**The Law of the Republic of Kazakhstan "On Counteracting the Legalization (Laundering) of Incomes Received by Illegal Means, and Financing of Terrorism"**

On Counteraction of Legitimization (Laundering) of Incomes Received by Illegal Means, and Financing of Terrorism

*Unofficial translation*

The Law of the Republic of Kazakhstan dated 28 August 2009 No. 191-IV.

Note of RCLI!

Order of enforcement of the Law of the Republic of Kazakhstan see Article 21.

This Law determines legal grounds of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism, legal relations of subjects of financial monitoring, authorized body and other state bodies of the Republic of Kazakhstan in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism.

Footnote. The Preamble as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Chapter 1. GENERAL PROVISIONS

Article 1. Basic definitions used in this Law

The following basic definitions are used in this Law:

1) suspicious transaction with money and (or) other property (hereinafter – suspicious transaction) – the operation of a client (including an attempt of committing such transaction, the transaction being in a process of commission or committed transaction), in respect of which there are suspicions that the money and (or) another property used for its commission are the income from a criminal activity, or the operation itself is oriented to legitimization (laundering) of incomes received by illegal means, or financing of terrorism or other criminal activity;

2) transactions with money and (or) other property – actions of individuals and legal entities with money and (or) other property independently from the form and method of their carrying out oriented to establishment, change or termination of civil rights and obligations linked with them;

2-1) freezing of transactions in cash and (or) other assets-measures taken by subjects of financial monitoring and State authorities to suspend the transfer, conversion, disposition or movement of money and (or) other assets owned by the organization and (or) physical persons included in the list of organizations and individuals associated with terrorist and extremism financing or organization, the beneficial owner that is a natural person included in the specified list;

2-2) individual entrepreneurs and legal persons carrying out transactions with precious metals and precious stones, jewels from them-persons engaged in buying and selling precious metals and precious stones, jewelry products, except for religious organizations, museums and organizations using precious metals and their compounds, precious stones in the medical, scientific and research purposes or as part of the tools, instruments, equipment and products for industrial purposes;

3) a beneficial owner – an individual to whom more than twenty five percent of partnership shares in a charter capital belong directly or indirectly or allotted (with the deduction of privileged and repurchased by a society) of shares of stock of a client-legal entity, and equally an individual carrying out a control of the client by other methods, or in behalf of whom the client commits transactions with money and (or) other property;

4) a client – an individual or legal entity receiving the services of a subject of financial monitoring;

5) correspondent relations – contractual relations arising upon opening of correspondent accounts by banks, organizations carrying out separate types of banking operations for other banks for the purpose of commission of transactions linked with carrying out of banking servicing;

6) shell-bank – non-resident bank that does not have a physical presence in the state (territory) in which it is registered as a bank and (or) received a license for carrying out of banking activity with the exception of placement of such bank in direct or indirect possession of banking holding subjected to consolidated supervision in the state (territory) in which it is registered;

7) financial monitoring – set of measures on collection, processing, analysis and use of details and information on transactions with money and (or) other property carrying out by the authorized body and subjects of financial monitoring in accordance with this Law;

8) transactions subjected to financial monitoring – the transactions with money and (or) other property in respect of which the financial monitoring is established in accordance with this Law;

9) cash out of money received by illegal means – the actions committed by individuals or legal entities for the purpose of receipt of cash money by use of documents upon commission of a fictitious transaction oriented to legitimization (laundering) of money;

10) proceeds of crime-money and (or) other assets received as a result of committing a criminal offence;

11) legalization (laundering) of income obtained by criminal means,-involvement in legitimate money turnover and (or) other assets obtained by criminal means, through transactions in the form of a conversion or transfer of property representing the proceeds of criminal offences, or the possession and use of such property, concealing or disguising its true nature, source, location, disposition, movement or ownership of property or its accessories, if you know what is the property was the proceeds of criminal offences, as well as mediation money laundering and (or) other assets obtained by criminal means;

11-1) State policy in the sphere of counteraction to legalization (laundering) of proceeds received by criminal way and terrorism financing, legal, administrative and institutional measures aimed at reducing the risks of legalization ( laundering) of proceeds received by criminal way and terrorism financing and other measures in accordance with the present law;

12) terrorist financing-providing or collecting money and (or) other assets, property rights or property benefits, as well as gifting, barter, donations, charity, providing information and other services or the provision of financial services to an individual or group of individuals or entity committed person known terrorist awaring the nature of their work or that a given property, provided information, financial and other kind of services will be used to carry out terrorist activity or providing terrorist group, terrorist organization, illegal paramilitary unit;

12-1) was excluded according to law of the Republic of Kazakhstan dated 26.07.2016 №12- VІ (entered into force on the expiry of thirty days after the date of its first publication);

13) authorized body – the state body carrying out financial monitoring and taking another measures on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism in accordance with this Law;

14) foreign public official is appointed or elected person holding a legislative, executive, administrative, judicial authorities or the armed forces of a foreign State;

any person exercising a public function for a foreign State;

person holding a senior position in the organizations established countries based on agreements which have the status of international treaties;

15) competent body of a foreign state – the body of a foreign state carrying out the counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism in accordance with its legislation;

16) physical presence – the place of carrying out the activity of a bank located at permanent address (with the exception of the address of a mail box or electronic address) in which there are managing bodies and bank staff, the accounting and storage of documents related to banking activity are maintained, and inspections of the authorized body that issued the license to a bank-non-resident for carrying out of banking activity are conducted;

17) business relations – the relations with clients arising in a process of carrying out of professional activity by a subject of financial monitoring.

Footnote. Article 1 is in the wording of the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (the order of enforcement see Article 2); dated 03.07.2014 № 227-V (shall be enforced from 01.01.2015); dated 03.11.2014 № 244-V (shall be enforced from 02.01.2015); from 02.08.2015 № 343-V (order of enactment see article 2); from 16.11.2015 № 403-V (entered into force on the expiry of ten calendar days after the date of its first publication); from 08.04.2016 № 489-V (entered into force on the expiry of ten calendar days after the date of its first publication); from 26.07.2016 № 12- VІ (entered into force on the expiry of thirty days after the date of its first publication).

Article 2. Legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism

Footnote. Title of Article 2 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1. Legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism is based on the Constitution of the Republic of Kazakhstan, consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If an international treaty ratified by the Republic of Kazakhstan establishes other rules than those contained in this Law, the rules of the international treaty shall be applied.

Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Chapter 2. PREVENTION OF LEGITIMIZATION(LAUNDERING)

OF INCOMES RECEIVED BY ILLEGAL MEANS, AND

FINANCING OF TERRORISM

Footnote. Title of Chapter 2 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 3. Subjects of financial monitoring

1. For the purpose of this Law, the subjects of financial monitoring shall include:

1) banks, organizations engaged in certain types of banking operations, excluding operator or operational center of interbank system of money transfer;

2) stock exchange;

3) insurance (reinsurance) organizations, insurance brokers, mutual insurance society;

4) single pension savings fund and voluntary pension savings funds;

5) professional participants of securities market, central depository;

6) notary offices carrying out notary actions wit money and (or) other property;

7) attorneys, other independent specialists on legal issues – in cases when they participate in transactions with money and (or) other property in the name or by order of a client in respect of the following activity:

buy and sell of immovable property;

management of money, securities or other property of a client;

management of banking accounts or securities accounts;

accumulation of funds for creation, ensuring, functioning or management of a company;

creation, buy and sell, functioning of a legal entity or their management;

8) bookkeeping organizations and professional accountants carrying out entrepreneurial activity in the scope of bookkeeping operations, audit organizations;

9) organizers of gambling business and lotteries;

10) postal operators rendering services on money transfer;

11) microfinance organizations;

12) payment organization;

13) individual entrepreneurs and legal persons carrying out leasing activity as the lessor without a license;

14) pawn shops;

15) individual entrepreneurs and legal persons carrying out transactions with precious metals and precious stones, jewellery;

16) individual entrepreneurs and legal entities providing intermediary services transactions of purchase and sale of real estate;

17) it was excluded according to law of the Republic of Kazakhstan dated 26.07.2016 № 12-vi (entered into force on the expiry of thirty days after the date of its first publication);

18) social health insurance fund.

2. State bodies of the Republic of Kazakhstan are not the subjects of financial monitoring.

3. Subjects of financial monitoring, specified in subparagraphs 7) (except lawyers), 13), 14), 15) and 16) of paragraph 1 of this article shall be obliged to send a notification about beginning or ending the activities of the Agency in the manner prescribed by the Law of the Republic of Kazakhstan “On permissions and notifications”.

Footnote. Article 3 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.06.2013 № 106-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.06.2014 № 206-V (shall be enforced upon expiry of six months after the date of its first official publication); from 02.08.2015 № 343-V (shall be enforced with 20.04.2016); from 26.07.2016 №12- VІ (order of enactment see article 2).

Article 4. Transactions with money and (or) other property subjected to financial monitoring

1. Operation with money and (or) other property is subject to financial monitoring if in character such operation belongs to one of types of the operations provided by paragraph 2 of the present article and is made in a cash form, except for the operations provided by subparagraphs 6), 7), 9), 11), 18), 19), 20), 21) and 22) of paragraph 2 of the present article for the sum which is equal or exceeds:

for the operations specified in subparagraphs 1) and 21) of paragraph 2 of the present article, – in the sum equal or the exceeding 3 000 000 tengeor equal sum in the foreign currency equivalent of 3 000 000 tenge or exceeding it;

for the operations specified in subparagraphs 6) and 7) of paragraph 2 of the present article, – in the sum equal or the exceeding 5 000 000 tengeor equal sum in the foreign currency equivalent of 5 000 000 tenge or exceeding it;

for the operations specified in subparagraphs 9), 20) and 22) of paragraph 2 of the present article, – in the sum equal or the exceeding 7 000 000 tenge or equal sum in the foreign currency equivalent of 7 000 000 tenge or exceeding it;

for the operations specified in subparagraphs 2), 3), 5), 11), 12), 13), 14), 16) and 17) of paragraph 2 of the present article, – in the sum equal or the exceeding 10 000 000 tenge or equal sum in the foreign currency equivalent of 10 000 000 tenge or exceeding it;

for the operations specified in subparagraphs 10), 15) and 19) of paragraph 2 of the present article, – in the sum equal or the exceeding 45 000 000 tenge or equal sum in the foreign currency equivalent of 45 000 000 tenge or exceeding it;

for the operation specified in subparagraph 18) of paragraph 2 of the present article, – in the sum equal or the exceeding 200 000 000 tenge or equal sum in the foreign currency equivalent of 200 000 000 tenge or exceeding it.

If operation with money and (or) other property is carried out in foreign currency, the equivalent of the sum of tenge pays off at the market rate of currency exchange on the date of commission of such operation defined according to the legislation of the Republic of Kazakhstan.

2. Transactions with money and (or) other property subjected to financial monitoring shall include:

1) receipt of winning according to results of conduct of a bet, gambling game in gambling establishments and lottery, as well as in electronic form;

2) purchase, sale and exchange of cash foreign currency through bureaus of exchange;

3) obtaining money by check or bill of xchange;

4) *is excluded by the Law of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of three months after its first official publication);*

5) withdrawal from a bank account or transfer into the bank account of the client money, as well as the reception of the client issuing the client cash, except as provided for in paragraphs 13 and 14)) of this paragraph;

6) enrolment or transfer money to the bank account of the client, undertaken by an individual or a legal entity with registration, respectively, place of residence or location in an offshore zone, as well as owning a bank account registered in offshore, or client operations in cash and (or) other assets with the specified category of persons;

7) remittances abroad to accounts (deposits), open the anonymous owner, receipt of money from abroad (contribution), open the anonymous owner;

8) *is excluded by the Law of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of three months after its first official publication);*

9) Payments and money transfers carried out by a client in favor of other person on a gratuitous basis;

10) acquisition (sale), coming in to the Republic of Kazakhstan or coming out from the Republic of Kazakhstan of cultural values;

11) transactions committed by legal entities, from the date of registration of which less than three months has passed;

12) coming in to the Republic of Kazakhstan or coming out from the Republic of Kazakhstan of currency in cash, documentary securities for a representative, bills, cheques, with the exception of coming in or coming out carried out by the National Bank of the Republic of Kazakhstan, banks and National Postal Operators;

13) carrying out of insurance payment or receipt of insurance premium;

14) introduction, payment of voluntary pension contributions to the single pension saving fund and (or) voluntary pension saving fund, as well as making pension payments from the single pension saving fund and (or) voluntary pension saving fund on account of voluntary pension contributions;

15) receipt or provision of a property under the contract of financial leasing;

16) transactions on rendering of services, including labour, carriage, freight forwarding, storage, commission, property trust management, with the exception of safe deposit services on a property lease (rent) of safety deposit boxes;

17) purchase or sale of precious metals and precious stones, jewelry made of them;

18) transactions with immovable and other property subjected to compulsory state registration;

19) deals with bonds and Government securities, excluding repo operations market organized by open trade method;

20) deals with shares and shares of mutual funds, with the exception of repo transactions in an organized market by open trade method;

21) commit lombard operations with money, securities, precious metals and precious stones, jewellery and other valuables from them (except for national currency coins made of precious metals);

22) introduction, listing of deductions and (or) contributions to social insurance.

3. Suspicious transactions shall be subject to financial monitoring independently from the form of their carrying out and sum to which they are committed or may be or could be committed.

The Government of the Republic of Kazakhstan shall approve the signs of determination of suspicious transaction.

4. Compulsory ground for studying the transactions by a subject of financial monitoring, committed by a client and fixing the results of such study in accordance with Article 5 of this Law are:

1) commission of a difficult, unusually major or not having obvious economic substance or visible legal purpose transaction with money and (or) other property;

2) commission of actions by a client oriented to deviation from a proper inspection and (or) financial monitoring provided by this Law;

3) commission of a transaction with money and (or) other property by a client on which there are the grounds to suppose than it is oriented to cash out received by illegal means;

4) commit transactions in cash and (or) other assets, to which the person registered (living) in a State (territory), which does not comply with and (or) insufficient compliance with the recommendations of the financial action task force force on money laundering (FATF), as well as using a bank account registered in that state (territory).

A list of States (Territories) who do not comply and (or) not sufficient implement the recommendations of the financial action task force on money laundering (FATF), shall be drawn up by the notified body, taking into account documents issued by the financial action task force on money laundering (FATF), which is published on the official Internet-site of the authorized body.

5. Financial monitoring is subject to client operations, having the characteristics relevant typologies, patterns and ways of legalization (laundering) of criminal proceeds and financing of terrorism.

Typology, schemes and methods of legalization (laundering) of criminal proceeds and terrorism financing approved by the authorized body and shall be made available to subjects of financial monitoring by posting on the official Web site of the Commissioner authority.

Footnote. Article 4 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of three months after its first official publication); dated 21.06.2013 № 106-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.06.2014 № 206-V (shall be enforced upon expiry of six months after the date of its first official publication); from 02.08.2015 № 343-V (order of enactment see article 2); from 22.12.2016 № 28-VI (entered into force on the expiry of ten calendar days after the date of its first publication).

Article 5. Proper inspection by subjects of financial monitoring of clients

1. Subjects of financial monitoring shall take measures on a proper inspection of own clients (their representatives) and beneficiary owners in accordance with the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism.

2. Subjects of financial monitoring shall carry out proper inspection of clients (their representatives) and beneficiary owners in cases of:

1) establishment of business relations with a client;

2) carrying out of transactions with money and (or) other property subjected to financial monitoring, including the suspicious transactions;

3) existence of grounds for doubt in a credibility in previously received data about a client (their representatives), beneficiary owner.

3. Proper inspection of own clients (their representatives) and beneficiary owners by subjects of financial monitoring and shall include the carrying out of the following measures:

1) fixing the details required for identifying an individual:

data of a document certifying his (her) identity, individual identification number (with the exception of cases when the individual is not assigned by the individual identification number in accordance with the legislation of the Republic of Kazakhstan), as well as legal address;

2) fixing the details required for identification of a legal entity (branch, representative): data of certificate on the state (record) registration (reregistration) of the legal entity (branch, representative), business identification number (with the exception of cases when the legal entity is not assigned by the business identification number in accordance with the legislation of the Republic of Kazakhstan) or the number под which the legal entity-non-resident is registered in a foreign state, as well as location address;

2-1) detection of a beneficiary owner and fixing the details required for his (her) identification in accordance with subparagraph 1) of this paragraph, with the exception of legal address.

For the purpose of detection of a beneficiary owner of a client – legal entity by a subject of financial monitoring on the basis of the constitutive documents and register of shareholders of such client or details received from other sources, the structure of his (her) ownership and management shall be established.

In case if in result of taking measures provided by this subparagraph, the beneficiary owner of a client – legal entity is not detected, the recognition of an individual executive body or a head of collegial executive body of the client – legal entity as the beneficiary owner.

Fixing the details required for identification of a beneficiary owner shall be carried out on the basis of information and (or) documents provided by a client (his (her) representative) or received from another sources.

3) *is excluded by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of six months after the date of its first official publication);*

4) establishment of supposed purpose and character of business relations;

5) conduct of inspection of business relations and study of transactions carried out by a client on a permanent basis through this subject of financial monitoring, including receipt and fixing the details on a source of financing of committed transactions when necessary;

6) inspection of credibility and renewal of details on a client (his (her) representative) and a beneficiary owner.

Inspection of credibility of details required for identifying a client (his (her) representative), beneficiary owner shall be carried out by comparison with data of originals or notarized copies of the relevant documents by comparison with data from accessible sources.

In respect of a representative of a client, the powers of such person to act in the name and (or) in behalf of the client shall be supplementary inspected.

Renewal of details shall be carried out in existence of the grounds for doubting in a credibility of previously received details on a client, beneficiary owner, as well as in cases provided by the rules of internal control.

3-1. Measures provided in this Article shall not be taken in the following cases:

1) in the implementation of the unidentified owners of electronic money-individuals transactions on the acquisition and use of electronic money, not exceeding the amount prescribed in paragraph 4 of article 44 of the law of the Republic of Kazakhstan “On payments and payment systems “;

2) upon carrying out of a transaction by a client-individual on crediting of money on a bank account of the individual by equipment (device) intended for acceptance of cash money, if the sum of such transaction does not exceed 500 000 tenge or sum in a foreign currency being equivalent to 500 00 tenge;

3) upon carrying out of a wire payment or money transfer by a client without use of a banking account, if the sum of such payment or money transfer does not exceed 2 000 000 tenge or the sum in a foreign currency being equivalent to 2 000 000, with the exception of cases of commission of suspicious transaction by the client;

4) upon carrying out of a transaction by a client on purchase, sale or exchange of cash foreign currency in a bureau of exchange, if the sum of such transaction does not exceed 2 000 000 tenge or the sum in a foreign currency being equivalent to 2 000 000, with the exception of cases of commission of suspicious transaction by the client;

5) upon carrying out of a transaction by a client-individual with the use of payment card that is not a mean of access to banking account of such client, if the sum of such transaction does not exceed 200 000 tenge or sum in a foreign currency equivalent to 200 000 tenge.

4. Proper inspection by subjects of financial monitoring of own clients (their representatives) and beneficiary owners shall be carried out in accordance with the rules of internal control.

5. Subject of financial monitoring shall have the right to require the representation of details from a client (his (her) representative and documents required for identifying the client (his (her) representative), detection of a beneficiary owner, as well as provision of details on a fiscal residence, profession and source of financing of committed transactions.

Clients (their representatives) shall be obliged to provide information and documents to subjects of financial monitoring required for fulfillment of obligations by them provided by this Law, including the information on beneficiary owners.

6. Subjects of financial monitoring, specified in subparagraphs 1-5)), 11) and 12) of paragraph 1 of article 3 of this law may rely on the measures under subparagraphs 1), 2), 2-1), 4), and 6) of paragraph 3 of this article, taken with respect to eligible clients (their representatives) and beneficial owners other subjects of financial monitoring, as well as foreign financial organizations, subject to the following conditions:

1) subject of financial monitoring, which relies on measures taken due diligence financial monitoring by another entity or foreign financial institution should immediately receive data about the customer (his representative), beneficial owner, including copies of the supporting documents, within the framework of the measures imposed by subparagraphs 1), 2), 2-1), 4), and 6) of paragraph 3 of this article;

2) subject of financial monitoring that relies on measures on a proper inspection taken by a foreign financial organization shall establish that the activity of such foreign financial organization shall be subject to licensing, regulation and supervision in the state in which it is registered, and that such foreign financial organization takes measures on a proper inspection being similar to requirements of this Article.

7. in the cases and manner prescribed by the rules of the internal control, as well as depending on the degree of risk of the legalization (laundering) of proceeds received by criminal way and terrorism financing subjects of financial monitoring are applied enhanced and simplified customer due diligence measures.Application of simplified customer due diligence measures includes implementation subject to financial monitoring of one or more of the following:

1) decrease the refresh frequency of customer identification data;

2) reduction in the frequency of inspection of business relations and study client operations through the entity financial monitoring;

3) definition of the objectives and nature of business relations on the basis of the nature of operations. Simplified customer due diligence measures shall not apply if the subject of financial monitoring of the grounds for believing that the purpose of a business relationship or a client operation is the legalization (laundering) of proceeds of crime by, or the financing of terrorism.

When applying the enhanced customer due diligence measures subjects of financial monitoring, in addition to the measures imposed by paragraph 3 of this article, further carry out one or more of the following:

1) attribution planned or conducted transactions;

2) increased number and frequency of checks and identify the nature of the operations that require further verification;

3) obtaining permission Manager organization on the establishment, continuation of business relations with clients.

8. Subjects of financial monitoring may delegate other persons, including other subjects of financial monitoring, application of the measures imposed by subparagraphs 1), 2)) 2-1 and 4) of paragraph 3 of this article, on the basis of concluded contracts with such persons.The subject of financial monitoring, on the basis of the contract and asked the other person to enforce the measures provided for paragraphs 1, 2)) 2-1) and 4) of paragraph 3 of this article shall:

1) ensure compliance with the rules of internal control that person subject to financial monitoring, taking into account the terms and conditions of the agreement;

2) ensure timely receipt by that person of the client data (his representative), the beneficial owner, including copies of the supporting documents;

3) to periodically supervise the observance of rules of internal control that person subject to financial monitoring, as well as the requirements of this law and adopted in accordance with the regulations on due diligence customers (or their representatives) and beneficial owners. Requirements under part 2 of this paragraph shall also apply to cases of granting of subjects of financial monitoring, specified in subparagraphs 1)-5) of paragraph 1 of article 3 of this law, the rights of other persons on the conclusion, on behalf of the such subjects of financial monitoring of contracts financial services in cases stipulated by the laws of the Republic of Kazakhstan.The subject of financial monitoring, on the basis of the contract and asked the other person to enforce the measures provided for paragraphs 1, 2)) 2-1) and 4) of paragraph 3 of this article, shall be responsible for compliance with any such person with the requirements of the present law and adopted in accordance with the regulations on customer due diligence (or their representatives) and beneficial owners.

9. customer due diligence requirements in the case of a remote establishment of business relations subjects of financial monitoring, specified in subparagraphs 1-5)), paragraph 1 article 11) 3 of this law, shall be established by the National Bank of the Republic of Kazakhstan in agreement with the competent authority.

Footnote. Article 5 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.06.2014 № 206-V (the order of enforcement see Article 2); from 02.08.2015 № 343-V (entered into force six months after the date of its first publication); from 26.07.2016 №12- VІ (entered into force on the expiry of thirty days after the date of its first publication); from 27.02.2017 № 49-VI (entered into force with 01.01.2018).

Article 6. Proper inspection by subjects of financial monitoring of clients in case of establishment of business relations with a client

Subjects of financial monitoring shall take measures provided by subparagraphs 1) – 4) of paragraph 3 of Article 5 of this Law until establishment of business relations with clients, with the exception of cases mentioned in paragraph 3-1 of Article 5 of this Law.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 7. Proper inspection by subjects of financial monitoring of clients upon carrying out of transactions with money and (or) other property subjected to financial monitoring

1. Subjects of financial monitoring before carrying out the operations with money and (or) other property which are subject to financial monitoring according to article 4 of the present Law take the measures provided by subparagraphs 1), 2), 2-1), 4) and 6) of paragraph 3 of article 5 of the present Law except for cases when such measures are taken at establishment of business relations.

2. Upon carrying out of wire payments and money transfers upon instructions of clients, with the exception of payments and money transfers with the use of payment cards, as well as cases provided by subparagraphs 1), 2) and 5) of paragraph 3-1 of Article 5 of this Law, the second-tier banks and organizations carrying out separate types of banking operations shall ensure existence in a payment document and transfer the requisites provided by the legislation of the Republic of Kazakhstan to a participant of payment (transfer) of money, including:

last names, first names, patronymics (when available) or full or abbreviated names (for legal entities) of a sender and recipient of money (beneficiary);

individual identification coders of a sender and recipient of money (beneficiary), if the money transfer is carried out with the use of banking account, or the number of instruction on payment or money transfer, if the money transfer is carried out without the use of a banking account;

identification number or address of a sender of money (for individuals and legal entities) or the number of a document certifying identity of the sender of money (for individual).

The second-tier banks and organizations carrying out separate types of banking operations shall control existence of information in a payment document mentioned in a part one of this paragraph, upon receipt of payment and money transfer from a foreign financial institution, as well as shall fix and keep details required for identifying a recipient on money transfer without the use of banking account.

Footnote. Article 7 is in the wording of the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of six months after the date of its first official publication); with the changes made by the Law RK of 02.08.2015 № 343-V (enters into force after six months after day of its first official publication).

Article 8. Proper inspection by subjects of financial monitoring of foreign public civil servants

Besides the measures provided by paragraph 3 of Article 5 of this Law, in respect of foreign public civil servants, the subjects of financial monitoring additionally shall be obliged to:

1) carry out inspection of belonging and (or) involvement of a client to a foreign public civil servant, his (her) family members and close relatives;

2) carry out assessment of a reputation of this foreign public civil servant in respect of his (her) involvement to the cases of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

3) obtain permission of a leading employee of organization for establishment, continuation of business relations with such clients;

4) take accessible measures for establishment of sources of the funds.

Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 9. Proper inspection upon establishment of correspondent relations with foreign financial organizations

Besides the measures provided by paragraph 3 of Article 5 of this Law, upon establishment of correspondent relations with foreign financial organizations, the subjects of financial monitoring mentioned in subparagraph 1) of paragraph 1 of Article 3 of this Law additionally shall be obliged to:

1) to carry out collecting and to documentary fix data on reputation and the nature of activity of the foreign financial organization respondent, including conducting concerning it investigation and application of sanctions against it for violation of the law of the country of its registration on counteraction of legalization (washing) of income gained in the criminal way and terrorism financing;

2) fix information documentarily on measures of internal control taken by a foreign financial organization-respondent in accordance with the legislation of the country of its registration on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism, as well as carry out assessment of effectiveness of taken measures of internal control;

2-1) to receive confirmation that the foreign financial organization respondent carried out an appropriate inspection of the client having the direct access to accounts of correspondent bank and that it has an opportunity to provide necessary information on appropriate check of the client at the request of correspondent bank;

3) not to establish and not to maintain correspondent relations with shell-banks;

4) certify that the foreign financial organization – respondent refuses from use of own accounts by shell-banks;

5) obtain permission of a leading employee of organization for establishment of new correspondent relations.

Existence of correspondent relations of a foreign financial organization - respondent with shell-banks shall be determined on the basis of information provided by foreign financial organization –respondent and (or) received by a subject of financial monitoring from other sources.

Footnote. Article 9 is in the wording of the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); with the changes made by the Law RK of 02.08.2015 № 343-V (enters into force after six months after day of its first official publication).

Article 10. Collection of details and documentary confirmation during conduct of proper inspection

1. Upon conduct of proper inspection, the subjects of financial monitoring shall be obliged to fix details documentarily on a client on the basis of the list of documents required for the proper inspection of the client by the types of subjects of financial monitoring that shall be determined by the authorized body in concurrence with the relevant state bodies.

2. Details and information on transactions subjected to financial monitoring shall be provided by subjects of financial monitoring to the authorized body in the form that shall contain the following chapters: introductory information, details on a subject of financial monitoring, details on transaction and participants of transaction, supplementary information on transaction subjected to financial monitoring. This form shall be determined by the rules approved by the Government of the Republic of Kazakhstan.

Data and information on the operations which are subject to financial monitoring, provided by paragraphs 1, 2 and 5 of article 4 of the present Law documentary are fixed and provided in authorized body by subjects of financial monitoring in the Kazakh or Russian languages:

1) specified in subparagraphs 1) – 6), 8) – 16) paragraph 1 of article 3 of the present Law, – an electronic way no later than the working day following behind day of commission of operation by means of the allocated communication channels;

2) it is excluded by the Law RK of 02.08.2015 No. 343-V (enters into force from 01.04.2016);

3) specified in subparagraph 7) of paragraph 1 of article 3 of the present Law, – an electronic way by means of the allocated communication channels or on paper no later than the working day following behind day of commission and (or) identification of operation.

3. Details and information on a transaction subjected to financial monitoring shall not be provided:

1) by attorneys in case if these details and information are received due to rendering of legal assistance on the issues of representation and protection of individuals and legal entities in the inquiry bodies, bodies of preliminary investigation, courts, as well as upon rendering of legal assistance by them in the form of legal aid, explanations, advices and written conclusions on the issues, the permission of which requires professional legal knowledge, drawing up of statements of claims, complaints and other documents of a legal nature;

2) notary officers upon rendering of legal assistance by them in the form of legal aid, explanations on the issues the permission of which requires professional legal knowledge.

3-1. When carrying out the analysis of information obtained according to the present Law, the authorized body in case of need sends to the subject of financial monitoring inquiry for granting necessary for information, data and documents.

For, specified in subparagraph 1) of paragraph 2 of article 18 and paragraph 2 of article 19 of the present Law, the authorized body sends to the subject of financial monitoring inquiry for providing necessary information, data and documents.

The subject of financial monitoring is obliged to provide in authorized body by its inquiry necessary information, data and documents within three working days from the date of receiving the corresponding inquiry.

At the request of authorized body, connected with the analysis of suspicious operation, the subject of financial monitoring is obliged to provide necessary information, the information and documents no later than the working day from the date of receiving inquiry.

In cases when processing of inquiry requires extra time, authorized body the term specified regarding the third the present point, no more than for ten working days having the right to prolong according to the written address of the subject of financial monitoring.

The authorized body has no right to request information, data and documents on the operations made before enforcement of the present Law except for information, information and documents which are provided on the basis of the international treaty ratified by the Republic of Kazakhstan.

For the purpose mentioned in subparagraph 1) of paragraph 2 of Article 18 and paragraph 2 of Article 19 of this Law, the authorized body shall direct a request to a subject of financial monitoring for provision of necessary information, details and documents.

4. Expenses linked with transfer of details to the authorized body on a transaction subjected to financial monitoring, received upon conduct of proper inspection of a client shall be incurred by subjects of financial monitoring.

Footnote. Article 10 is in the wording of the Law of the Republic of Kazakhstan dated 21.06.2012 № 19-V (the order of enforcement see Article 2); as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 №. 206-V (shall be enforced upon expiry of six months after the date of its official publication); from 02.08.2015 № 343-V (an order of enforcement see Art. 2); of 26.07.2016 № 12-VІ (enters into force after thirty calendar days after day of its first official publication); of 22.12.2016 № 28-VI (enters into force after ten calendar days after day of its first official publication).

Article 11. Maintenance of internal control by subjects of financial monitoring

1. Subjects of financial monitoring shall take measures in accordance with which the services rendered by them will not be used by other persons for the purpose of commission or rendering of assistance in legitimization (laundering) of incomes, and financing of terrorism.

2. Subjects of financial monitoring for the purpose of prevention of legitimization (laundering) of incomes received by illegal means, and financing of terrorism shall develop the rules of internal control and programs of its carrying out, as well as bear responsibility for compliance with rules and implementation of programs.

3. Rules of internal control shall be developed, accepted and executed by subjects of financial monitoring, and besides the requirements to the activity of a subject of financial monitoring upon conduct of internal control provided by this Law, shall include:

the program of the organization of internal control for counteraction of legalization (washing) of income gained in the criminal way and to terrorism financing, including requirements imposed to the workers of subjects of financial monitoring responsible for realization and observance of Rules of internal control;

identification program of clients;

monitoring program and study of transactions of clients including study of difficult, unusual big and other unusual transactions of clients;

program of training and study of servants of subjects of financial monitoring on the issues of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

other programs that may be developed by subjects of financial monitoring in accordance with the rules of internal control.

3-1. Subjects of financial monitoring shall ensure compliance and realization of the rules of internal control by own branches, representatives, branch organizations located as in the Republic of Kazakhstan, so beyond its borders, if it is not inconsistent with the legislation of the state of their location.

Subjects of financial monitoring shall be obliged to inform the authorized body and body of control and supervision about the facts of impossibility of compliance and realization of the rules of internal control by own branches, representatives, branch organizations located beyond the borders of the Republic of Kazakhstan, in view of inconsistency with the legislation of the state of their location.

3-2. Requirements to rules of internal control for counteraction of legalization (washing) of income gained in the criminal way, and to financing of terrorism by types of subjects of financial monitoring are established by joint regulations of authorized body and the appropriate public authorities, except for the subjects of financial monitoring provided by subparagraphs 7), 8), 13) – 16) paragraph 1 of article 3 of the present Law and also credit partnerships for which requirements to rules of internal control for counteraction of legalization (washing) of income gained in the criminal way, and to financing of terrorism are established by the regulatory legal act of authorized body.

4. Documents and details received in view of the results of proper inspection of a client including a profile of the client and correspondence with him (her) shall be subject to storage by subjects of financial monitoring no less than five years from the date of termination of business relations with the client.

Documents and details on transactions with money and (or) other property subjected to financial monitoring and suspicious transactions, as well as results of studying all the difficult, unusual big and other unusual transactions shall be subject to storage by subjects of financial monitoring no less than five years after commission of a transaction.

5. Subjects of financial monitoring and their workers have no right to inform clients and other persons on granting in authorized body of information, data and documents on such clients and on the operations made by them according to the present Law.

6. Granting in authorized body of information, data and documents by subjects of financial monitoring for and an order, provided by the present Law, is not disclosure of the office, commercial, bank or protected by the law other secret.

7. In case of granting in authorized body of information, data and documents according to the present Law subjects of financial monitoring, their public officials irrespective of results of the message do not bear the responsibility provided by laws of the Republic of Kazakhstan and also the civil contract.

8. Requirements to subjects of financial monitoring on training and study of employees shall be approved by the authorized body in concurrence with the relevant state bodies.

Footnote. Article 11 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of three months after its first official publication); dated 10.06.2014 № 206-V (the order of enforcement see Article 2); from 02.08.2015 № 343-V (enters into force after ten calendar days after day of its first official publication); of 26.07.2016 № 12-VІ (enters into force after thirty calendar days after day of its first official publication); of 22.12.2016 № 28-VI (enters into force after ten calendar days after day of its first official publication).

Article 11-1. Assessment of risks of legalization (washing) of income and financing of terrorism

1. Assessment of risks of laundering of income and financing of terrorism is made for definition of threats and opportunities of legalization (washing) of income and financing of terrorism in the Republic of Kazakhstan, identifications of shortcomings of implementation of measures for counteraction of legalization (washing) of income and to financing of terrorism.

2. Rules of evaluating risks of legalization (washing) of income and financing of terrorism are approved by the Government of the Republic of Kazakhstan.

The methodology on data collection from public authorities and subjects of financial monitoring for assessment of risks of legalization (washing) of income and financing of terrorism is approved by authorized body.

The government of the Republic of Kazakhstan following the results of evaluating risks approves the measures directed to decrease in risks of legalization (washing) in income and financing of terrorism.

Footnote. Chapter 2 is supplemented with article 11-1 according to the Law RK of 02.08.2015 № 343-V (enters into force from 01.01.2017).

Article 12. The list of the organizations and faces tied with financing of terrorism and extremism

1. The authorized body makes the list of the organizations and faces tied with financing of terrorism and extremism which is placed on an official Internet resource of authorized body and sends it to the appropriate public authorities in electronic form.

2. For drawing up the list of the organizations and faces tied with financing of terrorism and extremism go to authorized body:

1) the public authority which is carrying out within the competence statistical activity in the field of legal statistics and special accounts, lists of the organizations and (or) natural persons specified in subparagraphs 1), 2), 3) and 4) of point 4 and subparagraphs 1), 2), 3), 4) and 5) of paragraph 5 of the present article;

2) The Ministry of Foreign Affairs of the Republic of Kazakhstan lists of the organizations and (or) natural persons specified in subparagraphs 5) and 7) of point 4 and subparagraphs 6) and 7) of paragraph 5 of the present article.

The order of drawing up and bringing to public authorities of the list of the organizations and faces tied with financing of terrorism and extremism is established by the joint regulatory legal act of authorized body and the appropriate public authorities.

3. The list of the organizations and faces tied with financing of terrorism and extremism is updated according to information provided in authorized body by the public authorities specified in paragraph 2 of the present article.

4. The bases for inclusion of the organization or the natural person in the list of the organizations and faces tied with financing of terrorism and extremism are:

1) the judgment of the Republic of Kazakhstan which took legal effect about liquidation of the organization in connection with implementation of terrorist activity by it and (or) extremism;

2) the judgment of the Republic of Kazakhstan which took legal effect about recognition of the organization which is carrying out terrorist activity or extremism in the territory of the Republic of Kazakhstan and (or) other state terrorist or extremist, including about establishment of change of the name by it;

3) the court verdict of the Republic of Kazakhstan which took legal effect about recognition of the natural person guilty of commission of extremist and (or) terrorist crimes;

4) the sentences (decisions) of vessels and the decision of other competent authorities of foreign states recognized in the Republic of Kazakhstan according to international treaties of the Republic of Kazakhstan and laws of the Republic of Kazakhstan concerning the organizations or the natural persons who are carrying out terrorist activity;

5) finding of the organization or the natural person in the list of the organizations and faces tied with the terrorist organizations or terrorists, made by the international organizations which are carrying out counteraction to terrorism, or bodies authorized by them according to international treaties of the Republic of Kazakhstan;

6) the lists of the organizations and natural persons involved in terrorist and extremist activity made by the Prosecutor General's Office of the Republic of Kazakhstan, on the basis of these law enforcement and special public authorities of the Republic of Kazakhstan;

7) application to the organization or the natural person of sanctions according to the resolutions of the Security council of the United Nations relating to prevention and prevention of terrorism and financing of terrorism or inclusion of the organization or the natural person in the sanctions lists made by the committees of the Security council of the United Nations created on the basis of the resolutions of the Security council of the United Nations relating to prevention and prevention of terrorism and financing of terrorism.

5. The bases for an exception of the organization and the natural person from the list of the organizations and faces tied with financing of terrorism and extremism are:

1) revocation of the judgment of the Republic of Kazakhstan about liquidation of the organization in connection with implementation of terrorist activity by it and (or) extremism in case of failure to complete on it liquidating production and also about recognition of the organization which is carrying out terrorist activity or extremism in the territory of the Republic of Kazakhstan and (or) other state terrorist or extremist;

2) revocation of the court verdict of the Republic of Kazakhstan about recognition of the natural person guilty of commission of extremist and (or) terrorist crimes;

3) revocation of the sentences (decisions) of vessels and decisions of other competent authorities of foreign states recognized in the Republic of Kazakhstan according to international treaties of the Republic of Kazakhstan and laws of the Republic of Kazakhstan concerning the organizations or the natural persons who are carrying out terrorist activity;

4) existence of documentary confirmed data on the death of the natural person included in the list of the organizations and faces tied with financing of terrorism and extremism;

5) existence of documentary confirmed data on repayment or removal of criminal record from the natural person condemned for commission of extremist and (or) terrorist crime;

6) an exception of the organization or the natural person of the list of the organizations and faces tied with the terrorist organizations or terrorists, made by the international organizations which are carrying out counteraction to terrorism, or bodies authorized by them according to international treaties of the Republic of Kazakhstan;

7) revocation of the sanctions applied to the organization or the natural person according to the resolutions of the Security council of the United Nations relating to prevention and prevention of terrorism and financing of terrorism or an exception of the organization or the natural person of the sanctions lists made by the committees of the Security council of the United Nations created on the basis of the resolutions of the Security council of the United Nations relating to prevention and prevention of terrorism and financing of terrorism;

8) revocationof the circumstances which formed the bases for their inclusion in the lists of the organizations and faces involved in terrorist and extremist activity made by the Prosecutor General's Office of the Republic of Kazakhstan on the basis of these law enforcement and special public authorities of the Republic of Kazakhstan.

6. The lists formed according to subparagraph 6) of paragraph 4 of the present article have to contain the following data:

1) concerning the natural person:

data of the document proving his identity;

individual identification number;

residence;

data on existence of a personal and fast estate;

data on participation in legal entities, branches and representations and registration as the individual entrepreneur;

2) concerning the legal entity:

name;

business identification number;

data on the place of the state registration and location;

the information on public officials supplied about founders.

7. The organizations and the natural persons who are mistakenly included in the list of the organizations and faces tied with financing of terrorism and extremism concerning which there are data on their participation in terrorist and extremist activity, or subject to an exception of the specified list, but not excluded from the specified list file in authorized body a written reasoned statement about their exception of the specified list.

The authorized body considers the application for an exception of the organization or the natural person from the list of the organizations and faces tied with financing of terrorism and extremism in the terms established by the Law of the Republic of Kazakhstan “On an order of consideration of appeals of natural and legal entities” and accepts one of the following motivated decisions:

1) about an exception of the organization or the natural person of the specified list;

2) about refusal in allowance of the application with granting the motivated basis in refusal.

The decision of authorized body can be appealed by the applicant in a judicial proceeding.

8. The natural person included in the list of the organizations and faces tied with financing of terrorism and extremism on the bases provided by subparagraphs 3), 4), 5) and 6) of paragraph 4 of the present article for ensuring the activity and also activity of the members of his family who are in common living with it who do not have independent sources of the income having the right to address the subject of financial monitoring for implementation of the following operations with money or other property:

1) received in the form of the salary in a size which is not exceeding the subsistence minimum established for the corresponding financial year by the law of the Republic of Kazakhstan on the republican budget within calendar month at the rate on each family member;

2) received in the form of pension, a grant, a grant, other social payment according to the legislation of the Republic of Kazakhstan and also to make tax payment, other obligatory payments in the budget, a penalty fee and penalties.

The order of payment of means to the natural person included in the list of the organizations and faces tied with financing of terrorism and extremism for ensuring the activity is defined by authorized body.

The exception of the organization and the natural person of the list of the organizations and faces tied with financing of terrorism and extremism is the basis for cancellation of application of measures for freezing of operations with the money and (or) other property belonging to the organizations and the natural persons included in the list of the organizations and faces tied with financing of terrorism and extremism.

9. The authorized body in case of identification of property of the person included in the list of the organizations and faces tied with financing of terrorism and extremism, including the isolated property in legal entities immediately transfers such data to the Prosecutor General's Office of the Republic of Kazakhstan for the solution of a question of seizure of such property.

Footnote. Article 12 in edition of the Law RK of 02.08.2015 № 343-V (enters into force after six months after day of its first official publication).

Article 13. Refusal from conduct and suspension of transactions with money and (or) other property

Footnote. Title of Article 13 is in the wording of the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1.Subjects of financial monitoring are obliged to refuse to the natural or legal entity establishment of the business relations in case of impossibility of taking measures provided by subparagraphs 1), 2), 2-1) and 4) of paragraph 3 of article 5 of the present Law.

Subjects of financial monitoring are obliged to refuse to the natural or legal entity carrying out the operations with money and (or) other property in case of impossibility of taking measures provided by subparagraph 6) of paragraph 3 of article 5 of the present Law.

Subjects of financial monitoring have the right to suspend carrying out operations with money and (or) other property according to the present Law and also to stop business relations with the client in case of existence of suspicions that business relations are used by the client for legalization (washing) of income gained in the criminal way or terrorism financing.

1-1.Subjects of financial monitoring no later than one working day from the date of placement on an official Internet resource of authorized body of information on inclusion of the organization or the natural person in the list of the organizations and faces tied with financing of terrorism and extremism are obliged immediately, except for the cases established by paragraph 8 of article 12 of the present Law to take the following measures for freezing of operations with money and (or) other property:

suspend the execution of instructions on payment or money transfer without the use of the banking account of such individual, as well as instructions of a client, the beneficiary owner of which is such individual;

block securities in a system of registers of securities holders and accounting system of nominal holding of such organization or individual on separate accounts, as well as on separate accounts of the client, the beneficiary owner of which is such individual;

refuse in conduct of other operations with money and (or) other property committed by such organization or individual, or in their favor, and equally by a client, the beneficiary owner of which is such individual, or in his (her) favor;

to refuse carrying out other operations with money and (or) other property made by such organization or the natural person or in their advantage, and it is equal the client whose beneficial owner is such natural person, or in his advantage, except for transfer of money to such person on the bank account;

Debit operations on banking accounts, registration of transactions with securities in a system of registers of securities holders and accounting system of a nominal holding on separate accounts, as well as other operations with money and (or) other property of organizations and individuals included into the list of organizations and persons linked with financing of terrorism and extremism, provided by paragraph 1 of Article 12 of this Law, may be carried out by subjects of financial monitoring on the basis of court decision, collection orders of the body of state revenues, regulations of the body of state revenues on levy of execution upon the property restricted in disposal, as well as after exclusion of the organization or individual from the list mentioned above in the manner provided by this Law.

2. For the purpose of prevention and suppression of the facts of legitimization (laundering) of incomes received by illegal means, and financing of terrorism, upon recognition of a transaction as suspicious, the subjects of financial monitoring shall be obliged to report on such transaction to the authorized body immediately before its conduct.

For the purpose of carrying out of financial monitoring by the authorized body, the messages on suspicious transactions that may not be suspended shall be provided by the subjects of financial monitoring to the authorized body no later than three hours after their commission or within twenty four hours from the date of detection of such operations.

The message on operation recognized as suspicious after its commission shall be provided by a subject of financial monitoring to the authorized body no later than one business date next to the date of recognition of such operation as suspicious.

Subjects of financial monitoring provide in authorized body of the message about the refusal facts to the natural or legal entity in establishment of business relations, the terminations of business relations with the client, refusal in carrying out operation with money and (or) other property on the bases provided by paragraph 1 of the present article and also about measures for freezing of the operations with money and (or) other property provided by paragraph 1-1 of the present article no later than the working day following behind day of acceptance by the subject of financial monitoring of the relevant decision (action commission).

3. After receipt of a message provided by a part one of paragraph 2 of this Article, within twenty four hours from the date of its receipt, the authorized body shall adopt decision on suspension of conduct of suspicious transaction for the term up to three business days in case, if the message on suspicious transaction provided by a subject of financial monitoring is recognized reasonable following the results of analysis conducted by the authorized body.

After receipt of a message on suspicious transaction provided by subparagraph 1) of paragraph 2 of Article 18 of this Law, the authorized body shall have the right to suspend such operation in case if it is not committed for the date of receipt of information.

Decision on suspension of a suspicious transaction or on the absence of necessity in suspension of suspicious transaction shall be adopted by the authorized body and brought to the notice of a subject of financial monitoring and the state body that provided a message on suspicious transaction by electronic method or in a hard copy.

4. In case of non-receipt of decision of the authorized body on suspension of a suspicious transaction or on absence of necessity in suspension of such transaction by a subject of financial monitoring within twenty four hours from the date of informing the information, the transaction shall be conducted if there are no the grounds provided by the legislative acts of the Republic of Kazakhstan impeding conduct of this transaction.

5. The authorized body after making decision on suspension of carrying out suspicious operation immediately transfers information, except for the operation provided by the subparagraph 1) of part one of paragraph 8 of article 12 of the present Law to the Prosecutor General's Office of the Republic of Kazakhstan which within eight watch from the moment of obtaining the message from authorized body about suspension of suspicious operation sends information to law enforcement and special public authorities according to their competence for decision-making.

Authorized body shall bring the relevant decision of law enforcement and special state bodies to the notice of a subject of financial monitoring within three hours from the date of receipt.

The authorized body after making decision on suspension of carrying out the suspicious operation provided by the subparagraph 1) of part one of paragraph 8 of article 12 of the present Law within three working days makes the decision on carrying out operation or refusal in carrying out operation and brings it to subjects of financial monitoring

5-1. In case of receipt of decision from the law enforcement and special state bodies on necessity of suspension of a suspicious transaction transferred in accordance with paragraph 5 of this Article, on which there are the grounds to suppose than this transaction is directed for financing of terrorism, the authorized body shall deliver decision on suspension of debit operations on banking accounts of persons that are participants of such transaction for the term up to fifteen calendar days.

Decision on suspension of debit operations on banking accounts of the persons that are participants of the operation on which there are grounds to suppose than they are directed for financing of terrorism, shall be adopted by the authorized body and shall be brought to subjects of financial monitoring provided by subparagraph 1) of paragraph 1 of Article 3 of this Law.

Authorized body shall inform the General Prosecutor’s Office of the Republic of Kazakhstan, law enforcement and special state bodies on suspension of debit operations on banking accounts that provided such decision.

5-2. After expiration of the term for suspension of a suspicious transaction under decision of the authorized body, the transaction shall be conducted in the absence of other grounds provided by legislative acts of the Republic of Kazakhstan impeding conduct of such transaction.

6. Refusal from conduct, as well as suspension of transactions with money and (or) other property in accordance with this Law are not the grounds for civil responsibility of subjects of financial monitoring for violation of conditions of the relevant contracts (obligations).

Stay and freezing of operations with money and (or) other property are not the bases for emergence of civil or other responsibility of public authorities for the damage, including the missed benefit which arose owing to such stay and freezings.

Footnote. Article 13 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.06.2014 №. 206-V (the order of enforcement see Article 2); dated 07.11.2014 № 248-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); from 02.08.2015 № 343-V (enters into force after six months after day of its first official publication); of 27.02.2017 № 49-VI (enters into force from 01.01.2018).

Article 14. Control of compliance with the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism

Control of execution of the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism by subjects of financial monitoring in a part of fixing, storage and provision of information on transactions with money and (or) other property subjected to financing monitoring, proper inspection of clients (their representatives) and beneficiary owners, suspension and refusal from conduct of transactions subjected to financial monitoring, protection of documents received in a process of own activity, as well as of organization and execution of internal control shall be carried out by the relevant state bodies in accordance with their competence and in the manner established by the legislation of the Republic of Kazakhstan.

Footnote. Article 14 is in the wording of the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of six months after the date of its first official publication).

Chapter 3. COMPETENCE OF THE AUTHORIZED BODY

Article 15. Tasks of the authorized body

Tasks of the authorized body are:

1) implementation of single state policy in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

2) counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism, coordination of work of the state bodies in this direction of activity;

3) creation of single informational system and maintenance of republican data base in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

4) carrying out of interaction and information exchange with competent bodies of foreign states in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

5) representation of interests of the Republic of Kazakhstan in international organizations on the issues of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 16. Functions of the authorized body

For the purpose of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism, the authorized body shall:

1) carry out collection and processing of information on transactions with money and (or) other property subjected to financial monitoring, in accordance with this Law;

2) carry out analysis of received information in established manner;

3) coordinate activity of state bodies in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

4) direct necessary information on transactions with money and (or) other property upon request of the court on criminal cases subjected to financial monitoring, for solution of materials being in proceeding;

4-1) provide details and information on a transaction subjected to financial monitoring in the manner established by the legislation of the Republic of Kazakhstan upon requests of the law enforcement and special state bodies;

5) transfer information to the General Prosecutor’s Office of the Republic of Kazakhstan for directing to law enforcement and special state bodies in accordance with their competence for adoption of procedural decision in existence to suppose that the transaction with money and (or) other property is linked with legitimization (laundering) of incomes received by illegal means, and (or) financing of terrorism;

5-1) in the presence of the bases to believe that activity of natural and legal entities is connected with legalization (washing) of income gained in the criminal way and (or) terrorism financing sends information to law enforcement and special public authorities according to their competence;

5-2) carries out interaction with law enforcement and special public authorities on the transferred information according to the present Law;

6) participate in development and carrying out of programs of international cooperation on the issues of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

7) organize formation and maintenance of republican database, as well as ensure methodological unity and coordinated functioning of informational systems in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

8) develop and conduct measures on prevention of breaches of the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

9) generalize a practice of applying the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism on the basis of information received from the state bodies and other organizations, as well as develop and make proposals on its development;

10) study international experience and practice of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

11) conduct measures on retraining and raising of qualification of a personnel in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

12) participate in activity of international organizations, associations and other working groups in established manner in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

13) determine the list of offshore zones for the purposes of this Law in concurrence with the National Bank of the Republic of Kazakhstan;

13-1) carries out the accounting of the subjects of financial monitoring provided by subparagraphs 7) (except for lawyers), 13) – 16) paragraph 1 of article 3 of the present Law according to the Law of the Republic of Kazakhstan “On permissions and notices”;

13-2) carries out reception of notices from the subjects of financial monitoring provided by subparagraphs 7) (except for lawyers), 13) – 16) paragraph 1 of article 3 of the present Law according to the Law of the Republic of Kazakhstan “On permissions and notices”;

13-3) coordinates work on realization of assessment of risks in the sphere of counteraction of legalization (washing) of income gained in the criminal way and to terrorism financing;

13-4) develops and submits in the Government of the Republic of Kazakhstan for the approval of the Rule of evaluating risks of legalization (laundering) of income and financing of terrorism and also the measures directed to decrease in risks of legalization (washing) in income and financing of terrorism;

14) exercise other powers provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 16 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 № 452-IV (shall be enforced from 13.10.2011); dated 21.06.2012 № 19-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2012 № 30-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); from 02.08.2015 № 343-V (an order of enforcement see Art. 2); of 26.07.2016 № 12-VІ (enters into force after thirty calendar days after day of its first official publication); of 22.12.2016 № 28-VI (enters into force after ten calendar days after day of its first official publication).

Article 17. Rights and obligations of the authorized body

1. Authorized body shall:

1) to request necessary information, data and documents on operations with money and (or) other property from subjects of financial monitoring and also from public authorities of the Republic of Kazakhstan;

2) to pass the decision on suspension of operations with money and (or) other property in case of detection of signs of suspicious operation for a period of up to three working days;

3) participate in development of drafts of regulatory legal acts and international treaties of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

4) on demand or independently to exchange information, data and documents with competent authority of a foreign state in the sphere of counteraction of legalization (washing) of income gained in the criminal way and to terrorism financing;

5) involve to work, as well as on a contractual basis, scientific research and other organizations, as well as separate specialists for conduct of examinations, development of educational programs, methodic materials, program and informational support, creation of informational systems in the scope of financial monitoring in compliance with requirements on protection of the state, service, commercial, banking and other secret protected by the Law;

6) direct a notification on a breach of the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism to the relevant state bodies;

7) determine procedure for interaction on exchange and transfer of details and information linked with legitimization (laundering) of incomes received by illegal means, and financing of terrorism jointly with the law enforcement and special state bodies.

7-1) within the powers to participate in work of coordination councils, interdepartmental commissions, working and expert groups of law enforcement and special public authorities and other public authorities of the Republic of Kazakhstan.

2. Authorized body shall:

1) take measures on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism;

2) to provide the corresponding mode of storage, protection and safety received in the course of the activity of information, data and documents, components the office, commercial, bank or protected by the law other secret;

3) ensure compliance with rights and legal interests of a human and a citizen, legal entities and the state in a process of carrying out of financial monitoring.

Footnote. Article 17 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); from 02.08.2015 № 343-V (enters into force after ten calendar days after day of its first official publication); of 22.12.2016 № 28-VI (enters into force after ten calendar days after day of its first official publication).

Article 18. Interaction of the authorized body with the state bodies of the Republic of Kazakhstan

1. State bodies of the Republic of Kazakhstan carrying out control of compliance with the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism by subjects of financial monitoring within the competence shall be obliged to:

1) to provide information, the information and documents necessary for authorized body for implementation of financial monitoring and counteraction of legalization (washing) of income gained in the criminal way and to terrorism financing;

2) consider a notification of the authorized body on a breach of the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism and report on taken measures to the authorized body within the term established by the legislation of the Republic of Kazakhstan;

3) to provide the corresponding mode of storage, protection and safety received in the course of the activity of information, data and documents, components the office, commercial, bank or protected by the law other secret;

4) ensure compliance with rights and legal interests of a human and citizen, legal entities and the state in a process of carrying out of control functions.

2. State bodies of the Republic of Kazakhstan shall be obliged to:

1) inform the authorized body upon detection on an individual basis on suspicious transactions, including the transactions on export (import) of commodities (works, services) with process obviously differing from market prices;

1-1) from the date of placement on an official Internet resource of authorized body of information on inclusion of the organization or the natural person in the list of the organizations and faces tied with financing of terrorism and extremism to take measures for freezing of operations with money and (or) other property according to the legislation of the Republic of Kazakhstan;

1-2) to carry out the analysis and monitoring of activity of non-profit organizations regarding identification of risks of financing of terrorism with providing such information to authorized body;

2) inform the authorized body on breaches of the rules of this Law by subjects of financial monitoring upon detection on an individual basis;

3) provide details from own informational systems and resources upon request of the authorized body in the manner determined by the Government of the Republic of Kazakhstan;

4) to provide the corresponding mode of storage, protection and safety received in the course of the activity of information, data and documents, components the office, commercial, bank or protected by the law other secret.

3. Direction of requests to the authorized body on representation of details and information on a transaction subjected to financial monitoring shall be carried out by the law enforcement and special state bodies with the approval of the General Prosecutor of the Republic of Kazakhstan and his (her) deputies.

Law enforcement and epical state bodies shall direct requests on cases and materials, registered in the manner established by the legislation of the Republic of Kazakhstan linked with counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism.

Execution of requests of the law enforcement and special state bodies shall be carried out by the authorized body within the details and information on transactions subjected to financial monitoring being in republican database in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism, as well as within the details and information received from competent bodies of foreign states in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism.

Details and information on transactions subjected to financial monitoring shall be provided to the authorized body in the scope of foreign intelligence in the manner determined by joint regulatory legal act of the authorized body in the scope of foreign intelligence, the General Prosecutor’s Office of the Republic of Kazakhstan and the authorized body.

4. Provision of details and information on suspicious transaction to the authorized body in the manner provided by this Law is not a divulgence of official, commercial, banking or another secret protected by the Law.

5. Transfer of details and information on a transaction subjected to financial monitoring, as well as on suspicious transaction by the authorized body to the General Prosecutor’s Office of the Republic of Kazakhstan, special state and law enforcement bodies in the manner provided by this Law is not a divulgence of official, commercial, banking or another secret protected by the Law.

5-1. Details and information on transactions subjected to financial monitoring, as well as on clients of subjects of financial monitoring in the manner not provided by this Law shall not be provided by the authorized body.

6. Collection of information on import to the Republic of Kazakhstan or to export from the Republic of Kazakhstan of the declared cultural values, cash, documentary securities to bearer, bills, checks, except for the import or export made from the territory which is a component of custom territory of the Eurasian Economic Union on the territory which is a component of custom territory of the Eurasian Economic Union is carried out by body of state revenues of the Republic of Kazakhstan with the subsequent its obligatory granting in authorized body at the scheduled time, provided by the legislation of the Republic of Kazakhstan.

Footnote. Article 18 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (the order of enforcement see Article 2); dated 10.06.2014 № 206-V (the order of enforcement see Article 2); dated 07.11.2014 № 248-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); from02.08.2015 № 343-V (an order of enforcement see Art. 2); of 26.12.2017 № 124-VI (enters into force from 01.01.2018).

Article 19. International cooperation in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism

Footnote. Title of Article 19 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1. Cooperation of the authorized body and other state bodies of the Republic of Kazakhstan with their competent bodies of foreign states in the scope of prevention, detection, suppression and investigation of actions linked with legitimization (laundering) of incomes received by illegal means, and financing of terrorism, as well as confiscation of mentioned incomes shall be carried out in accordance with the Laws of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

2. International cooperation in the scope of counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism between the authorized body and competent body of a foreign state may be carried out by request and exchange of information.

Information transfer, the data and documents on legalization (washing) of income gained in the criminal way, and financing of terrorism is carried out at the request of competent authority of a foreign state provided that they will not be used for, not specified in inquiry, or are transferred to the third parties without prior consent of authorized body.

Transfer to competent authorities of a foreign state of information, data and documents on legalization (washing) of income gained in the criminal way, and financing of terrorism is carried out in case they do not affect constitutional rights and freedoms of the person and citizen and do not cause damage to the interests of a homeland security of the Republic of Kazakhstan.

3. The authorized body for counteraction of legalization (washing) of income gained in the criminal way, and to financing of terrorism has the right to request information, data and documents from the competent authorities of a foreign state responsible for counteraction of legalization (washing) of income gained in the criminal way and to terrorism financing.

The authorized body has the right to use information received on demand, data and documents only for counteraction of legalization (washing) of income gained in the criminal way and to terrorism financing.

Authorized body of the competent authorities of a foreign state responsible for counteraction of legalization (washing) of income gained in the criminal way having no right without prior consent and to terrorism financing to transfer to the third party or to use information, data and documents with violation of the conditions and restrictions set by competent authorities of a foreign state from which they were requested.

4. Authorized body shall have the right to refuse in satisfying the request from competent bodies of a foreign state in the following cases:

1) if the authorized body considers the facts and circumstances of need of providing information, data and documents given in inquiry insufficient for suspicion of legalization (laundering) of income gained in the criminal way and terrorism financing;

2) if providing information, data and documents affects the course of criminal trial in the Republic of Kazakhstan.

Authorized body shall notify requesting competent body of a foreign state on refusal with specification of the grounds for refusal.

The authorized body has the right to establish additional conditions and restrictions of use of information, the data and documents provided to the competent authorities of a foreign state responsible for counteraction of legalization (washing) of income gained in the criminal way and terrorism financing.

5. Provisions of this Article shall be applied in respect of international cooperation, unless otherwise provided by international treaties ratified by the Republic of Kazakhstan.

Footnote. Article 19 as amended by the Laws of the Republic of Kazakhstan dated 21.06.2012 № 19-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); from 02.08.2015 № 343-V (enters into force after ten calendar days after day of its first official publication).

Chapter 4. FINAL PROVISIONS

Article 20. Responsibility for breach of the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism

Footnote. Title of Article 20 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1. Breach of the legislation of the Republic of Kazakhstan on counteraction of legitimization (laundering) of incomes received by illegal means, and financing of terrorism shall entail responsibility established by the Laws of the Republic of Kazakhstan.

2. Employees of authorized body and other public authorities and also persons who owing to implementation of the official duties have access to information, data and documents, components the office, commercial, bank or protected by the law other secret bear the responsibility established by laws of the Republic of Kazakhstan for their disclosure.

3. Harm inflicted to individuals and legal entities by illegal actions of the authorized body or its employees due to performance of own functions by the authorized body shall be subject to compensation in the manner established by the legislation of the Republic of Kazakhstan.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 10.06.2014 № 206-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); from 02.08.2015 № 343-V (enters into force after ten calendar days after day of its first official publication).

Article 21. Entering of this Law into force

This Law enters into force upon expiry of six months after its first official publication.