

ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, 2015

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An Act to provide for the offense of money laundering and terrorist financing and to introduce measures for combating these offenses, to provide for the identification, tracing, freezing, seizure and confiscation of the proceeds of crime, and for connected purposes.

PART I –DEFINITIONS

Art. 1 – Definitions

In this Act, unless defined otherwise, the terms below shall have the following meanings:

“**Account**” includes any facility or arrangement through which a reporting entity does any one or more of the following activities—

1. Accepts deposits of monetary instruments;
2. Allows withdrawals of monetary instruments or transfers into or out of the account;
3. Pays checks payment orders drawn on a financial institution or collects checks or payment orders on behalf of any person;
4. Supplies a facility or arrangement for a safety or fixed term deposit box.

“**Bearer negotiable instrument**” means a negotiable document in which the owner is recognized as who possesses the document. Therefore, whoever holds the document may sell or exchange for cash or other value.

“**Beneficial owner**” means the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes persons who exercise ultimate and effective control over a legal entity or legal arrangement.

“**Benefit**” means any advantage, gain, profit, or payment of any kind, and the benefit that a person derives or obtains or that accrue to him including those that another person derives, obtains or that otherwise accrue to such other person, if the other person is under the control of, or is directed or requested by, the first person.

“**Competent authority**” means a public authority other than a self-regulatory body with designated responsibilities for combating money laundering and/or terrorist financing:

“**Financial institution**” means any natural or legal person who conduct a business activity defined in the Financial Institutions Law, 2012 or one or more of the following activities or operations for or on behalf of a customer:

1. Acceptance of deposits and other repayable funds from the public, including private banking;
2. Lending, including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting);
3. Financial leasing, not extended to financial leasing arrangements in relation to consumer products;

4. The transfer of money or its equivalent, including financial activity in both the formal or informal sector,
5. Issuing and managing means of payment (e.g. credit and debit cards, checks, traveler's checks, money orders and bankers' drafts, electronic money transfers);
6. Financial guarantees and commitments;
7. Trading in money market instruments (checks, bills, certificates of deposit, derivatives etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures;
8. Individual and collective portfolio management;
9. Safekeeping and administration of cash on behalf of other persons;
10. Otherwise investing, administering or managing funds or money on behalf of other persons; and
11. Money and currency changing.
12. Electronic money also known as e-money services.
13. Participation in the securities issues and the provision of financial services related thereto
14. Underwriting and placing of life insurance and other investment related insurance

“Financing of terrorism,” means the offense of financing of terrorism as defined in Part II of this Act.

“Funds or properties” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments, including electronic or digital, evidencing title to, or interest in, such assets.

“Instrumentality” and “instrumentalities” includes any property used or intended to be used in connection with the commission of a criminal offense including for use in the financing of terrorism, terrorist acts or terrorist organizations.

“Foreign Terrorist Fighter” means an individual who travels to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training”.

“Money laundering” means an offense under any of the provisions of Part II, of this Act.

“Payable through accounts” means correspondent accounts that are used directly by third parties to transact business on their own behalf.

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

“Predicate offense” means any criminal offense, defined as a crime in the Criminal Code or other relevant laws that generates illegal proceeds of crime. Predicate offense also includes offenses committed outside of the Federal Republic of Somalia if they would have constituted offenses within the territory of the Federal Republic of Somalia.

“Proceeds of crime” means any funds, property, or any advantage or benefit derived from or obtained directly or indirectly through the commission of an offense.

“Reporting entity” means the natural or legal persons referred to in Part III of this Act.

“Sanctioned persons or entities,” mean persons or entities prohibited from doing business with financial institutions.

“Shell bank” means a bank that has no physical presence in the country in which it is incorporated or licensed, and which is not affiliated with a regulated financial services group that is subject to effective consolidated supervision. Physical presence means having meaningful decision making structures and management located within the jurisdiction, which is responsible for supervising and regulating the company.

“Structuring,” means to conduct or to attempt to conduct one or more transactions in any amount at one or more financial institutions on one or more days in any manner for purposes of evading the reporting requirements set in this Act.

“Suspicious transaction” means a transaction described in Article 14 of this Act.

“Terrorist” means any natural person who:

1. Commits or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully;
2. Participates as an accomplice in terrorist acts;
3. Organizes or directs others to commit terrorist acts; or
4. Contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

“Terrorist act” means:

1. An act, which constitutes an offence within the scope of, and as defined in any one of the treaties listed in the annex to the 1999 International Convention for the Suppression of the Financing of Terrorism; and
2. Any other act that is intended to cause death or serious bodily injury to a civilian, or to any other person not taking any active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

“Terrorist organization” means any group that:

1. Commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully;
2. Participates as an accomplice in terrorist acts;

3. Organizes or directs others to commit terrorist acts; or
4. Contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

“Terrorist property” means:

1. Proceeds from the commission of a terrorist act;
2. Property which has been, is being, or is intended to be used to commit a terrorist act;
3. Property which has been, is being, or is intended to be used by a terrorist organization;
4. Property owned or controlled by, or on behalf of, a terrorist organization; or
5. Property, which has been collected for the purpose of providing support to a terrorist organization or funding a terrorist act.

“The Center” means the Financial Reports Center established under Part IV of this Act.

“The Committee” means the National Anti-Money Laundering Committee.

“Trust and Company Service Providers” refers to all persons and businesses providing any of the following services to third parties:

- Acting as a formation agent of legal persons;
- Acting as (or arranging for other persons to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- Providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- Acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form or legal arrangement;
- Acting as (or arranging for another person to act as) a nominee shareholder for another person.

PART II - MONEY LAUNDERING AND TERRORISM FINANCING OFFENSES

Art. 2 - Money laundering offense.

Any person or entity commits an offense of money laundering if the person or entity, assist any person or entity who is involved in the commission of the predicate offence to evade the legal consequences of his or her actions:

1. Knows or should have known that funds or property is or forms part of the proceeds of crime and the person or entity:
 - a. Converts, conceals, disguises or transfers the funds or property,

- b. Conceals or disguises the unlawful origin of the funds or property, or
 - c. Acquires uses or takes possession of the funds or property.
2. Participates in, associates with the commission of, or attempts to commit, aids, abets, facilitates or counsels anyone in the commission of any of the above activities.
 3. Commits a predicate crime and acquires, possesses, converts, conceals, disguises, uses or transfers the illegally obtained proceeds or unlawful origin of the funds or property ('self-laundering').

It is an offense to structure or to attempt to structure currency or monetary instruments related to money laundering or terrorist financing, cfr. article 14.2 .

The intent and knowledge required to prove the offence of money laundering may be inferred from objective factual circumstances.

It is not a condition in itself for committing the offence of money laundering that any person or entity have been convicted for the predicate crime.

The statute of limitation for the offense of money laundering is 10 years from the time the offence was committed. The limitation can be disrupted by initiating investigation, including charging the suspected person

Art. 3 -Terrorism financing offenses

1. Any person who by any means, directly or indirectly, provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in whole or in part for any purpose:
 - a. In order to carry out a terrorist act; or
 - b. By a terrorist; or
 - c. By a terrorist organizationCommits an offense; or
 - d. To finance a foreign terrorist fighter
2. An offense under subsection (1) is committed:
 - a. Evenif a terrorist act does not occur or is not attempted;
 - b. Even if the funds were not actually used to commit or attempt a terrorist act; and
 - c. Regardless of the state or territory in which the terrorist act is intended to occur.
3. It shall also be an offense to:
 - a. Participate as an accomplice in an offense within the meaning of subsection (2);
 - b. Organize or direct others to commit an offense within the meaning of subsection (2); or

- c. Intentionally contribute to the commission of an offense under subsection (2) by a group of persons acting with a common purpose, where the contribution is to further the criminal activity or purpose of the group that includes the commission of an offense under subsection (2) or where the contribution is made knowing the intention of the group is to commit an offense under subsection (2).

The intent and knowledge required to prove the offence of financing of terrorism may be inferred from objective factual circumstances.

The statute of limitation for the offense of terrorist financing is 10 years from the time the offence was committed. The limitation can be disrupted by initiating investigation, including charging the suspected person.

PART III - PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING

Art. 4 -Institutions and professions subject to this Act

The preventive obligations under this Act shall apply to the following persons or entities, hereinafter referred to as “reporting entities,” which shall be subject to the measures and obligations prescribed by this Act:

1. Financial institutions;
2. Designated non-financial businesses and professions:
 - a. Lawyers, notaries, other independent legal professionals when they arrange or carry out transactions for their client concerning the following activities:
 - i. Buying and selling real estate;
 - ii. Buying and selling movable assets;
 - iii. Managing client money, securities or other assets;
 - iv. Opening or managing bank, savings, or securities accounts;
 - v. Securing capital necessary for the creation, operation or management of companies; or
 - vi. Creating, operating or managing a legal person or business organization and buying and selling of business entities;
 - b. Trust and company service providers;
 - c. Accountants
 - d. Real estate agents when they are involved in transactions for their client concerning the buying and selling of real estate;
 - e. Casinos;
 - f. Dealers in precious metals or precious stones;

3. Such other entities as may be prescribed in regulations by the Financial Reports Center.

Art. 5 –Customer due diligence

1. Customer due diligence measures are to be undertaken by a reporting entity to enable it achieve the following objectives:
 - a. Identify the customer and verify that customer's identity using reliable, independent source documents, data or information;
 - b. Identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner, such that the reporting institution is satisfied that it knows who the beneficial owners is and it understands the ownership and control structure of the customers in case of legal persons and arrangements;
 - c. Understand and as appropriate obtain information on the purpose and nature of the business relationship; and
 - d. Conduct on going due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the reporting institution's knowledge of the customer, their business and risk profile, including where necessary the source of funds.

A reporting institution shall take measures to satisfy itself as to the true identity of any applicant seeking to enter into a business relationship with it, or to carry out a transaction or series of transactions with it, by requiring the applicant to produce an official record for the purpose of establishing the true identity of the applicant and for purposes of establishing the true identity of the applicant and for purposes of verifying that identity.
2. Reporting entities shall identify and verify the identity of their customers in the following circumstances or when:
 - a. Establishing business relationships;
 - b. Carrying out occasional transactions or one off transactions equal to or exceeding the designated threshold of USD \$10,000 or the equivalent in any currency;
 - c. Sending or receiving cash of any amount, or any transaction of any amount where money laundering or terrorist financing is suspected;
 - d. In receipt of electronic transfer that does not contain complete originator information; and
 - e. The reporting entity has doubts about the veracity or adequacy of previously obtained customer identification data.

3. In identifying and verifying customer identities, reporting entities shall make all reasonable efforts to obtain and maintain information and/or documentation demonstrating that they are satisfied that the identity of the beneficial owner of the account or funds is known and verified.
4. A natural person's identity shall be verified by the presentation of an original national identity card or passport, or other reliable documentation as the Central Bank of Somalia and other supervisory authorities shall prescribe in regulation or guidance, based on the level of risk and in the interest of improving access to financial services.
5. Any regulations issued by an appropriate supervisory authority that, in the interest of improving financial inclusion, reduces general customer due diligence obligations, require the consent of the Financial Reports Center, as the national agency responsible for the AML/CFT risk assessment, cfr. article 21.5, and must be based upon a written finding of lower risk based on the specific circumstances and limitations of the product, service, or client category.
6. Legal persons and other legal arrangements, including trusts shall be identified by certificate of registration or incorporation, articles of association, identification documents of the senior management and if applicable, license or permit.
7. Reporting entities shall verify the identity of all persons or entities acting on behalf of other persons or entities. Identity documentation of the representative or agent as well as the principle shall be obtained.
8. Reporting entities shall verify the identity of all beneficial owners of legal persons and other legal arrangements, including trusts, by obtaining sufficient documentation to understand the ownership and control structure of legal persons and other legal arrangements, including trusts,
 - i. Including for legal persons: The identity of the natural persons exercising control of the legal persons
 - ii. Including for trusts: The identity of the settlor, the trustee, the protector and the beneficiaries for trusts.
 - iii. Including for other legal arrangements: The identity of persons equivalent to the settler, the trustee, the protector and the beneficiaries for trusts
9. Regulations issued by the Central Bank of Somalia and other competent authorities shall set forth detailed obligations and procedures within 12 months from the enactment of this law to implement these provisions for various categories of reporting entities.
10. If the obligations above and in relevant regulations are not met, the reporting entity shall not open the account, commence or continue business relationships or perform the transaction. In such case, the reporting entity shall submit a suspicious transaction report to the Financial Reports Center.

Art. 6 –Prohibition of anonymous accounts

Reporting entities shall not keep anonymous accounts or accounts in obviously fictitious names. Any such accounts in existence prior to enactment of this law shall be closed by a date stipulated by the Central Bank of Somalia, unless all identification requirements in this Act and relevant regulations are fulfilled.

Art. 7 –Prohibited relationships

1. Reporting entities are prohibited from establishing or maintaining business relationships with, or executing transactions with a shell bank, or any financial institution with no physical presence in the jurisdiction in which it is incorporated or licensed, unless it is wholly owned by a financial institution or financial group that is subject to effective financial supervision and regulation.
2. Reporting entities are prohibited from doing business with sanctioned persons or entities, cfr. article 14.1.c. The Ministry of Finance shall be responsible for the overall administration of the country's sanctions regime and shall issue detailed regulations that identify sanctioned persons or entities.

Art. 8 –Documenting the nature and purpose of accounts

1. Each reporting entity shall obtain adequate documentation to understand the purpose and nature of each business relationship and each account in order to have sufficient information to understand the expected transaction profile of the customer.
2. The Central Bank of Somalia and other competent authorities shall issue detailed regulations and guidelines that identify minimum documentation required for each sector of reporting entities.

Art. 9 –Obligation to identify and manage money laundering and terrorist financing risks

1. Every reporting entity must carry out an internal risk assessment to identify the money laundering and terrorist financing risks in all financial products and services, including non-face-to-face transactions and new technologies, and in all client categories.
2. The internal risk assessment must be documented in writing, conducted every year or at any other time at the request of the relevant competent authority, and identify strategies and procedures to mitigate risks of money laundering and terrorist financing in all business areas.

3. Each reporting entity shall classify higher risk accounts, client groups, products, services, and transactions and apply enhanced due diligence procedures to them. Higher risk accounts, client groups, products, services, and transactions shall include those that the reporting entity identifies as higher risk as well as those designated as higher risk pursuant to regulations or guidance issued by competent authorities.
4. Enhanced due diligence procedures shall minimally include:
 - a. Written approval of a manager to open or continue the account; and
 - b. Additional information of the customer, including occupation, volume of assets, sources of funds, information available through public databases **and other related matters,**
 - c. Frequent monitoring of transactions based on the customer's account profile; and
 - d. Reasonable measures to establish the source of wealth and source of funds; and
 - e. Taking and documenting additional and appropriate measures that facts and circumstances warrant; and
 - f. Any additional requirement pursuant to a regulation issued by Central Bank of Somalia or other competent authorities.
5. Reporting entities shall implement on-going customer due diligence procedures to review and update client identity documentation, customer due diligence, and information and transaction profile information as well as risk classifications.

Art. 10 - Politically exposed persons

1. All persons who are identified as politically exposed persons (PEP) or any entities, which include PEP as an owner, beneficial owner, or board member or serve in any senior management position, shall be classified as higher risk.
2. A reporting entity shall have appropriate risk management systems to determine whether the customer or beneficial owner is a politically exposed person.
3. A reporting entity will be required to take the following measures where a customer or beneficial owner is a politically exposed person:
 - a. Obtain approval from senior management to transact or establish the relationship with that person;
 - b. Take adequate measures to establish the source of wealth and the source of funds that are involved in the proposed business relationship or transaction;
 - c. Obtain information on the immediate family members or close associates of the person who may be having transaction authority over the account;
 - d. Sufficiently document the purpose and nature of the transaction or account, the expected volumes, frequency, products and services likely to be used and the nature of account activity in order to reasonably identify unusual activity;
 - e. Review public sources of information on the politically exposed person; and

- f. Once the account has been established, conduct enhanced on-going monitoring of the relationship.

Art. 11 – Special monitoring of transactions

1. Reporting entities shall apply and document enhanced due diligence procedures to:
 - a. Complex or unusually large transactions and unusual patterns of transactions that have no apparent lawful purpose or are suspicious in nature.
 - b. Business relationships or transactions with persons or entities linked to countries that do not or insufficiently apply anti-money laundering and combating the financing of terrorism measures.
 - c. Business relationships or transactions where the customer or product for other reasons after a concrete assessment by the reporting entity impose a risk factor.
2. The findings and related documentation shall be made available to competent authorities in writing upon request and in a timely manner.

Art. 12 – Correspondent bank due diligence obligations

1. When entering into correspondent banking relationships, financial institutions shall:
 - a. Identify and verify the identification of the correspondent institution;
 - b. Collect and document information on the institutions, business and financial activities;
 - c. Evaluate the institution's reputation and nature of supervision to which it is subject;
 - d. Obtain written approval of senior management before establishing correspondent banking relationships;
 - e. Obtain and evaluate the written anti-money laundering and counter terrorist financing controls, policies and procedures implemented by the correspondent institution, and upon request of the correspondent institution, provide a copy of these same controls to it for evaluation; and
 - f. Establish an agreement on respective responsibilities of each institution.
2. In the case of 'payable through accounts', ensure that the correspondent institution:
 - a. Has implemented effective and adequate customer due diligence procedures on all customers that have direct access to accounts of the correspondent institution; and
 - b. Agrees in writing to provide relevant customer identification information upon request and in a timely manner.

Art. 13 – Record-keeping

1. Reporting entities should maintain, for at least five (5) years from the date of execution, all necessary records on transactions, both domestic and international.
2. Reporting entities shall keep all records obtained through the customer due diligence process, including client files and correspondence records in accordance with subsection (1) above as well as the results of any client analysis undertaken for at least five years after the business relationship has ended or after the date of the occasional transaction if no business relationship exist.
3. The identification data, transaction records, customer due diligence information, client analysis etc. in client files and related correspondence shall be made available to the Financial Reporting Center or relevant sector regulator upon request and in a timely manner.

Art. 14 – Reporting obligations

1. A reporting entity shall expediently report to the Financial Reports Center all details related to any transaction of any amount if it suspects or has a reasonable ground to suspect that the transaction, series of transactions or attempted transaction(s) may be related to:
 - a. Money laundering or proceeds of crime;
 - b. Funds that are linked or related to, or are used or to be used for, or in support of terrorism, terrorist acts or by terrorist organizations.
 - c. Funds that are linked or related to persons or entities either 1) designated by, or under the authority of, the UN Security Council under chapter VII of the Charter of the UN, including in accordance with resolution 1267 (1999) and its successor resolutions; 2) designated by Somalia pursuant to resolution 1373 (2001), cfr. article 7.2 or 3) designated by, or under the authority of, the UN Security Council under chapter VII of the Charter of the UN, including in relation to resolutions relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.
2. A reporting entity shall expediently report to the Financial Reports Center any transactions or series of transactions that appear to be linked which exceed the designated threshold of USD \$10,000 or the equivalent in any currency.
3. The reports required of reporting entities under this Act shall be sent to the Financial Reports Center in such a form and in accordance with procedures as prescribed in regulation by the Center.

Art. 15 – Exemption from liability for bona fide reporting of suspicions

1. Reporting entities, their directors, officers and employees shall not be held liable in any way, including criminal, civil or administrative liability, for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, while fulfilling obligations to report suspicious transactions, cash transactions or any related information in good faith to the Financial Reports Center or the Central Bank of Somalia.
2. Reporting entities, their directors, officers and employees shall be prohibited from disclosing the fact that a suspicious transaction report or related information is being reported to the Financial Reports Center.

Art. 16 – Secrecy Obligation Overridden

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

Art. 17 – Anti-money laundering and counter the financing of terrorism program

1. Reporting entities shall develop a program for the detection, management, and mitigation of money laundering and terrorist financing risks. This program shall include the following:
 - a. Written internal policies, procedures and controls, signed and dated by senior management, that are based on the internal anti-money laundering and counter terrorist financing risk assessment and relevant laws, regulations and guidelines; and
 - b. Designation of an anti-money laundering compliance officer responsible for enforcing the policies, procedures and controls. The compliance officer shall have ready access to all books, records and employees of the institution necessary to fulfil his responsibilities. The compliance officer shall be a senior manager with sufficient experience and be sufficiently resourced; and
 - c. Creation of adequate screening procedures to ensure high standards when hiring employees; and
 - d. Regular training for staff and management, which shall be documented; and
 - e. Internal audit arrangements to check compliance with and effectiveness of the measures taken to apply this Act. Persons responsible for internal audit shall also be responsible for assessing the overall adequacy of the anti-money laundering program in terms of risks identified in internal risk assessments as well as evaluating compliance with the program.

2. Financial institutions shall require their foreign branches and majority-owned subsidiaries to implement their internal anti-money laundering and countering the financing of terrorism programs to the extent that domestic applicable laws and regulations of the host country so permit. If the laws of the country where the branch or majority-owned subsidiary is situated prevent compliance with these obligations, for any reason, the financial institution shall so advise its competent supervisory authority, which may take additional supervisory actions. If the purposes of the Act can still not be accomplished the supervisory authority can decide that the branch or subsidiary should be closed. Financial institutions need to have in place efficient information sharing arrangements with its' branches and subsidiaries to be able to answer to the supervisory authority without delay.

Art. 18-Currency reporting at the border

1. Any person who:
 - a. Leaves or arrives in the Federal Republic of Somalia with or imports to or exports from, by mail, courier, or otherwise more than USD \$10,000 or the equivalent in any currency in cash or bearer instruments shall make a truthful declaration, in writing, to the relevant authority at the border;
 - b. Fails to comply with sub-paragraph (a) of this section shall be guilty of an offense punishable under this Act and other relevant laws.
2. A customs official who suspects a violation of the obligation to declare under subsection (1), may, by use of force that is reasonable and necessary to:
 - a. Examine any article that a person has with him or her or in his or her luggage; and
 - b. Search the person.
3. An official of the same sex shall not search except the suspected person(s).
4. A customs official may stop, board, and search any ship, aircraft or other type of transportation vehicle in the territory under customs' control.
5. Where a customs official has found cash or bearer negotiable instruments that were not declared pursuant to the obligation, the official shall further investigate the reasons and purpose for transporting the cash or bearer negotiable instruments across state lines. The same applies to situations, where the cash or bearer negotiable instruments were declared but where the facts and circumstances for other reasons would require an investigation.
6. If, in view of the facts and circumstances, the official reasonably suspects that money laundering, a predicate offence to money laundering or terrorist financing may be involved or that a declaration was false, the official shall afford evidence to the customs authority, and in accordance with obligations and procedures set forth in relevant laws and regulations, seize the cash or bearer instruments.

7. Any seized cash or bearer instruments shall be turned over to law enforcement, which shall be responsible and accountable for safekeeping and documenting the chain of custody.
8. A customs official that has initiated investigation or seized cash or negotiable bearer instrument under sub-paragraph 6 of this article shall report the seizure to the Financial Reports Center within 48 hours after a seizure.
9. The Financial Reports Center shall, upon request, have access to information on all declarations of cash and bearer negotiable instruments.
10. Relevant law enforcement authorities shall issue regulations setting forth procedures for further collection of evidence for the pursuit of criminal investigations.
11. Following two years after a determination by competent authorities that the seized cash or bearer instruments are not connected to any criminal action or investigation and are not confiscated by the state and remain unclaimed by the rightful owner, the Attorney General may make an application to a competent court that such cash or negotiable instrument be forfeited to the Federal Republic of Somalia. The rightful owner should be notified before the court decision and should be given an opportunity to object to the forfeiture by the state.
12. Competent authorities shall issue further procedures necessary to implement these provisions.

Art. 19-Wire transfers

1. Financial institutions, when undertaking wire transfers, shall:
 - a. Obtain and maintain the name of the originator, and for wire transfers equal to or above USD \$1,000 or the equivalent in any currency, identify and verify the identity of the originator;
 - b. Obtain and maintain the account number of the originator, or in the absence of an account number, a unique reference number;
 - c. Obtain and maintain the originator's address or, in the absence of an address, the national identity number or date and place of birth; and
 - d. The name and account number, or a unique reference number, of the beneficiary
 - e. Include information from (a) through (d) above in the message or payment form accompanying the transfer.
 - f. In the event that the identity of the originator or the beneficiary equals persons or entities designated under the UN Security Council resolutions 1267 and 1373 a report needs to be sent without delay to the Financial Reporting Center.
2. Notwithstanding the requirements of subsection (1), a financial institution is not required to verify the identity of a customer with which it has an existing business

relationship, provided that it is satisfied that it already knows and has verified the true identity of the customer.

3. When a financial institution acts as an intermediary in a chain of payments, it shall ensure that all originator and beneficiary information that accompanies a wire transfer is retained with it.
4. The Central Bank of Somalia may by regulation modify the requirements set forth in subsection (1):
 - a. With respect to domestic wire transfers, as long as the regulations provide for full originator information to be made available to the beneficiary financial institution and appropriate authorities by other means; and
 - b. With respect to cross-border transfers where individual transfers from a single originator are bundled in a batch file, as long as the regulations provide for the originator's account number or unique reference number to be included, and that the batch file contains full originator information that is fully traceable in the recipient country.
5. Subsections (1) and (2) shall not apply to transfers executed as a result of credit card or debit card transactions, provided that the credit card or debit card number accompanies the transfer resulting from the transaction, nor shall they apply to transfers between financial institutions acting for their own account.
6. If financial institutions receive wire transfers that do not contain the complete originator information required under that paragraph, they shall take measures to obtain and verify the missing information from the ordering institution or the beneficiary. Should they not obtain the missing information, they shall refuse acceptance of the transfer.

PART IV – FINANCIAL REPORTING CENTER

Art. 20–Establishment

1. The Financial Reporting Center shall be established, which shall serve as the central, national agency responsible for receiving, requesting, analyzing and appropriately disseminating information concerning money laundering and terrorist financing.
2. For purposes of performing its functions, the Central Bank of Somalia shall financially support the Financial Reports Center.
3. The Center shall be independent in the performance of its functions and shall not be subjected to the direction, instruction or control of any person, authority, or institution.
4. The Center shall report on its activities, strategies and plans to the National Anti-Money Laundering Committee.

5. The budget of the Center shall be drafted by the Financial Reports Center and approved by the Committee.
6. A Director appointed for a term of five years by the Committee through a competitive recruitment process shall head the Center; the Director may only be eligible for reappointment for one additional term.
7. The Director shall establish the structure of and the number and type of staff positions for the Center and shall have the power to hire and dismiss such persons.
8. A person appointed as the Director shall satisfy the following criteria:
 - a. Has no criminal record or been disqualified from holding a public office for reason; and
 - b. Has relevant professional experience.
9. The Director may only be discharged from this position before the end of his term by a unanimous vote, excluding the Director himself, of the Committee on these grounds:
 - a. If any of the criteria listed above has been violated;
 - b. If convicted of a criminal offense;
 - c. Has become incompetent for the job on grounds of:
 - i. Serious misconduct, or
 - ii. Permanent physical or mental disability.
10. Disqualification shall not be effected until the Director or his legal representative has been given a fair hearing before the Committee.

Art. 21-Responsibilities, authority and functions

The Financial Reports Center shall carry out all activities necessary to fulfill the following responsibilities and functions:

1. Act as the central reception point responsible for requesting and receiving information concerning suspected proceeds of crime, associated predicate offenses and the financing of terrorism, including cash transaction reports and suspicious transaction reports from reporting entities as well as reports on cross-border transport of cash or bearer negotiable instruments from custom officers, cfr. article 18.
2. Act as the central reception point of reports on transactions, series of transactions or attempted transactions related to funds that are linked or related to persons or entities under the UN Security Council resolutions sanctioning regime, cft. article 14.1.c, on terrorism, financing of terrorism and proliferation.
3. Act as central agency to freeze without delay funds as per applicable laws.
4. Analyze received information in order to identify patterns of transactions that may indicate money laundering, terrorist financing, and/or related predicate offenses.
5. Share information with national intelligence and law enforcement agencies, national regulatory authorities, other competent authorities, and foreign financial intelligence

units to the extent that the information is necessary for the receiving authority to carry out its' responsibilities and tasks. Information may be shared with national intelligence and law enforcement authorities if the information relates to security issues or suspicions of criminal activities. Information **may** be shared with foreign financial intelligence units on an FIU-to-FIU basis without having a specific Memorandum of Understanding

6. Establish and maintain a secured and confidential database on cash transactions and suspicious transactions on the basis of reports received from reporting entities.
7. Monitor, research and identify money laundering and terrorism financing trends, typologies, risks and developments, and disseminate this information as appropriate.
8. Submit annual reports to the Committee, no later than a date determined by the Committee, that identify results and achievements of the Center's Strategic Plan, budget accounting report, deficiencies and weaknesses in the national anti-money laundering and combatting the financing of terrorism regime and recommendations to effectively remedy them. The annual reports shall be submitted in a form determined by the Committee.
9. Issue regulations, provide guidance and feedback to relevant ministries and agencies as well as reporting entities on national risks, indicators, the specific reporting obligations other matters to improve the effectiveness of the national anti-money laundering and combating the financing of terrorism regime.
10. Design and implement compliance monitoring and enforcement systems for sectors that lack designated supervisory authorities.
11. The Center has the authority to impose proportionate, dissuasive and effective administrative sanctions and penalties upon reporting entities under its supervisory authority for non-compliance with anti-money laundering countering terrorist financing obligations.
12. Represent the country in national, regional and global meetings, forums, and organizations that focus on money laundering and terrorist financing.
13. Sign and implement Memoranda of Understanding and other agreements with foreign financial intelligence units to support and improve the effectiveness and implementation of the national anti-money laundering and combatting the financing of terrorism regime.

Art. 22–Confidentiality and professional standards

1. The officers, employees, agents or such other persons appointed to posts in the Center shall be required to keep confidential any information obtained within the scope of their duties, even after the cessation of such duties, except as provided for in this Act.

2. Such information shall not be used for any purposes other than those provided for by this Act and shall only be disclosed or shared with appropriate authorities on a need-to-know basis for the purpose of detecting and preventing money laundering, terrorist financing, and related predicate offenses.
3. The Center shall adopt internal operating handbooks and procedures including a Code of Ethics to ensure high standards of ethics, integrity and professionalism. The operating handbooks and procedures shall address prohibition and mitigation of conflicts of interest and corruption.

Art. 23–Supervisory powers

1. The Center may request information, including documents and records, from any reporting entity to ensure compliance with this Act. Reporting entities shall make these documents and records available to the Center upon request and in a timely manner.
2. The Center may, at any reasonable time, enter into the premises of a reporting entity that lacks a designated supervisory authority and carry out enforcement of the reporting entity’s AML/CFT obligations pursuant to Article 21.10.
3. Any person who deliberately hinders or objects to cooperating with the Center or other supervisory bodies or law enforcement authorities in the lawful exercise of their powers is guilty of an offense and shall be subject to appropriate administrative, civil or criminal fines or penalties pursuant to Part VI of this Act.

PART V – NATIONAL ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM COMMITTEE

Art. 24–Establishment

A National Anti-Money Laundering and Countering the Financing of Terrorism Committee (“the Committee”) is hereby established.

Art. 25–Functions

The Committee’s functions and responsibilities are:

1. To facilitate information exchange, coordination, and co-operation between member institutions.
2. To support and coordinate the building of member institutions’ capacities to combat money laundering and terrorist financing.

3. To assess the national anti-money laundering and combatting the financing of terrorism regime and develop and coordinate the implementation of a national anti-money laundering and countering the financing of terrorism strategy.
4. Coordinate anti-money laundering and combatting the financing of terrorism evaluations.
5. To set strategic priorities for the Financial Reports Center.

Art. 26-Members

The Committee shall be made up of the following or their chosen representatives:

1. Governor of the Central Bank of Somalia, who shall be the chairperson of the Committee;
2. Minister of Finance;
3. Minister of Justice;
4. Attorney General;
5. Minister of Commerce and Industry;
6. Minister for National Security;
7. Director of the National Intelligence Service Agency; and
8. Director of the Financial Reports Center.

PART VI – CIVIL AND CRIMINAL PENALTIES

Art. 27-Sanctions and penalties

1. Fines, penalties or remedial measures for violation of any provisions of this law imposed by a competent authority shall be effective, proportionate and dissuasive in view of the factual circumstances.
2. Sanctions and penalties imposed upon a legal entity or natural person can constitute any or all of the sanctions or penalties in any combination deemed appropriate based on the severity of the violation(s).

Art. 28-Natural persons

1. Criminal penalties may be imposed against persons connected to the commission of the predicate offense stipulated in relevant criminal laws, in addition to the following penalties for money laundering or terrorism financing:

- a. Imprisonment for not less than one year;
 - b. Fines of not less than USD\$1,000 or the equivalent in any currency and up to three times the amount of the moneylaundered;
 - c. Either or both of the above.
2. Civil and/or administrative penalties appropriate to and in proportion to the seriousness of the violation:
 - a. Fines of not less than USD \$1,000 or the equivalent in any currency and up to three times the amount laundered;
 - b. Temporary or permanent suspension from position or office if employed by or doing business as an independent reporting entity as a professional for an amount of time, including for life;
 - c. Compliance with any remedial orders issued by the Center, the Central Bank of Somalia, or other competent authority;
 - d. Temporary or permanent suspension of license or authorization to operate based on registration requirements, or limitation of authorized activities pursuant to licensing or registration;
 - e. All or any combination of the above.

Art. 29–Penalties applicable to legal entities and the management thereof

1. Legal entities that violate any provisions of this law are subject to any penalties stipulated above for natural persons, except that monetary penalties shall be not less than USD\$25,000 or the equivalent in any currency and not be more than ten times the amount of the money laundered.
2. All sanctions stipulated above for natural persons, including imprisonment may also be imposed upon officers, directors, managers or board members who may not have been directly involved in the violation but who, in their position are responsible for prohibiting, preventing and ensuring integrity and implementation of effective systems to prevent and detect violations.
3. A legal entity may have its license suspended temporarily or permanently or its authorized activities limited, temporarily or permanently depending on the severity of the violation(s). A legal entity can be subject to permanent dissolution if it is found the seriousness of the violations justify such actions or if the entity has been established to support money laundering, terrorist financing or organized criminal activities.

PART VII – SEIZURE AND CONFISCATION ORDERS

Art. 30 – Scope

1. This part shall apply to any offense.
2. This Part shall apply even if the conduct, which forms the basis for the offense, occurred before this Part came into effect, and shall apply to any benefit obtained **before or** after this Part came into force.
3. Applications under this part shall be made before the regional Courts

Art. 31 – Conditions for Seizure

1. Upon application from the Attorney General, cfr. art. 32, and if the court is satisfied based on the balance of probabilities that there are reasonable grounds to suspect that subsection (a) and anyone of subsections (b) or (c) are satisfied, it may order the property to be seized
 - a. Where the relevant person has not been convicted of an offense, that he committed an offense and that the person is either the subject of a criminal investigation or has been charged with an offense; and
 - b. Where the application for a seizure order is made for the purpose of securing property for a confiscation order, or
 - c. Where the application for a seizure order relates to terrorist property, that the property so relates.
2. A restraint order in respect of property may be made whether or not there is any evidence of risk of the property being disposed of, or otherwise dealt with, in such a manner as would defeat the operation of this Act.

Art. 32 – Procedure to acquire a Seizure Order

1. Where a person is the subject of an investigation for an offense, or has been charged with an offense or has been convicted of an offense and there are reasonable grounds to suspect that the offense has generated proceeds or he is in possession of property that is an instrumentality of an offense, or terrorist property, the Attorney General may apply for an order under subsection 2 in respect of the following:
 - a. Proceeds of such offense or property of an equivalent value of such proceeds if the proceeds are not available;
 - b. Instrumentalities of such offense; or
 - c. Such terrorist property.
2. Upon application by the Attorney General, an application for an order under this section shall be heard *ex parte* and *in camera*, unless to do so would clearly not be in the interests of justice.
3. An application for a seizure order under subsection (2) shall be in writing and shall be supported by an affidavit of a law enforcement official indicating what the official suspects, and the grounds for his suspicion, that:

- a. The property which is the subject of the application is proceeds of an offense; or
 - b. The property is an instrumentality of an offense, or
 - c. The property is derived or intended for use in an act of terrorism.
4. Where an application under subsection (1) is made prior to the conviction of a person for an offense, the affidavit shall state the official's grounds for suspicion, and the grounds for suspecting that the relevant person committed the offense(s), and is the subject of an investigation for the offense(s), including the necessary documentation in which the suspicion is based.
 5. If property which is the subject of an application for an order under this section is in the possession of a third party, the affidavit shall indicate that the law enforcement official suspects, and the grounds for his suspicion, that the property formally and in reality is owned by the relevant person or, if this is not the case, given to the third party as a present or acquired by the third party in *male fide*, reasons for which the property could still be seized.

Art. 33 – Asset Management during the period of Seizure

1. It is the responsibility of the Attorney General to manage the seized property in such a way that it is not losing value before it can be subject to confiscation.
2. The Attorney General may establish an Asset Management Office (AMO) or unit under the Attorney General's office. The AMO should have a Manager holding the daily responsibility of the AMO, including taking decisions, as appropriate, under the guidelines of Attorney General that a private enterprise appointed by the Manager should carry out some of the management tasks.
3. The Asset Manager may dispose of the seized property in any way that is reasonably necessary to preserve the property and its value, including but not limited to:
 - a. Becoming a party to any civil proceedings that affect the property;
 - b. Ensuring that all obligations in respect of the property are satisfied;
 - c. Realizing or otherwise dealing with the property if it is perishable, subject to wasting or other forms of loss, its value is volatile, or the cost of its storage or maintenance is likely to exceed its value. Such a realization requires a prior approval of the court, unless:
 - i. Persons having an interest in the property consent to the realization or other dealing with the property; or
 - ii. The delay involved in obtaining such approval is likely to result in a significant diminution in the value of the property; or
 - iii. The cost of obtaining such approval would be disproportionate to the value of the property concerned.

- d. If the property consists, wholly or partly, of a business:
 - i. Employing, or terminating the employment of, persons in the business;
 - ii. Doing anything that is necessary or convenient for carrying on the business on a sound and lawful commercial basis; and
 - iii. Selling, liquidating or winding up the business if it is not a viable, going concern, subject to obtaining the prior approval of the court; and
 - iv. If the property includes shares in a company, exercising rights attaching to the shares as if he was the registered holder of the shares.

Art. 34 – Conditions for Confiscation

1. Following the conviction of an offense property that is the proceeds of the offense, instrumentalities of that offense or terrorist property shall be confiscated.
2. If the proceeds of the offense is not available value equivalent to the value of the proceeds shall be confiscated
3. Where the court makes an order under this section in respect of property other than money, the court shall specify the monetary amount that it considers to be the value of the property at the time of its order.
4. The confiscated property is forfeited to the Federal Republic of Somalia, unless victims of the offense can be identified. If victims can be identified the court can decide to compensate the victims by use of the confiscated property
5. Property belonging to a person having been convicted for an offense can be confiscated in whole or in part if the offense is of such a nature as to generate significant proceeds and the offense carries a penalty of imprisonment of 4 years or more (extended confiscation), unless the relevant person establishes a probability that the property has been acquired for legally obtained means.

Art. 35 – Procedure to acquire a Confiscation Order

1. To acquire a confiscation order from the court, cfr. art. 34, Attorney General shall issue an application to the courts specifying whether the property in question is proceeds of an offense or an instrumentality of that offense or terrorist property.
2. Except with the leave of the court, the Attorney General shall make the application under subsection (1) within one (1) year of the date upon which a person was convicted of the offense.
3. The Attorney General may amend an application for a confiscation order at any time prior to the final determination of the application by the court, providing that a reasonable notice of the amendment is given to affected persons.
4. Where an application under this section has been finally determined, the Attorney General may not make a further application for a confiscation order in respect of the

same offense without the leave of the court. The court shall not give such leave unless it is satisfied that:

- a. The property or benefit to which the new application relates was identified after determination of the previous application;
 - b. Necessary evidence became available after the previous application was determined; or
 - c. It is in the interests of justice to do so.
5. A further application under this section may not be made later than six (6) years after the date of the final determination of the application under this section.
6. For the purposes of this section, a person shall also be treated as convicted of an offense if:
- a. Found not guilty by reason of insanity following a determination that the criminal acts were committed;
 - b. The court takes the offense into consideration with the consent of the convicted person when passing sentence, or
 - c. The relevant person died or disappeared before the conviction but the court determined that the criminal acts were committed.

PART VIII- INTERNATIONAL COOPERATION

Art. 36-General provisions

1. Competent authorities shall provide the widest possible range of cooperation to the competent authorities of other states for purposes of extradition and mutual legal assistance in connection with criminal investigations and proceedings related to money laundering, associated predicate offenses, and the financing of terrorism.
2. In the event that the requesting state asks for coercive measures to be carried out on their behalf the condition of dual criminality will have to be fulfilled. Coercive measures include but is not limited to arrest, search, seizure and interception of communication.
3. Dual criminality shall be deemed fulfilled irrespective of whether the laws of the requesting state places the offense within the same category of offense or denominate the offense by the same terminology as in The Federal Republic of Somalia, provided the conduct underlying the offense for which assistance is sought is a criminal offense under the laws of the states concerned.
4. The Ministry of Justice, in conjunction with the Financial Reports Center, shall
 - a. Issue regulations that specify systematic procedures, forms, and deadlines to ensure requests for mutual legal assistance are efficiently and effectively processed and responded to; and

- b. Collect data to monitor and evaluate efficiency and effectiveness of requesting and responding to mutual legal assistance requests; and
- c. Improve systems and procedures aimed at removing bureaucratic and other barriers and impediments to information exchange and mutual legal assistance.

Art. 37-Requests for mutual legal assistance

Upon application by a foreign state, requests for mutual legal assistance in connection with money laundering or terrorist financing shall be executed in accordance with the principles set out in this part. Mutual legal assistance may include in particular:

1. Taking evidence or statements from persons, including taking in-court statements;
2. Assisting in making detained persons, voluntary witnesses or others available to the judicial authorities of the requesting state in order to give evidence or assist in investigations;
3. Effecting service of judicial documents;
4. Executing searches and seizures;
5. Examining objects and sites;
6. Providing information, evidentiary items and expert evaluations;
7. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
8. Identifying or tracing the proceeds of crime, funds or property or instrumentalities or other things for evidentiary or confiscation purposes;
9. Confiscation of assets;
10. Executing freezing and other provisional measures;
11. Any other form of mutual legal assistance not contrary to the domestic laws of The Federal Republic of Somalia.

Art. 38-Refusal to execute requests

1. A request for mutual legal assistance may be refused only if:
 - a. It was not made by a competent authority according to the legislation of the requesting country, if it was not transmitted in accordance with applicable laws or its contents are in substantial non-conformity with Article 44;
 - b. Its execution is likely to prejudice the law and order, sovereignty, security, public order or other essential interests of The Federal Republic of Somalia;
 - c. The offense to which it relates is the subject of criminal proceedings or has already been the subject of a final judgment in the territory of The Federal Republic of Somalia;

- d. There are substantial grounds for believing that the measure or order being sought is directed at the person in question solely on account of that person's race, religion, nationality, ethnic origin, political opinions, gender or status;
 - e. If the offense referred to in the request is not provided for under the legislation of the Federal Republic of Somalia or does not have features in common with an offense provided for under the legislation of The Federal Republic of Somalia; however, assistance shall be granted if it does not entail coercive measures;
 - f. If the measures requested cannot be ordered or executed by reason of the statute of limitations applicable to money laundering or financing of terrorism under the legislation of The Federal Republic of Somalia or the law of the requesting state;
2. No request for mutual legal assistance shall be refused on the basis of, or made subject to, unduly restrictive conditions.
 3. Secrecy or confidentiality provisions binding banks and other financial institutions cannot be invoked as a ground for refusal to comply with the request.
 4. Assistance shall not be refused on the sole ground that the offense is also considered to involve fiscal matters.
 5. A decision of a court in relation to a request for mutual legal assistance may be subject to appeal.
 6. The competent authority shall promptly inform the foreign competent authority of the grounds for refusal to execute the request.

Art. 39-Requests for investigative measures

1. Investigative measures shall be undertaken in conformity with the procedural rules of the Federal Republic of Somalia unless the competent foreign authority has requested a specific procedure not contrary to such rules.
2. A public official authorized by the competent foreign authority may attend the execution of the measures.

Art. 40-Requests for provisional measures

1. Provisional measures requested by a state shall be undertaken in accordance with domestic law. If the request is worded in general terms, the most appropriate measures provided by law shall be used.
2. Should domestic law not provide for the measures requested, the competent authority may substitute those measures provided for in the law whose effects correspond most closely to the requested measures, subject to consultations with the requesting state.

3. Provisional measures may be lifted at any time by the judicial authority that ordered the provisional measure on its own initiative or at the request of the public prosecutor's office, suspects or persons claiming rights to the property, if the reasonable grounds to suspect the criminal offence are no longer in place. Before lifting the provisional measures applied, the requesting country should be informed thereof.

Art. 41-Requests for confiscation

1. In the case of a request for mutual legal assistance seeking a confiscation order, the competent authorities shall either recognize and enforce the confiscation order made by a court of the requesting state or submit the request to their prosecuting authority for the purpose of obtaining a domestic confiscation order and, if such order is granted, enforce it.
2. Where the competent authorities recognize and enforce a confiscation order issued abroad, they shall be bound by the findings of fact on which the order is based.

Art. 42 -Disposal of confiscated property

The Federal Republic of Somalia shall have power of disposal of property confiscated on its territory at the request of foreign authorities unless provided otherwise under an agreement concluded with the requesting state, without prejudice to the return of the assets to their legitimate owner in good faith.

Art. 43-Joint investigations

Competent authorities may enter into bilateral or multilateral agreements or arrangements, in relation to matters that are the subject of investigations or proceedings in one or more states, to set up joint investigative teams and conduct joint investigations. Such agreements or arrangements should describe mandates, competences, information sharing, costs and other related matters. In the absence of such agreement or arrangement joint investigations may be undertaken on a case-by-case basis.

Art. 44-Extradition

1. Money laundering and financing of terrorism shall be extraditable offenses.
2. Execution of extradition requests related to money laundering and financing of terrorism offenses shall be subject to the procedures and principles set forth in the applicable extradition treaties. In the absence of such treaties or for matters not

regulated in such treaties, the procedures and principles in domestic law shall be applied.

3. Extradition based upon this law shall be carried out only if the offense-giving rise to the request for extradition or a similar offense is provided for under the legislation of the requesting state and of the Federal Republic of Somalia.
4. Extradition shall not be granted:
 - a. If there are substantial grounds to believe that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons;
 - b. If a final judgment has been rendered in the Federal Republic of Somalia in respect of the offense for which extradition is requested;
 - c. If the person whose extradition is requested has, under the legislation of either country, become immune from prosecution or punishment for any reason, including statute of limitations or amnesty;
 - d. If there are substantial grounds to conclude the person whose extradition is requested has been or would be subjected to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in Article 14 of the International Covenant on Civil and Political Rights.
5. Extradition shall not be refused on the sole ground that the offense is considered also to entail fiscal matters.
6. Extradition may be refused if:
 - a. A prosecution in respect of the offense for which extradition is requested is pending in the Federal Republic of Somalia against the person whose extradition is requested;
 - b. The offense for which extradition is requested has been committed outside the territory of either country and the legislation of the Federal Republic of Somalia does not provide for jurisdiction over offenses committed outside its territory in comparable circumstances;
 - c. The person whose extradition is requested has been sentenced for the conduct which gives rise to the request or would be liable to be tried or sentenced in the requesting state by an irregular or fundamentally unfair extraordinary or ad hoc court or tribunal;
 - d. The Federal Republic of Somalia, while also taking into account the nature of the offense and the interests of the requesting state, considers that, in the circumstances of the case, the extradition of the person in question would be incompatible with humanitarian considerations in view of the age, health or other personal circumstances of that person;

- e. The extradition is requested pursuant to a final judgment rendered in the absence of the convicted person who, for reasons beyond his or her control, has not had sufficient notice of the trial or the opportunity to arrange for his or her defense and he or she has not had or will not have the opportunity to have the case retried in his or her presence;
 - f. The Federal Republic of Somalia has assumed jurisdiction over the offense;
 - g. The person whose extradition is requested would be subject to the death penalty in respect of the crime of which that person is accused in the requesting country, unless that country gives sufficient assurances that the penalty will not be carried out.
7. If extradition is refused on grounds stated in this Part, the case shall be referred to the competent authorities in order that proceedings may be instituted against the person concerned in respect of the offense, which gave rise to the request.
 8. With regard to money laundering and financing of terrorism, the Federal Republic of Somalia may grant extradition after receipt of a request for provisional arrest, provided that the person whose extradition is requested explicitly consents before a competent authority.

Art. 45–Processing of mutual legal assistance and extradition requests

1. Political nature of offenses
For the purposes of this law, money laundering and financing of terrorism shall not be regarded as political offenses, or offenses connected with a political offense, or offenses inspired by political motives.
2. Transmission and processing of requests
 - a. The Ministry of Justice has the responsibility and power to receive mutual legal assistance or extradition requests sent by competent foreign authorities with respect to money laundering and financing of terrorism, and it shall either execute them or transmit them to the competent authorities for execution. It shall ensure speedy and proper execution or transmissions of the request received or, if forwarded for execution, encourage speedy execution by competent authorities. In urgent cases, such requests may be sent through the International Criminal Police Organization (ICPO/Interpol) or directly by the foreign authorities to the judicial authorities of the Federal Republic of Somalia. In such cases, the authority receiving the request shall notify the Ministry of Justice.
 - b. Requests and answers shall be transmitted either by post or by other more rapid means of transmission that provides a written or materially equivalent record under conditions allowing the Federal Republic of Somalia to establish authenticity.

- c. Requests and their annexes shall be accompanied by a translation in a language acceptable to the Federal Republic of Somalia.

Art. 46–Content of requests

1. Requests shall specify:

- a. The identity of the authority requesting the measure;
- b. The name and function of the authority conducting the investigation, prosecution or proceedings;
- c. The requested authority;
- d. The purpose of the request and any relevant contextual remarks;
- e. The facts in support of the request;
- f. Any known details that may facilitate identification of the persons concerned, in particular name, marital status, nationality, address and location and occupation;
- g. Any information necessary for identifying and tracing the persons, instrumentalities, funds or property in question;
- h. The text of the statutory provision establishing the offense or, where applicable, a statement of the law applicable to the offense and an indication of the penalty that can be imposed for the offense;
- i. A description of the assistance required and details of any specific procedures that the requesting state wishes to be applied, including whether the type of assistance is categorized as coercive measure in the requesting state and has implied a court order in the requesting state. If the latter is the case, a copy of the court order should be submitted to the competent Somali authorities.

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

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

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

Art. 47-Additional information

The Ministry of Justice or the competent authority handling the matter may request additional information from the competent foreign authority if it appears necessary to execute or facilitate the execution of the request.

Art. 48-Requirement of confidentiality

Where a request requires that its existence and substance be kept confidential, such requirement shall be observed. If that is not possible, the requesting authorities shall be promptly informed thereof.

Art. 49-Delay in complying with request

The Ministry of Justice may delay the referral of requests to the competent authorities responsible for the execution of the request if the measure or order sought is likely to substantially interfere with an on-going investigation or proceeding. It shall immediately so advise the requesting authority.

Art. 50-Costs

Costs incurred in complying with requests provided for under this part shall be borne by the requesting state unless both states agree otherwise.

Art. 51 - Asset sharing

Property which has been obtained from the execution of a confiscation order shall be disposed of as follows, unless otherwise agreed: If the amount obtained from the execution of the confiscation order is below USD5.000, or the equivalent to that amount, the amount shall accrue to the State of Somalia. where the amount is more than USD5000 the parties shall agree on asset sharing proportion

PART X - MISCELLANEOUS

Art.52 - Power to issue Regulations

The Minister responsible for financial matters:-

1. May in consultations with the Financial Reporting Centre issue regulations for better implementation of this Act;
2. Shall where the Security Council of the United Nations decides, in pursuance to Article 41 of the Charter of the United Nations, on measures to be employed to give effect to any of its decisions and calls upon member States to apply those measures issue regulations necessary or expedient to enable those matters to be applied

Art. 53 - Supersession over prior laws

This Act shall prevail over any law that is inconsistent or in conflict with it.

Art. 54 - Entry into force

This Act shall be enacted when signed by the President of the Republic and published in the Official Bulletin of the Federal Republic of Somalia.