1974), the Convention for Suppression of Crimes Against Safety of Civil Aviation of (1975), the International Convention Against Taking of Hostages of (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 Supplementing the Convention for the Suppression of Unlawful Acts Against the safety of Safety of Civil Aviation of (1988), the Convention for the Suppression of Unlawful Acts Against Maritime Navigation of (1988), the Protocol for Suppression of Unlawful Acts Against the Safety of Fixed Establishment Existing on Continental Shelf of (1988), the International Convention for Suppression of Terrorist Bomb Attacks of (1997) or any other convention or protocol related to financing of terrorism to which the republic of Iraq is a party.
- c. Every act intended to kill civilians or harm their physical safety or any other person who is not an active party in hostilities in situations of armed conflict, when the purpose of this act is to intimidate a group of people or compel a government or an international organization to do or abstain from doing a specific act.

Twelfth : Terrorist: Every natural person who commits terrorist acts as the perpetrator of the crime or participates in it or incites to commit it even if the incitement does not result in an effect or colludes in its commission or agreed to commit it by any means, whether directly or indirectly or proceeds committing it.

Thirteenth: A terrorist organization: An agreement of two or more persons to commit terrorist acts by any means, directly or indirectly, whether the acts



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are designated or undesignated or on the acts preparing them or facilitating their perpetration, whether the agreement is organized, even if the principle of its formation is continuous, even for a short period, whether the crime occurred or not or any group of terrorists do any of the following acts:

- a. Committing or attempting to commit terrorist acts intentionally by any means directly or indirectly.
- b. Colluding in carrying out terrorist acts.
- c. Organizing terrorist acts or directing others to commit them.
- d. Contributing to the commission of terrorist acts with a group of persons working for a common purpose when the contribution is intentional and with the aim of strengthening terrorist act or with knowledge of the group's intention to commit a terrorist act.

Fourteenth: Real beneficiary: The natural person who owns or practices final direct or indirect control over the client, or the natural person whose transaction is being carried out on his/ her behalf, as well as the person who practices ultimate effective control over a legal person or legal arrangement.

Fifteenth: Seizure: Temporary prohibition on transferring, moving, exchanging or disposing of funds or crime's proceeds based on a decision issued by a competent court or authority for the period of validity of the resolution.

Sixteenth: Freezing: Prohibition of the transfer, disposal or movement of funds, equipment or other media when owned or controlled by specific persons or entities, based on a decision issued by a competent court, a competent administrative authority, or a committee to freeze terrorist funds under the freezing mechanism based on measures taken by the United Nations Security Council or in accordance with its decisions and for the period of validity of the resolution.

Seventeenth: Control authorities: The competent authority to license the financial institutions, and designated non-financial businesses and professions or supervising them, or ensuring their compliance with the requirements required for combating money laundering and



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terrorist financing, this shall include the Ministry of Trade, Ministry of Industry, Central Bank of Iraq, Securities Commission, Insurance Bureau and any other authority a decision is issued by the Council of Ministers and on the proposal of the Council and published in the Official gazette to be as a authority with a supervisory competence.

Eighteenth: Suspicious operation: Any operation believed to include, in part or in whole funds obtain from an original crime.

Nineteenth: Legal arrangements: The relationship that arises under a contract between two or more parties that does not result in the emergence of a legal person, such as credit funds or other similar arrangements.

Twentieth: Sham Bank: A bank registered or licensed in country or region without material presence in which, and it does not belong to a financial group subject to regulation and effective banking supervision.

Twenty first: Financial group: Any group consisting of a company or its subsidiaries or any legal person exercising control over its branches and subsidiaries.

Twenty second: Client: Any person undertakes or initiates any of the following business with one of the financial institutions or designated non-financial business and professions:

- a. Arranging, opening or executing a transaction, business relationship or account.
- b. Participation in signing a transaction, business relationship or account.
- c. Allocating or transferring an account, rights or obligations under a transaction.
- d. Authorization to conduct a transaction or to control a business relationship or account.

Twenty third: Adventitious client: The client who does not have a business relationship with which it is expected to continue.

Twenty fourth: Business relationship: The relationship that arises between the financial institution or the designated non-financial business and profession and its client, which is related to the activities and services it provides to him/ her



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whenever the concerned institution expects the relationship to extend for a period of time.

Twenty fifth: Tradable financial instruments: Monetary instruments in the form of a bearer's document like tourist cheques and tradable financial instruments including cheques, promissory notes and payment orders that belong to their bearer, endorsed for him/ her without restriction, issued for sham beneficiary or in any other form that transfers the benefit to the bearer.

## Chapter Two Crime of money laundering

### Article 2

Whoever commits one of the following acts shall be considered a perpetrator of a money laundering crime:

First: Transferring, transporting or exchanging money by a person who knows or he had to know it was proceed of a crime to hide, disguise its illegal origin or assist its perpetrator, the original crime perpetrator or anyone who contributes to the commission of the crime or the commission of the original offence to evade responsibility for it.

Second: Hiding money or disguise its truth, source, location, condition, disposal, transmission or its ownership or rights related to it, by a person who knows or should know that they are the proceed of a crime.

Third: Acquisitioning, possessing or using of money by a person who knows or had to know that they were the proceed of a crime.





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### Article 3

The conviction of the accused for the crime of money laundering shall not depend on the issuance of a ruling for the original crime from which this money resulted.

### Article 4

Ruling against the accused for any of the original crimes shall not prevent from ruling on the crime of self-money laundering that resulted from that crime. The provisions of multiple crimes and punishment stipulated in the Penal law shall be applied.

## Chapter Three Anti-Money Laundering and Terrorist Financing Council

### Article 5

First: A council shall be established in the bank called (Anti-Money Laundering and Terrorist Financing Council) and shall consist of:

- a. The Bank Governor as **Chairman**
- b. The general director of the Anti-Money Laundering Bureau. **Member and vice chairman**
- c. A representative, with a position not less than the general director rank, of the following authorities: **Members**
  - 1. Ministry of Interior
  - 2. Ministry of Finance



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3. Ministry of Justice
4. Ministry of Trade
5. Ministry of Foreign Affairs
6. General Secretariat for the Council of Ministers
7. National Intelligence Service
8. National Security Service
9. Board of Securities
10. Anti-Terror Service

- d. A judge of no less than the third category who nominated by the Supreme Judicial Council.

Second: The Vice President shall replace the President in his/ her absence.

Third: The President of the Council may host whoever he/ she deems his/ her opinion is necessary to be sought without having the right to vote.

Fourth: The governor shall nominate board rapporteur shall be responsible for notifying the dates of the council's sessions and its agenda, writing down its minutes, editing its correspondence and communicating them to the relevant authorities and following up the implementation of the council's decisions.

### Article 6

The chairman of the council shall issue bylaws in which he/ she determines the council's workflow, its meetings, the completion of its quorum and any other matters.

### Article 7

The council shall undertake the following tasks:

First: Putting policies and programs for combating money laundering, terrorist financing and financing the spread of mass destruction weapons, their developing and following up their implementation.

Second: Suggesting draft laws, regulations and instructions related to combating money laundering and terrorist financing.



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- Third: Developing means and standards for discovering, following up and generalizing money laundering and terrorist financing methods.
- Fourth: Issuing regulations that include limits on cash amounts and negotiable cheques for including them in the control of money laundering and terrorist financing operations, and they shall be published in the Official Gazette.
- Fifth: Drawing up and developing training programs appropriate for employees involved in combating money laundering and terrorist financing.
- Sixth: Identifying and assessing the risks of money laundering and terrorist financing in the Republic of Iraq and updating them continuously.
- Seventh: Facilitating the exchange of information and coordination between the competent authorities.
- Eighth: Studying the reports submitted by the bureau on anti-money laundering activities in Republic of Iraq.
- Ninth: Following up on global developments in the field of combating money laundering and terrorist financing and proposing the necessary measures in this regard.
- Tenth: Submitting reports and providing advice to the government regarding money laundering and terrorist financing.
- Eleventh: Managing statistics keeping provided by the Bureau and other competent authorities regarding information related to money laundering and terrorist financing in the Republic of Iraq.
- Twelfth: Taking counter, effective and proportionate measures to commensurate with the magnitude of the risk, in the face of countries that do not apply international standards for combating money laundering and terrorist financing.
- Thirteenth: Following-up on the implementation of the relevant authorities' policies to combat money laundering and terrorist financing.
- Fourteenth: Submitting an annual report to the cabinet that includes a presentation of the Council's activities and efforts, national, regional and international developments in the field of combating money laundering and terrorist financing, and its proposals regarding activating control systems.
- Fifteenth: Following-up on the implementation of sanctions imposed for non-compliance with United Nations Security Council resolutions related to the financing of terrorism and the suppression and disruption of the spread of weapons of mass destruction.
- Sixteenth: Submitting proposals to Cabinet on subjecting financial activities or designated non-financial businesses and professions to the obligations stipulated in this law.



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Seventeenth: A proposal to identify competent control bodies for the purposes of implementing the provisions of this law.

### **Chapter Four Anti-Money Laundering and Terrorist Financing Bureau**

#### **Article 8**

- First: An office called (Anti-Money Laundering and Terrorist Financing Bureau) shall be established in the bank at the level of a public department that have legal personality, financial and administrative independence, and shall be represented by the director general of the Bureau or whomever he/she authorizes.
- Second: The Bureau be shall managed by an employee with the title of General Manager, who has at least an initial university degree with experience and competence, and has an actual service of no less than (15) fifteen years, and shall be appointed in accordance with the law.
- Third: General Manager shall be assisted by an employee with a title of Assistant General Manager.

#### **Article 9**

The Bureau shall undertake, centrally in the country, the following tasks:

First:





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- a. Receiving or obtaining reports or information about transactions suspected to include proceeds of a origin crime, money laundering, or terrorist financing from the reporting authorities.
- b. Analysing reports or information, and the Bureau may, in order to perform its tasks, obtain any additional information that it considers useful for conducting the analysis from the reporting authorities, during the period it shall specify, and it may obtain that from any other authority.
- c. Suspending the implementation of the financial transaction or operations for a period not exceeding (7) seven working days in case of fear of smuggling the proceeds or harming the progress of the analysis.
- d. Referring reports that are based on reasonable grounds on suspicion of money laundering, terrorist financing or original crimes to the Public Prosecution Presidency to take legal measures in this regard and notify the relevant authorities thereon.

Second: Preparing and submitting an annual report to the Council on the Bureau's activities and activities related to the money laundering and terrorist financing operations, and statistics on notification reports and trends in combating money laundering and terrorist financing, its mechanisms, methods and cases. The report shall be issued in the form approved by the Council.

Third: Exchanging information related to combating money laundering and terrorist financing with the relevant authorities in the state departments and public sector and coordinating with them in this regard.

Fourth: Participating in representing the Republic of Iraq in international organizations and conferences related to combating money laundering and terrorist financing.

Fifth: Establishing a database of the information available to the bureau that is adopted as a national centre for collecting, analysing and popularising that information about possible money laundering and terrorist financing, and setting up the means to facilitate the task of the judicial authorities and other competent authorities in implementing the provisions of this law.

Sixth: Collecting and analysing comprehensive statistics on matters involved in the tasks of the bureau.

Seventh: Preparing training courses for the concerned employees to apprise them of the latest developments in the field of money laundering and terrorist financing.

Eighth: Notifying the control authorities or other competent authorities of a breach of any financial institution or non-financial business and professions defined by the provisions of this law.



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Ninth: Providing technical advice on joining conventions and treaties related to money laundering and terrorist financing.

### **Chapter five Obligations of financial institutions and designated non-financial businesses and professions**

#### **Article 10**

First: Financial institutions and designated non-financial business and profession owners shall take the following due care measures towards clients:

- a. Identifying and verifying of the identity of the client and the real beneficiary through documents, data or information from reliable and independent sources.
- b. Identifying the identity of any person acting for the client, and ensuring that this person has the authority to act in this capacity.
- c. Understanding the purpose and nature of the business relationship, and additional information may be requested in this regard.
- d. Knowing the property structure and control of the legal persons and legal arrangements.
- e. Following-up continuously on everything related to the business relationship and examining any transactions taking place to ensure their compatibility with the available information about the client, commercial activities and risk pattern, and client's sources of funds when necessary.



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Second: The due care measures shall be taken in the following cases:

- a. Before and during opening an account or establishing a business relationship with the client.
- b. Carrying out an operation for an adventitious client whose value exceeds the amount determined by the Chairman of the Bureau in a statement issued for this purpose and issued in the Official Gazette, whether it is a single operation or several operations that appear to be related. If the value of the operation is not known at the time of its implementation, the identity of the client must be verified earliest time the amount of the operation is determined, or when it reaches the specified limit.
- c. Conducting an electronic transfer in favour of an adventitious client whose value exceeds the amount determined by the Chairman of the Board in a statement issued for this purpose and issued in the Official Gazette.
- d. Suspicion of money laundering or terrorist financing.
- e. Doubt in validity, accuracy or adequacy about the previously obtained identification data of the client's identity.

Third: The financial institutions and undesignated financial businesses and professions may postponed of the verification of identification of the client or the real beneficiary until after the establishment of the business relationship, this is within what the control authorities shall set for them.

Fourth: The rules of towards clients of financial institutions shall determine by instructions issued by the Governor.

Fifth: If any of the financial institutions, designated non-financial businesses and professions are unable to comply with the necessary care measures towards clients, it is not permissible to open an account, start a business relationship or carry out transaction or any operations, and it shall end the business relationship if it is still existing and inform the bureau about the client.

Sixth: Financial institutions, owners of designated non-financial businesses and professions shall apply necessary care measures towards available clients on the basis of relative importance and risks at appropriate times, taking into account the validity and adequacy of previously obtained data.



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### Article 11

Financial institution and owners of designated non-financial business and professions shall keep the following records, documents for the period of (5) five years from the date of ending the relationship with client or from the date of closing the account, or fulfilling a transaction for a adventitious client, whichever longer, and they shall ensure to be available to the competent authorities as soon as possible.

First: Copies of all records obtained through the necessary care operation in verifying transactions, including documents indicating the identities of the actual beneficiaries' clients, accounting files and business correspondences.

Second: All the local and international transaction records wither already implemented or those that there was an attempt to implement them; provide that those records are detailed in the amount that allows to re-representing the steps of each transaction individually.

Third: Copies of the notifications sent to the bureau and related matters until the expiry of (5) five years from the date of submitting the notification or the date of final ruling on a lawsuit related to it, even if the period is exceeded.

Fourth: Records related to the risk assessment or any information scheduled from its conduct or update.

### Article 12

Financial institutions and designated non-financial business and professions shall commit with following:

First: Preparing and implementing programs to prevent money laundry and terrorist financing, including:

- a. Conducting a risk assessment for the money laundry and terrorist financing to which they are susceptible, this includes identifying, assessing, understanding these risks and taking effective measures to reduce them and providing this assessment to the control authorities.





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- b. Establishing interior policies, procedures and controls appropriate for imposing obligations in the field of anti-money laundry and terrorist financing in a manner conducive to reducing the assessed risks.
- c. Establishing and applying appropriate integrity standards when choosing employers.
- d. Continuous training for officials and employees, in a manner conducive to increasing their capabilities in understanding the money laundry and terrorist financing and identifying the unusual and suspicious operations and behavior, and how to deal with them and applying the measures that must be followed effectively.
- e. Independent audit to determine the effectiveness of policies and procedures and their application.

Second: Not opening anonymous account or with fake names or keeping them.

Third: Adhering to the dealing-prohibited names received by them, whether they are natural or legal persons that decisions issued against them by local or international authorities related to money laundry and terrorist financing.

Fourth: Not disclosing the legal measures taken in relation to transactions or financial operations that suspect of them to be money laundry and terrorist financing to the client or the beneficiary or any other person other than the authorities competent for implementing this law.

Fifth:

- a. Notifying the Bureau immediately about any operation suspected to be money laundry or terrorist financing, whether this operation has been done or not, in accordance with the reporting form prepared by the bureau for this purpose.
- b. Lawyers and other independent accounting and legal professionals shall be excluded from the provision the Paragraph (a) from this Item, if their access to the information related to that transaction in a condition where they are subject to complete secrecy.

Sixth: Providing the Bureau with the information it requests promptly.

Seventh: Submitting all the records to the courts and the competent authorities when they are requested.

Eighth: Not dealing with the sham banks, or entering into business or bank correspondent relations with them or with institutions sent to them that allow the use of accounts from sham banks

Ninth: Not dealing with any finance institution provides services to globally banned financial institutions.



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### Article 13

First:

- a. The obligations incurred by the financial institutions under the provisions of this law, regulations, instructions, bylaws and statements issued thereunder shall be applied to branches of institutions that work outside the Republic of Iraq and the related companies which they own the majority part, unless these provisions conflict with the legislations applicable in the concerned states.
- b. Financial institutions shall apply these obligations at the financial group level including the policy and procedures for exchanging information within the financial group.

Second: Financial institutions that have branches or related companies which they have a majority part in states whose laws prevent the application of the provisions of this law shall be obligated to notify the control authority thereon.

### Article 14

An administrative formation in the financial institutions shall be introduced specialized in combating money laundry and terrorist financing, it shall be responsible for following up the implementation of the provisions of this law and the instructions issued accordingly.



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### **Section Six Terrorist Fund Freezing Committee**

#### **Article 15**

A committee called (Committee of Freezing Terrorist Funds) shall be formed in the General Secretariat of the Council of Ministers, it shall undertake freezing the terrorist funds or other assets of persons designated by the Sanctions Committee of United Nations and established pursuant to Security Council resolutions if it works under Chapter (7) of the United Nations Charter, or those who have been classified at the national level, or at the request of another state, based on resolutions of the Security Council. The committee shall be consisted of:

First: Deputy Governor of the Central Bank of Iraq

**Chairman**

Second: Director Manager of the Money Laundry and terrorist financing Bureau.

**Vice Chairman**

Third: A representative of the following entities whose job title is not less than a general manager or a brigadier general with regard to military personnel:

- a. Ministry of Finance.
- b. Ministry of Interior Affairs.
- c. Ministry of Foreign Affairs
- d. Ministry of Justice.
- e. Ministry of Commerce.
- f. Ministry of Communications.
- g. Integrity Commission.
- h. Anti-Terrorist Service.
- i. National Intelligence Service.



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### Article 16

The committee shall undertake the following:

- First: Circulating the names of the people whose funds are frozen when they are posted on the official website of the Sanctions Committee of the Security Council to the competent authorities without delay for taking necessary measures for freezing funds or other assets of the designated entities or funds of persons and entities acting on their behalf or their interest or direction, this guarantees funds and other assets derived or generated from the property directly or indirectly owned or controlled by those people or entities that associated with them, and the committee may freeze the funds of ascendants, descendants and spouses of the designated persons if it finds a justification for so.
- Second: Preparing a local list of terrorist persons and organizations those meet the criteria for freezing, based on the information provided by the competent authorities.
- Third: Receiving applications incoming to the Ministry of the Foreign Affairs from foreign states regarding the freezing of funds and other assets of people residing in the Republic of Iraq, and verifying the availability of freezing standards and taking its decision accordingly.

### Article 17

- First: Objection requests on inserting in the unified list incoming from the Sanctions Committee shall be submitted to the concerned authority in the Security Council or to the committee.
- Second: Objection requests on inserting in the local or international freezing lists shall be submitted by those concerned to the committee for its consideration, and it may keep on, remove or edit the name, or edit freeze range, and the decision may be appealed in accordance with the law.

### Article 18

Freezing lists shall be published in the Official Gazette.





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### Article 19

The financial institutions, designated non-financial businesses and professions, or any other party shall abide by the freezing of funds and other assets contained in freezing decisions issued by the committee or reported by it, and informing the committee immediately of the available information they have in this regard.

### Article 20

First: Any concerned party may submit a written request to the committee to obtain permission to dispose of all frozen funds or part of them for the following reasons:

- a. Paying the necessary expenses for person whose funds are frozen or anyone who supports him/ her, including payments for food, rent, mortgage, medicine, medical treatment, taxes, insurance premiums and public service fees.
- b. Paying fees and expenses of the management, preservation and maintenance.
- c. Humanitarian reasons for the family of the person whose money is frozen.

Second: Committee may approve the permit that prescribed in the Item (First) of this article and impose conditions it deems appropriate.

Third: Committee approval shall not be valid only after notifying the Competence Sanction Committee affiliated to United Nation thereof after passing (3) three days from the date of informing, unless there is an objection from the competent committee.

### Article 21

Financial institutions, owners of designated non-financial businesses and professions or any other person who owns the funds that a decision is issued to freeze them under Item (First) of this Article shall not dispose of them and inform the entity that issues the freezing and the Bureau about that.



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### Article 22

The mechanism of receiving and distributing the lists issued by the Security Council, delisting procedures, correcting the name, dealing with humanitarian cases and everything related to freezing procedures shall be organized under the unified list incoming from the Sanctions Committee of the Security Council and the local lists prepared by the committee at the national level or the international lists it prepares at the requests of other states, as well as the committee's functioning and meetings by a regulation issued by the Ministry Council.

### Chapter Seven Fund Attachment

### Article 23

- First: The Investigating Judge and the court, at the request of the prosecution, the governor, or the Bureau, may attach funds related to the crime of money laundering or the terrorism financing, and this shall not preclude the attachment of the competent judicial authority directly when necessary, even if it is not been requested to do so.
- Second: Detention may be requested, before the complaint or notification is submitted, upon its submission or at any stage of the criminal proceedings, unless the ruling in the case acquires the degree of definitiveness.
- Third: Funds or proceeds and means used or intended for use in the commission of money laundering, terrorist financing crime, original crimes, or any property equivalent in value shall be subject to attach, whether it is in the possession and disposal of the accused, or transferred to the possession or disposal of others.



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### Article 24

- First: If the attachment is imposed before the complaint is submitted, the party requesting the attachment shall file its complaint against the person whose funds are attached within (3) three months from the date of the attachment decision.
- Second: The accused whose funds are attached, those who have funds been attached in their hands and those who claim the entitlement of the attached funds may object to the attachment decision with the judicial authority issued by it within (8) eight days from the date of his/ her notification or knowledge of the attachment decision.
- Third: If the party requesting the attachment does not submit its complaint against the attached within the period specified in Item (First) of this Article, the attachment decision shall be repealed and all the legal effects resulting from it shall be removed.
- Fourth: If the complaint is submitted within the period stipulated in Item (First) of this article, the judicial authority that lays hands on the criminal case may decide whether to keep the attachment, amend it or repeal it, based on its opinion of the facts of the case, and based on the objections submitted to the committee to the attachment decision.

### Article 25

- First: Attachment on-going under the provisions of this chapter shall be deemed a reserve attachment and provisions of the civil procedure law shall be applied to its imposition, objection to it, administration of funds attached hereunder and the claim of entitlement, insofar as it does not conflict with the provisions provided for in this law.
- Second: If the criminal case is completed, for any legal reason, before the ruling is issued, the on-going attachment shall existing in place, and the concerned administrative authority shall institute civil action on the rights and damages contained in the criminal case, within (30) thirty days from the date of informing it of termination of the criminal case, otherwise, the attachment decision shall be repealed and the attached funds shall be returned to those who are entitled to them.
- Third: If the accused is convicted, the attachment of his/ her funds continues and turns into executive attachment when the ruling acquires the degree of finality.



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Fourth: The sentence of acquittal, irresponsibility, release or rejection of the complaint, in case of gaining the degree of bits, shall be considered as a repeal of the attachment decision and returning the attached funds to the attached person, even if this is not stipulated in the ruling decision.

### **Chapter Eight The Tasks of the Control Authorities**

#### **Article 26**

First: The control authorities shall, in addition to their tasks stipulated in other laws, assume the following:

- a. Developing inspection procedures and means and criteria to follow up the compliance of financial institutions and designated non-financial businesses and professions with the obligations of anti-money laundering and the terrorism financing in accordance with the law.
- b. Using their powers prescribed for them by their own law in cases the financial institutions and designated businesses and non-financial professions breach the implementation of their obligations.
- c. Cooperating and exchanging information with the authorities concerned with the application of the provisions of this law and with their foreign counterparts concerned with combating money laundering and the financing of terrorism.
- d. Ensuring that the branches of financial institutions outside Iraq and their subsidiaries that own a majority share implement the procedure stipulated in this law and the regulations, instructions, statements, controls and orders issued hereunder, to the extent that the legislation of the countries in which these branches or companies operate allow.



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- e. Verifying the compliance of financial institutions, owners of non-financial professions and businesses under their supervision or control with the obligations established under this law and they may use their control powers to achieve so.
  - f. Notifying the Bureau immediately of any information about operations related to money laundering, terrorist financing or original crimes.
  - g. Setting standards of efficiency, suitability, experience and integrity for members of the board of directors and members of executive or supervisory management or their managers in financial institutions.
  - h. Determining the circumstances in which financial institutions and designated non-financial businesses and professions may postpone the verification of the identity of the client or the real beneficiary until after the establishment of the business relationship.
  - i. Setting the necessary conditions for owning, managing or participating directly in the establishment, management or operation of a financial institution or designated non-financial professions.
  - j. Issuing guidance to help financial institutions and designated non-financial businesses and professions to implement the obligations stipulated in this law.
- Second: The supreme head of the control authority may issue instructions, controls or orders to facilitate the implementation of the tasks stipulated in this law.

## Chapter Nine International Cooperation

### Article 27

The crime of money laundering and the terrorism financing is one of the crimes in which judicial representation, legal assistance, coordination, cooperation and extradition permissible in accordance with the provisions of the agreements to which the Republic of Iraq is a party.





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### Article 28

The extradition request or the request for legal assistance shall not be executed on the basis of the provisions of this law, unless the laws of the requesting state and the laws of the Republic of Iraq punish for the crime in question or for a similar crime. Dual criminalization shall be deemed fulfilled, regardless of whether the laws of the requesting state include the crime in the same category of crimes or use the same term used in Iraqi law in naming the crime, provided that the act of crime in question is criminalized under the laws of the requesting state.

### Article 29

- First: The Bureau may exchange information automatically or upon request, with its foreign counterpart unit that performs functions similar to those of the bureau, and is subject to the same obligations with regard to confidentiality, regardless of the nature of that foreign unit, taking into account the principle of reciprocity and the provisions of international or bilateral conventions.
- Second: The information provided for in Item (First) of this Article may only be used for the purposes of combating origin crimes and money laundering and terrorist financing, and may not be disclosed to any other party without the consent of the entity that provides it.
- Third: The bureau may exchange information through one or more local or foreign authorities with non- counterpart units that cannot provide information directly.

### Article 30

The competent judicial authorities may, at the request of the judicial authority of another state that has an agreement with the Republic of Iraq or on condition of reciprocity, decide to track, attach or seize funds, proceeds, revenues, means and tools used or intended for use in committing the crime of money laundering or the original crime resulting from it, or the crime of financing terrorism or its corresponding value in a manner not contrary to Iraqi law, without prejudice to the rights of others (bona fide).



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### Article 31

The competent of Iraqi authorities shall implement the final penal sentences issued by the competent foreign judicial authorities related to the confiscation of funds obtained from the crimes of money laundering and the terrorism financing and their proceeds in accordance with the rules and procedures contained in bilateral or multilateral agreements to which Iraq is a party.

### Article 32

Bilateral or multilateral agreements may be concluded regulating how to dispose of the proceeds of the confiscation-sentenced funds for crimes of money laundering and the terrorism financing by the Iraqi and foreign judicial bodies, including the rules for distributing the proceeds of those funds between the parties to agreement in accordance with its provisions.

### Article 33

Each party has knowledge of the requests for legal assistance provided for in this law shall abide the maintenance of confidentiality of the requests, and they may not be disclosed to any other party without the consent of the party that provides the information.



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### **Chapter Ten Cross-Border Transfer of Funds and Tradable Instruments**

#### **Article 34**

- First: Every person, when entering or leaving Iraq, shall be obliged to declare, when requested to do so by a representative of the General Authority of Customs, the funds, currencies or financial instruments that he/ she carries, can be traded by their bearer, or transported inside or outside Iraq through a person, postal service, or shipping service or by any other means, and this declaration shall include the value of those currencies or instruments.
- Second: The General Authority of Customs may ask person additional information related to the source of the funds, currencies or bearer-tradable financial instruments and the purpose of their use.
- Third: The information provided for in Items (First) and (Second) of this Article, including a true copy of the declaration form, shall be referred to the Bureau.

#### **Article 35**

- First: The General Authority of Customs has the power to attach funds, currencies and bearer-tradable financial instruments in case they are not declared or given any untrue information about them or in case there are sufficient evidence to suspect that they have obtained from a original crime, money laundering crime or terrorism financing crime or prepared for that.
- Second: the Bureau shall issue a recommendation to lift the attachment for the attached items provided for in Item (First) of this Article or refer them to the judiciary within (7) seven days from the date of its notification of the decision.



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### Chapter Eleven Penalties

#### Article 36

Whoever commits a money laundering crime shall be punished by imprisonment for a term not exceeding (15) fifteen years and fine not less than the value of the property in question and not more than five times.

#### Article 37

Whoever commits the crime of terrorism financing shall be punished with life imprisonment.

#### Article 38

First: The funds that is the subject of the crime provided for in this law, and their proceeds or the things that are used in its commission or intended for use in it, or their equivalent value shall be confiscated in the event that they cannot be seized or applying an executive measure to them, whether they are in the possession of the accused or another person, without prejudice to the rights of (bona fide) third parties.

Second: The proceeds of crime that are mixed with property acquired from legitimate sources shall be subject to the confiscation stipulated in Item (First) of this Article within the limits of the estimated value of the proceeds and their fruits.

Third: The expiry of the criminal lawsuit shall not preclude a ruling for the confiscation of funds obtained from money laundering or terrorist financing operations.

Fourth: Every contract, agreement, or any other legal instrument of which the parties or one of them knew, or had reason to believe that the purpose thereof was to prevent the confiscation of instruments, proceeds of crime related to money laundering or terrorist



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financing, shall be null and void, without prejudice to the rights of (bona fide) third parties.

### Article 39

First: The financial institution shall be punished with a fine of no less than (25,000,000) twenty-five million dinars and not more than (250,000,000) two hundred and fifty million dinars in one of the following two cases:

- a. Failure to keep records and documents to record its local and international financial operations that include sufficient data to identify these operations and keep them for the period stipulated in this law.
- b. Opening an account, accepting deposits, accepting money, deposits of unknown origin or those in sham or fictitious names.

Second: The punishment shall be by imprisonment for a period not exceeding (3) three years and a fine of no less than (15,000,000) fifteen million dinars and not more than (50,000,000) fifty million dinars or one of these two penalties, whoever:

- a. Refuses to notify of suspicious transactions to the bureau or intentionally provide incorrect information.
- b. Discloses to the client or beneficiary or to other than the authorities and bodies competent to implement the provisions of this law any of the reporting, investigation or examination procedures that are taken in relation to financial transactions suspected to include money laundering or terrorist financing, or about the data related to him/ her.

### Article 40

The punishment shall be imprisonment and a fine not exceeding (100,000,000) one hundred million dinars, or one of these two penalties for any of the chairpersons of the boards of directors of financial institutions or any of their members, owners, managers or employees violates, in bad faith or gross negligence, any of the obligations stipulated in this law.





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### Article 41

Whoever refrains from providing information to the Bureau after being warned to submit it within (7) seven days shall be punished by imprisonment for a period not exceeding one year.

### Article 42

The punishment shall be imprisonment for a period of no less than (3) three years and a fine of no less than (10,000,000) ten million dinars and not more than (100,000,000) one hundred million dinars, or one of these two penalties, whoever establishes a sham bank in the Republic of Iraq, and any attempt shall be deemed an intent to actually proceed.

### Article 43

The punishment shall be imprisonment for a period not exceeding (2) two years and a fine not less than the value of the money and not exceeding (3) three times the value of the money for whoever does not declare, upon entering or leaving the Republic of Iraq upon request by a representative of the General Authority of Customs regarding his/ her money, currencies or bearer- tradable financial instruments or transferred inside or outside the Republic of Iraq through a person, mail service, shipping service, or any other means, or if he/ she provides false information.

### Article 44

Whoever violates the provisions of this law other than Articles (37), (38), (41), (42) and (43) shall be punished by imprisonment and a fine of no less than (1) million dinars and not more than (25) twenty-five million dinars, or either of these two penalties.



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### Article 45

The control authorities shall take the following in the event that the financial institution or the designated non-financial business and professions violate the provisions of this law, regulations, instructions, statements, controls or orders issued thereunder, and without prejudice to the penal sanctions:

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

Second: Withdrawing the work permit in accordance with the law.

Third: Warning, which is to notify the violating party that the violation must be removed within an appropriate period to be determined by the warning.

Fourth: Preventing people from working in the relevant sector for a period determined by the control authority.

Fifth: Restricting the authority of heads or requesting their replacement.

Sixth: Collecting a sum of money of no less than (250,000) two hundred and fifty thousand dinars and not more than (5,000,000) five million dinars for each violation.

### Article 46

First: Without prejudice to the criminal responsibility of the natural person stipulated in this law, the legal person shall be responsible for the crimes stipulated in this law committed by his/ her representatives, directors, or agents for his/ her account and in his/ her name, and he/ she shall be punished with a fine and confiscation prescribed for the crime in accordance with the law.

Second: The legal person shall be jointly responsible for fulfilling the financial penalties and compensation rulings if the crime is committed by one of his/ her employees, in his/ her name and for his/ her benefit.

### Article 47

Whoever initiates to inform any competent authority of the existence of a criminal agreement to commit a crime of money laundering and terrorism financing and of those involved in it before the crime occurred and before the competent authorities search and investigate those perpetrators shall be exempted from the penalty stipulated in this law, and the court may



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exempt or reduce the penalty if the notification occurs after the crime has occurred, provided that it facilitates the arrest of the perpetrators and the seizure of the funds subject of the crime.

### Article 48

Whoever reports in good faith any of the suspicious operations subject to the provisions of this law or submits information or data about it, even if it is proven to be incorrect shall not be held criminally or disciplinarily responsible.

## Chapter Twelve General and Final Provisions

### Article 49

The provisions of this law shall be applied to the money laundering crimes committed in the Republic of Iraq, even if the original crimes that resulted in those funds are located outside the Republic of Iraq, provided that they are punishable by the laws of that country and the laws of the Republic of Iraq.

### Article 50

A Bureau's employee may not be referred to trial for a crime committed during the performance of his/ her official job or because of it, except with the permission of the governor.



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### Article 51

Any bank in the Republic of Iraq does not have a physical presence in it and if it is not affiliated with an organized financial group subject to the effective supervision of the competent control authorities may not be established.

### Article 52

The confidentiality provisions stipulated in any law do not prevent the application of the provisions of this law.

### Article 53

First: It is not permissible for any employee in the Council or Bureau to disclose information that he/ she has access to or is aware of by virtue of his/ her position, whether he/ she sees or learns about it directly or indirectly. This information may not be disclosed in any way, except for the purposes of this law. This ban shall continue until after the end of his/ her service.

Second: The provision of Item (First) of this Article shall be applied to persons who obtain information, whether directly or indirectly, by virtue of their contact with the Council or Bureau.

### Article 54

A criminal court shall be formed in the Supreme Judicial Council that specializes in money laundering cases, and other courts may be formed, when necessary, in the centres of the appellate regions by a statement issued by the President of the Supreme Judicial Council, to be published in the Official Gazette.

### Article 55

The (dissolved) Coalition Provisional Authority Order No. (93) Of 2004 (Anti-Money Laundering Law) shall be repealed.



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### Article 56

First: Regulations to facilitate the implementation of the provisions of this law may be issued.  
Second: The Governor may issue instructions and rule of procedures to facilitate the implementation of the provisions of this law.

### Article 57

This law shall be effective from the date of its publication in the Official Gazette.

**Fouad Masum,  
President of the Republic**





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### **Rule of Procedures**

Based on the provisions of Article (6) of the anti-money laundering and terrorist financing law no (39) of 2015, we have issued the following by law:

**No (3) 2018**

### **Rule of Procedures of the Anti-Money Laundering and Terrorist Financing Council**

#### **Article 1**

- First: The Anti-money Laundering and Terrorist Financing Council, established by the anti – money laundering and terrorist financing law no (39) 2015 at the central Bank, shall meet at least once a month at the invitation of its Chairman or at the request of a quarter of the Council’s members .
- Second: The meetings of the Council shall be held at the headquarters of the central bank of Iraq or any other place specified by the Chairman within the republic of Iraq.
- Third: The quorum of the Council’s meeting shall be achieved by the presence of the Chairman and two-thirds of the Council’s members. Decisions and recommendations shall be taken by a simple majority of the members, and in the case of equal votes, the side with which the president votes shall prevail.



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### Article 2

Topics shall be submitted to the Council by Anti-Money Laundering and Terrorism Financing Bureau and Council's members after the approval of the Chairman and shall be included in the agenda in coordination with the Rapporteur.

### Article 3

First: The schedule shall be distributed to the members at least (7) seven days before the date of the session in the periodic meeting.

Second: The council shall discuss the topics listed on the schedule before it shall take the necessary decisions in this regard.

Third: It is permissible to add any paragraph to the schedule before the date of the session by a decision of the Chairman of the council at the request of one of the members of the Council and with the approval of one-third of its members.

### Article 4

The Chairman of the Council may approach the relevant authorities to replace a member of the Council who is absent for (3) three consecutive sessions without a legitimate excuse.

### Article 5

This rule of procedures shall be effective once it is published in the official Gazette.

**Ali Muhsin Ismaeel**  
**Chairman of the Anti-money laundering and Terrorist**  
**Financing Council**