FINANCIAL INTELLIGENCE AUTHORITY

ANNUAL REPORT

ON THE FINANCIAL INTELLIGENCE AND SUPERVISORY ACTIVITIES FOR THE PREVENTION AND THE COUNTERING OF MONEY LAUNDERING AND THE FINANCING OF TERRORISM

YEAR I - 2012

VATICAN CITY
2013

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INDEX

PAGE 5 PRESENTATION

PART I

PAGE 7 The Financial Intelligence Autority wiyhin the institutional and economic-financial framework of the Holy See and Vatican City State

PAGE 9 INTRODUCTION
1. Institutional Framework
2. Economic and Financial Framework and Risk-Based Approach

PART II

PAGE 13 Internal organization and functions
1. Internal organization
2. Functions
2.1. Financial Intelligence
2.2. *Supervision and Regulation*
2.3. Further competences
2.3.1. Collection and analysis of declarations of cross-border transportation of cash and bearer securities
2.3.2. Measures to prevent the financing of terrorism

PART III

PAGE 21 Statistics
1. Receipt, analysis and dissemination of suspicious activity reports
2. Collection and analysis of declarations of cross-border transportation of cash or bearer securities

ANNEXES

PAGE 25 Annex I – Apostolic Letter in the form of a "*Motu Proprio*" of Pope Benedict XVI for the prevention and countering of illegal activities in the area of monetary and financial dealings

PAGE 27 Annex II – *Statute of the Financial Intelligence Autority (AIF)*

PAGE 31 Annex III – Law confirming the Decree of the President of the Governorate of Vatican City State, No. CLIX, promulgating amendments and additions to Law no. CXXVII, *On the Prevention and Countering of the Laundering of the Proceeds of Criminal Activities and the Financing of Terrorism*, of 30 December 2010.

PRESENTATION

The global financial and economic crisis has prompted deep reflection, and active cooperation among national and international institutions to find shared remedies.

At the same time, the crisis and the vulnerability of economic and financial systems can lend itself to abuses and criminal activity on the part of individuals or organizations able to penetrate the dynamics of the local, domestic and world economies.

For this reason, the Holy See and Vatican City State have enhanced their efforts for the prevention and countering of money laundering and financing of terrorism, in a manner consistent with their internal economic and financial framework and in order to become an effective global partner.

This has primarily resulted from a desire to act consistently with the Church's mission at the moral level, so that the integrity and stability of economy and finance are not just goals, but means to facilitate the service of the human person and of peoples.

This also responds to the concrete need to establish, at the institutional and legal level, as well as the technical level, a solid, effective system, sustainable in the long term.

Between 2010 and 2012, in a short period of time, the Holy See and Vatican City established the pillars of the internal system, with the adoption, on December 30, 2010, of the *Apostolic Letter in the form of a « Motu Proprio » of Pope Benedict XVI for the prevention and countering of illegal activities in the financial and monetary field* and of the *Law on the prevention and countering of laundering of proceeds of crimes and financing of terrorism*, no. CXXVII (the latter text has subsequently been amended) .

Future challenges, for the Holy See and Vatican City State, as well as for the international community, are numerous and require perseverance.

The Financial Intelligence Authority stands firmly in this context, both at a conceptual and a practical level, and is aware of the path to be travelled in the future, and at the same time of the role that it can play globally for the prevention and countering of money laundering and financing of terrorism.

René Brülhart
Director
Financial Intelligence Authority

PART I

THE FINANCIAL INTELLIGENCE AUTHORITY WITHIN THE INSTITUTIONAL AND ECONOMIC-FINANCIAL FRAMEWORK OF THE HOLY SEE AND VATICAN CITY STATE

INTRODUCTION

On December 17, 2009, Vatican City State (« State ») and the European Union (represented by the European Commission, the European Central Bank and the Italian Republic) entered into a *Monetary Agreement* with which the State adopted the Euro as its official currency and undertook to implement, by direct transposition or equivalent measures, the European legislation on the prevention and countering of money laundering and financing of terrorism.

On that basis, the Pontifical Commission for Vatican City State adopted the *Law on the prevention and countering of laundering of proceeds of crimes and financing of terrorism* of December 30, 2010, no. CXXVII (henceforth « Law No. CXXVII »), which came into force on April 1, 2011, and was subsequently modified in January 2012 (by Decree of the President of the Governorate of Vatican City State, no. CLIX of January 25, 2012, as confirmed by Law of the Pontifical Commission for Vatican City State, no. CLXXXVI of April 24, 2012), and in December 2012 (with Law of the Pontifical Commission for Vatican City State, no. CLXXXV of December 14, 2012).

On the same date as the approval of Law no. CXXVII, Pope Benedict XVI promulgated the *Apostolic Letter in the form of « Motu Proprio » for the prevention and countering of illegal activities in the financial and monetary field* (« *Motu Proprio* »), which established the Financial Intelligence Authority (hereafter "AIF") and extended the scope of law No. CXXVII not just to the subjects – natural and legal persons carrying out relevant financial activity in the State – but also to all dependent entities of the Holy See to the extent that they professionally conduct financial activities, including the dicasteries of the Roman Curia, related institutions, bodies and agencies, where reporting on suspicious activities is concerned.

On February 24, 2011, the Holy See, by formal letter of Cardinal Secretary of State Tarcisio Bertone, submitted an application to be part of the Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL) at the Council of Europe, to assess the adherence of the internal system to the recommendations of the *Financial Action Task Force* (FATF). On April 6 of the same year, the Committee of Ministers of the Council of Europe granted the Holy See's request (see Resolution CM/RES-2011).

On that basis, on July 4, 2012, the 39th plenary meeting of MONEYVAL approved by *consensus* the report on the Holy See, following a positive assessment of the implementation of the majority of fundamental FATF recommendations (so-called « key and core »).

By these acts, the Holy See and the State have developed procedures and measures that are in accordance with the European legal framework and international legal standards, and also consistent with their nature and mission in the world: « the international community » – it is affirmed in the *Motu Proprio* – « is increasingly equipping itself with principles and legal instruments that enable it to prevent and to counter the phenomena of money laundering and financing of terrorism. » « the Holy See – continues the *Motu Proprio* – approves of this commitment and intends to adopt similar measures, which will also help it to carry out its mission ».

1. Institutional Framework.

On the basis of the said *Motu Proprio* the AIF has the nature of an Institution connected with the Holy See (according to Articles 186ff. of the Apostolic Constitution *Pastor Bonus*), has canonical (public) and Vatican civil legal personality, and is located in Vatican City, at the Palazzo San Carlo.

As already mentioned, although the functions of the AIF are governed by the Vatican law (Law no. CXXVII), as a result of the *Motu proprio*, the AIF carries out its institutional functions with respect to the Dicasteries of the Roman Curia and the Institutions connected to it (which are called to report suspicious activity; see Article 2, paragraph 2, Law no. CXXVII as modified), as well as bodies and entities directly dependent on the Holy See, which are also subject to the supervision of the AIF if they carry out relevant financial activities (see Article 2, paragraph 1, of Law no. CXXVII as modified).

2. Economic and Financial Framework and Risk-Based Approach.

By virtue of the *Law on the economic, commercial and professional legal system*, no. V of June 7, 1929, the State has a public regime in the economic, commercial and professional sectors, including the financial sector, except in cases of authorizations granted by the competent authorities.

In the State there is neither a free market nor private financial institutions and operators.

There are bodies which, within their institutional activities, carry out some financial activities, relevant for the purposes of anti-money laundering legislation, subject, as such, to the laws in force and the supervision of the AIF.

In the State, the relevant financial activities may be located within the broader framework of the principal institutional activity, giving rise to stringent forms of supervision and assessment that involve several of the competent Authorities of the Holy See and the State, among which the AIF has a pivotal role for purposes of prevention and countering of money laundering and financing of terrorism.

On that basis, compared to private systems or a free market, the public regime established in the State makes it possible not only to limit the number of operators, but also to contain the complexity and extent of relationships and of operations or transactions, as well as the associated risks of money laundering and financing of terrorism.

The internal system, and the activities of the AIF, are designed to meet the dual requirement of adherence to the objectives set by the European legal framework and international legal standards, and of consistency with the economic and financial framework of the State, as well as with the inherent actual risks.

PART II

INTERNAL ORGANIZATION AND FUNCTIONS

As already mentioned, the *Motu Proprio* established the AIF, which is called to carry out the functions set forth in Law No. CXXVII (as amended). This law is applicable not only to all subjects – natural and legal persons, carrying out relevant financial activity in the State – but also to all the bodies and dependent entities of the Holy See, to the extent that they carry out professionally financial activities, and to the Dicasteries of the Roman Curia and Institutions connected with it, with a view to reporting suspicious activities.

1. Internal organization.

According to the Statutes appended to the *Motu Proprio*, the AIF is composed of the Chairman, the Board of Directors and the Director, as well as a staff composed of experts in legal and financial matters, and administrative staff.

Currently, the Chairman of the AIF is Cardinal Attilio Nicora and the Director is Dr. René Brülhart, who on November 7, 2012 succeeded Avv. Francesco De Pasquale, at the same time as the latter was appointed a member of the Board of Directors.

The Board of Directors is composed of Prof. Giuseppe Dalla Torre, Prof. Claudio Bianchi, Prof. Marcello Condemi, Dr. Cesare Testa, and now Francesco De Pasquale.

2. Functions.

The functions of the AIF may be expressed in terms of the « two pillars », i.e. the activity of *financial intelligence*, and the activity of *supervision and regulation* for the prevention and countering of money laundering and financing of terrorism, including the power to carry out *on-site* inspections, to adopt regulations and guidelines, and to apply administrative sanctions in the event of non-compliance or inadequate compliance with the requirements established by law or by regulations issued by the AIF.

In addition to these functions, the current legal framework provides for others that are crucial for the prevention and countering of money laundering and the financing of terrorism, including the collection and analysis of declarations of cross-border transport of cash and bearer securities in amounts equal to or greater than EUR 10,000 (see *infra* par. 2.3.1.), and the adoption of measures to prevent the financing of terrorism (see *infra* par. 2.3.2.). Finally, it is worth mentioning its competence at the level of study and analysis, including statistical analysis, of phenomena related to money laundering and the financing of terrorism.

As to the activity of supervision, currently there is one subject that carries out professionally relevant financial activities, i.e. the *Istituto per le Opere di Religione* (IOR), which is therefore subject to the legislation in force and the supervision of the AIF with a view to the prevention and countering of money laundering and the financing of terrorism.

2.1. Financial Intelligence.

The activity of *financial intelligence* can be divided into three basic stages:

a) *Gathering of reports of suspicious transactions*. The cornerstone of financial intelligence activity is receiving reports of suspicious activities.

According to Article 34, paragraph 1, of Law no. CXXVII (as modified) these subjects « send a report to the Financial Intelligence Authority if they know, suspect or have reasonable grounds to suspect that money, goods or other assets are the proceeds of criminal activities, or that acts of money laundering or financing of terrorism are being carried out or have been carried out or attempted ».

At the same time, the legislation has established a general obligation to active cooperation with a view to reporting suspicious activity, including a duty to report on competent Authorities of the Holy See and the State. Article 2, paragraph 2, of law No. CXXVII (as modified) establishes that all public authorities « where they know, suspect or have reasonable grounds to suspect that cash, goods or other assets are the proceeds of an offense, or that acts for purposes of money laundering or terrorist financing are being carried out or have been carried out or attempted, are to report this to the Financial Intelligence Authority ».

b) *Analysis and study of reports*. The reports received are studied and analysed by the AIF.

The AIF's analysis takes place on two levels: *operational level* (i.e. focused on specific subjects, goods and operations, and on possible links with criminal activities or the proceeds of criminal activities); and *strategic level* (i.e. focused on more general implications in relation to trends in the development of the phenomena of money laundering and financing of terrorism).

For the purposes of analysis, the AIF has power, on the one hand, to request additional information from the reporting subjects, and on the other hand, to request and exchange information (financial, investigative and administrative) with the competent authorities of the Holy See and of the State, and with similar authorities in other States.

Among internal authorities, the AIF works with the Secretariat of State, the Gendarmerie, and the Promoter of Justice at the Tribunal of Vatican City State.

At the international level, the AIF cooperates on the basis of reciprocity and the conclusion of Memoranda of Understanding.

In 2012 the AIF concluded Memoranda of Understanding with the *Cellule de Traitement d'informations Financières* of Belgium (June 9, 2012) and the *Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales and Infracciones Monetarias* of Spain (December 17, 2012). The second reform of Law no. CXXVII on December 2012 was also intended to foster international cooperation.

By virtue of law No. CLXXXV of December 14, 2012, in fact, for the purposes of the conclusion of memoranda of understanding there is no longer a requirement for the prior *nihil obstat* of the Secretariat of State (the competent Authority for international relations of the Holy See), but there is a duty to inform the said Authority.

In 2012 the AIF also began the process of joining the *Egmont Group*, which is the global forum that brings together the financial intelligence units of 133 States and jurisdictions. It is in the context of this forum that rules and best practice for international cooperation and exchange of information are shared.

For the purposes of financial analysis, on both strategic and analytical levels, the AIF has at its disposal sophisticated information systems and databases.

c) *Transmission of Reports to the Promoter of Justice.* When the phase of analysis and study has been completed, the AIF sends to the Promoter of Justice information that it deems sufficiently well-founded and that covers cases of money laundering or terrorist financing.

Having received the Report, the Promoter of Justice starts the investigation and judicial process, and notifies the AIF of any reports received and subsequently archived. The transmission of reports and any subsequent communications are carried out using procedures and measures that ensure the integrity, security and confidentiality of documents, data and information.

For statistical data concerning financial intelligence activities, see *infra* Part III, para. 1.

2.2. *Supervision and Regulation.*

The « second pillar » of the functions of the AIF is the supervision of the economic and financial system of Vatican City for purposes of countering money laundering.

More precisely, the AIF supervises the implementation, by the supervised subjects, of the requirements established by the anti-money laundering rules, and it evaluates the adequacy and effectiveness of policies, organizational structures, measures and procedures adopted for the prevention and countering of money laundering and financing of terrorrism, if necessary through on-site inspections,.

In this context, the AIF issues guidelines and regulations relating to policies, organizational structures, measures and procedures, and in relation to customer due diligence, registration and record keeping, and reporting of suspicious activity.

In 2011 the AIF adopted the following five regulations and instructions:

a) *Regulations*

No. 1 on *the transport of cash entering or exiting Vatican City State* (April 1, 2011)

No. 2 on *the transport of cash entering or exiting Vatican City State* (November 14, 2011)

No. 3 on *pecuniary administrative sanctions in the event of violation of the obligations established by Law no. CXXVII of December 30, 2010 on the prevention and countering of laundering of the proceeds of crimes and the financing of terrorism* (November 14, 2011)

No. 4 on the *content of the obligations concerning the transfer of funds in accordance with article 38, paragraph 4 of Law no. CXXVII of December 30, 2010* (November 14, 2011)

No. 5 on the *content, discovery mode by specifying indicators of anomaly, and submission of suspicious reports* (November 14, 2011)

b) *Instructions*

No. 1 on the *Organization, procedures and internal controls aimed at preventing the use of supervised subjects for the purpose of money laundering and financing of terrorism* (November 14, 2011)

No. 2 on *assessment of risks and appropriate customer due diligence* (November 14, 2011)

No. 3 on the *identification of States whose regime is considered to be equivalent* (November 14, 2011)

No. 4 on *indicators of anomalies* (November 14, 2011)

The provisions contained in the regulations and guidelines issued by the AIF remain in force after the modifications of the Law no. CXXVII that were made in 2012, insofar as they are compatible.

2.3. Further competences

In addition to the functions of financial intelligence, supervision and regulation, the AIF has other important institutional competences, including the collection and analysis of cross-border transportation of cash and bearer securities and the adoption of measures to prevent money laundering and the financing of terrorism.

2.3.1. Collection and analysis of declarations of cross-border transportation of cash and bearer securities.

According to Law no. CXXVII (as modified) all natural or legal persons entering or exiting the State are required to supply in writing to the AIF declarations of cross-border transport of cash or bearer bonds of an amount equal to or greater than EUR 10,000.

To this end, the AIF has adopted regulations nn. 1 and 2, providing a template for declarations.

For statistical data concerning financial intelligence activities see *infra* Part III, para. 2.

2.3.2. Measures to prevent the financing of terrorism.

As to the preventive measures, it should be firstly considered that the AIF may suspend for a period

of five working days the activities suspected of money laundering or financing of terrorism, independently or at the request of the judicial Authority.

In particular, moreover, for the purposes of preventing and countering the financing of terrorism, as established by Law no. CXXVII (as modified), on April 3, 2012 the Secretariat of State issued a list of subjects identified, also on the basis of the relevant Resolutions of the UN Security Council, as subjects of the freezing of assets insofar as they threaten international peace and security.

On the same day that the list was issued, the AIF, with the Ordinance no. 1, ordered the immediate freezing of assets and economic resources traceable to the subjects on the list.

PART III

STATISTICS

As to statistics, it is worth noting the data relating to financial intelligence activity and to the collection and analysis of declarations of cross-border transportation of cash and bearer securities.

1. Receipt, analysis and dissemination of suspicious activity reports.

With reference to financial intelligence, the data show a trend toward increased reporting of suspicious activity in the fourth quarter of 2012, due to the consolidation of the reform of Law no. CXXVII, and with it, the enhancement of the system of reporting and cooperation domestically and internationally.

Given the nature and small size of the economic and financial system of Vatican City State, and the presence of a public regime that does not allow the presence of private operators, data show an effective system for reporting suspicious activities on the part of the subjects under obligation to do so.

The relevant data are summarized as follows, also in comparison to the year 2011:

Suspicious activities reports	**2011**	**2012**
Number of reports	1	6
Reporting subjects	Supervised subjects	Supervised subjects 5 Other Authorities 1
Requests to reporting subjects for additional information	7	3

Internal cooperation	**2011**	**2012**
Requests to domestic authorities for information	1	2
Reports to the Promoter of Justice	0	2

International cooperation	**2011**	**2012**
Requests to foreign authorities for information	1	1
Requests for information received from foreign authorities	7	3

2. Collection and analysis of declarations of cross-border transportation of cash or bearer securities.

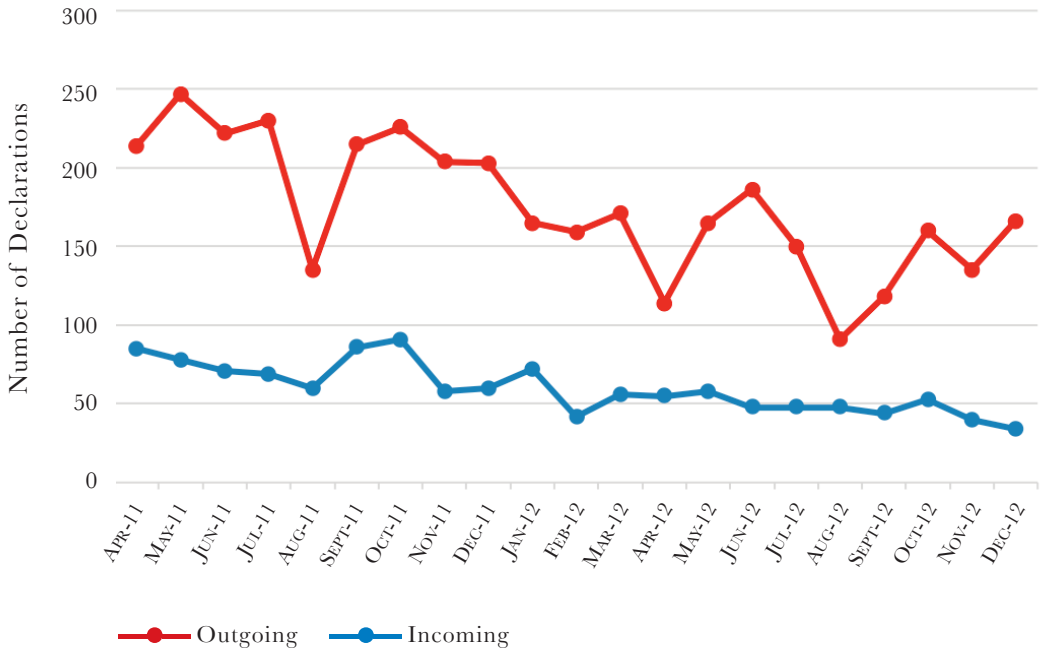
The duty to declare cross-border transport of cash or bearer instruments of a value equal to or greater than EUR 10,000 is governed by Law no. CXXVII (and subsequent amendments) and the AIF Regulation no. 2 (which repeals and replaces the previous Regulation no. 1).

The declaration, according to the legislation in force, is to be made at the offices of the Gendarmerie or those of the supervised subjects in which the operation or transaction is carried out, and then it is transmitted, in the original, to the AIF.

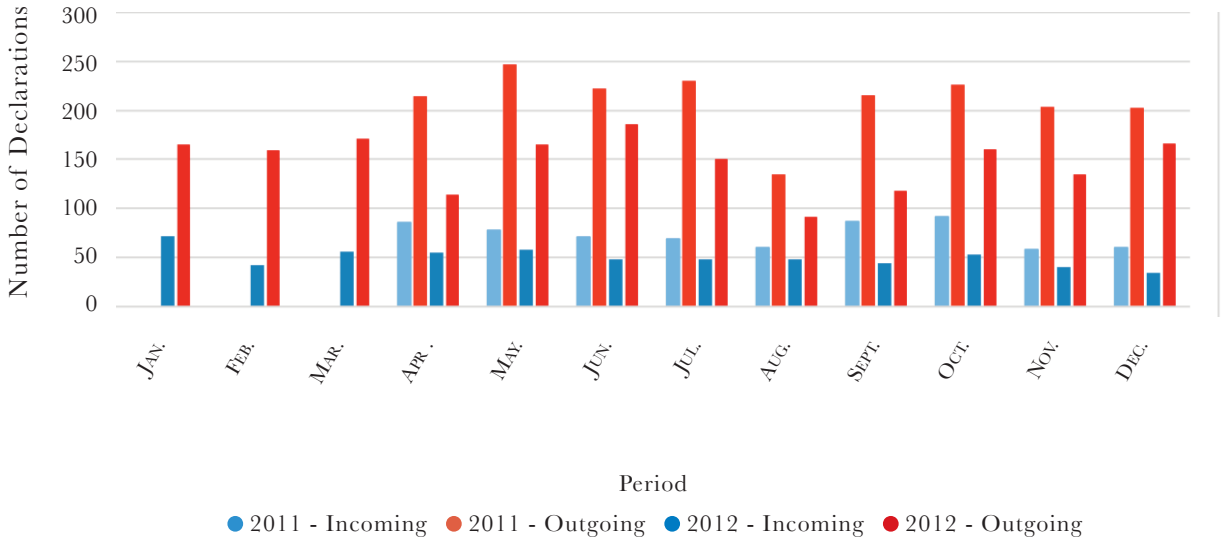
The data relating to declarations show a tendency to increase in 2011, and a gradual standardization in 2012, and may be summarized as follows :

Declarations	**2011** (from April)	**2012**
Number of incoming declarations	658	598
Number of outgoing declarations	1.894	1.782

TREND OF DECLARATIONS
2011 - 2012



COMPARISON OF DECLARATIONS
2011 - 2012



ANNEX I

APOSTOLIC LETTER IN THE FORM OF A "*MOTU PROPRIO*" OF POPE BENEDICT XVI FOR THE PREVENTION AND COUNTERING OF ILLEGAL ACTIVITIES IN THE AREA OF MONETARY AND FINANCIAL DEALINGS

The Apostolic See has always raised its voice to urge all people of good will, and especially the leaders of nations, to commit themselves through a just and lasting peace in every part of the world to the building of the universal city of God which is the goal of the history of the community of peoples and of nations [Benedict XVI, Encyclical Letter *Caritas in Veritate* (29 June 2009), no. 7].

Unfortunately in our time, in an ever more globalized society, peace is threatened by various causes, including the improper use of the market and of the economy, and the dreadful and destructive violence that terrorism perpetrates, causing death, suffering, hatred and social instability.

Most appropriately the international community is increasingly equipping itself with the juridical principles and instruments that enable it to prevent and to counter the phenomena of laundering of money and the financing of terrorism.

The Holy See approves this commitment and intends to adopt these laws as its own in the utilization of the material resources that serve to carry out the mission and duties of Vatican City State.

In this framework and in implementation of the Monetary Convention between Vatican City State and the European Union of 17 December 2009, for the said State I have approved:

the promulgation of the *Law concerning the prevention and countering of the laundering of proceeds from criminal activities and of the financing of terrorism* of 30 December 2010, which comes into force today.

With this Apostolic Letter in the form of a "*Motu Proprio*":

a) I establish that the above-mentioned Law of Vatican City State and its future modifications apply as well to the Dicasteries of the Roman Curia and for each and every dependent institution or entity in which they carry out their activities, in accordance with Art. 2 of the same Law;

b) I establish the *Autorità di Informazione Finanziaria* (AIF) indicated in Art. 33 of the *Law concerning the prevention and countering of the proceeds from criminal activities and of the financing of terrorism,* as an Institution connected with the Holy See in accordance with Articles 186 and 190-191 of the Apostolic Constitution *Pastor Bonus,* conferring upon it public canonical juridical personality and Vatican civil personality and approving its Statutes, which are attached to this *"Motu Proprio";*

c) I establish that the *Autorità di Informazione Finanziaria* (AIF) exercise its duties with respect to the Dicasteries of the Roman Curia and of all the entities and institutions as specified in paragraph a).

d) I delegate, in the case of the crimes specified by the above-mentioned Law, the competent judicial Authorities of Vatican City State to exercise penal jurisdiction in regard to the institutions mentioned in paragraph a).

I stipulate that what has been established have full and permanent value from this day forth, anything to the contrary notwithstanding, although it may deserve special mention.

I establish that this Apostolic Letter in the form of a "*Motu Proprio*" be published in the *Acta Apostolicae Sedis*.

Given in Rome, at the Apostolic Palace, on 30 December in the Year 2010, the sixth of the Pontificate.

BENEDICTUS PP. XVI

ANNEX II

STATUTE OF THE FINANCIAL INTELLIGENCE AUTHORITY (AIF)

CHAPTER I

Article 1
Institution, goals and seat

§ 1. Through a *Motu Proprio* by the Sovereign Pontiff Benedict the Sixteenth, on the 30th of December 2010, the Financial Intelligence Authority (AIF) was established, with responsibilities for prevention and countering of the laundering of proceeds resulting from criminal activities and financing of terrorism.
§ 2. The Financial Intelligence Authority is an institution linked to the Holy See in accordance with articles 186 and 190-191 of the Apostolic Constitution *Pastor Bonus*.
§ 3. The Authority is endowed with canonical public legal personality and Vatican civil legal personality.
§ 4. Its legal seat is in Vatican City State.

Article 2
Functions

§ 1. The Financial Intelligence Authority exercises the functions and performs the duties and activities indicated in the Law of Vatican City State concerning the prevention and countering of the laundering of proceeds resulting from criminal activities and financing of terrorism, of 30 December 2010, no. CXXVII.
§ 2. The Financial Intelligence Authority, in accordance with the law and with international principles governing the fight against money laundering and financing of terrorism, exercises the functions and performs the duties and activities mentioned in the preceding paragraph as well as in these Statutes, in full autonomy and independence.
§ 3. The Authority performs its duties with respect to the subjects referred to in art. 2 of the Law of Vatican City State concerning the prevention and countering of the laundering of proceeds resulting from criminal activities and financing of terrorism of 30 December 2010, no. CXXVII, operating in the territory of Vatican City State, and with respect to the Dicasteries of the Roman Curia and of all the Boards and Bodies dependent on the Holy See.

CHAPTER II

Article 3
Organs and personnel of the Authority

§ 1. The following are organs of the Financial Intelligence Authority:
a) the Chairman;

b) the Board of Directors.
§ 2. The following are part of the Authority – the Director and the staff.

Article 4
Chairman

§ 1. The Chairman is appointed by the Sovereign Pontiff, with a term of office of five years, and may be confirmed.
§ 2. The Chairman supervises the Authority's activity by fostering its orderly and effective performance.
§ 3. He chairs the Board of Directors' meetings. If he is absent or impeded, a specially appointed member of the Board of Directors acts in his place. Towards third parties, the signature of the deputy chairman gives proof of the Chairman's absence or impediment.
§ 4. The Chairman is charged with the legal representation of the Authority and has the power to sign. The Chairman or his deputy may delegate, from time to time or for certain deeds or actions, the power to represent the Authority towards third parties or before a court.

Article 5
Board of Directors

§ 1. The Board of Directors is chaired by the Chairman of the Authority and is made up of four other members appointed by the Sovereign Pontiff from among persons of proven reliability, competence and professional skills.
§ 2. The Board of Directors, entrusted with the powers of ordinary and extraordinary administration, is responsible for the organization and functioning of the Authority's office, whose activities it plans, manages and supervises. Within this province, for instance: a) it formulates - in keeping with the institutional goals – the basic strategies and relevant programs for the Authority's activities and it supervises their implementation; b) it issues organizational rules having also an external relevance; c) it participates, also through its representatives, in international organizations engaged in the prevention of money laundering and financing of international terrorism and in study and research activities organized by them; d) it superintends the Authority's personnel, fostering their specific vocational training; e) it empowers the Director - or other subjects endowed with assignments related to the Authority - through special service communications containing guiding principles and criteria, to perform certain types of deeds of a recurrent kind.
§ 3. The Board of Directors can assign, to individual members, special powers to perform certain deeds or supervise certain activities or areas of activity, establishing the relevant powers, procedures and methods for keeping the Board informed.
§ 4. The Board of Directors is convened by the Chairman customarily every term and extraordinarily every time this is seen to be needed. The Chairman draws up the agenda of the session, co-ordinates the relevant works and provides for adequate information to all the participants on the matters contained in the agenda.
§ 5. The convocation notice containing the agenda must be delivered to the individual participants at least five days before the date fixed for the meeting by means that ensure its timely reception; in urgent cases the convocation is sent by a note to be transmitted by fax, electronic mail or any other urgent means of communication at least one day before the session.
§ 6. The meetings of the Board may also be held by videoconference, and resolutions are adopted on the basis of an absolute majority of the votes of present members or by unanimity when three mem-

bers are present; in case of a tied vote, the chairing person's vote is the casting vote. For the Board's meetings to be valid, the presence of at least three members is required.
§ 7. For the meetings and resolutions of the Board a protocol has to be drafted and registered in the special book, signed by the Chairman and the secretary. The book and its docket, certified true by the Chairman and the secretary, give proof of the Board's meetings and resolutions.

Article 6
Director and personnel of the Authority

§ 1. The Director, who must be adequately qualified and have proven competence and professional skills in legal-financial matters and computer science, acquired in the institutional matters of the Authority, is appointed by the Chairman with the *nihil obstat* of the Secretary of State.
§ 2. The Director:

a) is responsible for the operational activity of the Authority;
b) co-ordinates the activities of the personnel, as far as the execution of the Authority's programs and tasks is concerned;
c) submits to the Board of Directors any deed lying outside his competence;
d) is normally invited to participate in the meetings of the Board of Directors;
e) is concerned with the Authority's administration.

§ 3. The Authority's personnel, who must have adequate professional experience in the institutional matters of the Authority, is hired by the Chairman with the *nihil obstat* of the Secretary of State.

Article 7
Confidentiality

§ 1. The subjects mentioned in the articles of this Chapter are obliged to keep the most rigorous confidentiality about anything concerning the Authority and its relationships with third parties.

§ 2. The obligation to confidentiality does not impede the fulfillment of duties in matters of international co-operation and towards judicial authorities, both investigating and adjudicating, when the information requested is necessary for inquiries or proceedings concerning infringements subject to penalties.

CHAPTER III

Article 8
Resources, accountancy and budgeting

§ 1. The Financial Intelligence Authority is assigned funds and resources of a sufficient quantity to meet the requirements for the effective pursuit of its institutional goals.
§ 2. The Board of Directors must approve the balance sheet relevant to the preceding fiscal period by 31 March of every year.
§ 3. The fiscal period is closed as per 31 December of every year.
§ 4. The Chairman forwards the balance sheet of the fiscal period, after its approval, to the Secretary of State.

CHAPTER IV

Article 9
Report of activities

The Financial Intelligence Authority forwards to the Secretary of State a report on its activities within the terms provided for in law.

CHAPTER V

Article 10
Approval and publication

§ 1 These Statutes are approved and shall be published in the *Acta Apostolicae Sedis*.
§ 2. For anything not provided for in these Statute**s**, the Vatican's canonical and civil provisions shall be applied.

ANNEX III

VATICAN CITY STATE

N. CLXVI **- Law confirming the Decree of the President of the Governorate of Vatican City State, No. CLIX, promulgating amendments and additions to Law no. CXXVII, *On the Prevention and Countering of the Laundering of the Proceeds of Criminal Activities and the Financing of Terrorism,* of 30 December 2010.**

[...omissis...]

THE PONTIFICAL COMMISSION FOR VATICAN CITY STATE

Bearing in mind the Lateran Treaty, signed in Rome between the Holy See and Italy on 11 February 1929;

Bearing in mind the *Fundamental Law of Vatican City State*, of 26 November 2000;

Bearing in mind Law no. LXXI, *On the Sources of Law,* of 1 October 2008;

Bearing in mind Law no. V *On the economic, commercial and professional order* of 7 June 1929;

considering:

that money laundering and the financing of terrorism are phenomena in continuous evolution, *inter alia* at the technological level, and that they threaten the stability, integrity and regular functioning of the financial and economic sectors as well as the reputation of the economic and financial actors;

that all jurisdictions are called to contribute to the efforts to prevent and counter money laundering and the financing of terrorism by enhancing their domestic legislation and through international cooperation;

that the *Monetary Convention between Vatican City State and the European Union* of 17 December 2009, provides for the adoption of adequate measures to prevent and counter money laundering and the financing of terrorism;

having regard to the fact that:

in the State a regime of public monopoly in the financial, economic and professional sectors exists;

for the purposes of:

- adapting the domestic legal system to international standards on the prevention and countering of money laundering and the financing of terrorism;
- promoting the transparency and integrity of the financial, economic and professional sectors;
- fostering active cooperation among the various competent authorities and the subjects bound to observe the duties set forth in this law for the prevention and countering of money laundering and the financing of terrorism;
- favoring active cooperation among the domestic and international competent authorities for the prevention and countering of money laundering and the financing of terrorism;

has ordered and orders that the following be observed as Law of the State:

CHAPTER I
Definitions, general principles and scope

Article 1
(Definitions)

Solely for the purposes of this law:

1. *"activity conducted professionally"*: is understood to mean an organized economic activity, conducted regularly, for the production or exchange of goods and services, for and on behalf of third parties;

2. *"Public Authority"*: is understood to mean a body or entity that, on the basis of the domestic legal system, performs, directly or indirectly, an institutional activity inherent to the sovereign authority;

3. *"legal person"*: is understood to mean any legal person, regardless of its nature and activity, including foundations and trusts that do not fall within the definition of Public Authority;

4. *"money laundering"*:

a) the acts referred to in article 421 *bis* of the Criminal Code;

b) participation in one of the acts referred to in article 421 *bis* of the Criminal Code, association to commit, attempt to commit, and aiding, inciting, or counseling someone to commit such an act, or abetting its execution;

5. *"predicate offense"*: any of the predicate offenses of money laundering set forth in the following articles of the Criminal Code:

138 *bis* (*Associations for purposes of terrorism or subversion*); 138 *ter* (*Financing of Terrorism*); 138 *quater* (*Recruitment for purposes of terrorism or subversion*); 138 *quinquies* (*Training activities for purposes of terrorism or subversion*); 138 *sexies* (*Attacks for purposes of terrorism or subversion*); 138 *septies* (*Acts of terrorism or subversion with explosives or other lethal weapons or devices*); 145 – 154 (*Crimes against individual liberty*); 171 – 174 (*Corruption*); 248 – 249 (*Criminal organization*); 256 – 258 (*Counterfeiting of banknotes and letters of credit*); 295 – 297 (*Fraud in trades, industries and auctions*); 299 *bis,* (*Insider trading*); 299 *ter* (*Market abuse*); 311 *bis* (*Piracy*); 326 *bis* (*Illicit Production, trafficking and possession of narcotic drugs or psychotropic substances);* 326 *ter* (*Collaboration for illicit trafficking in narcotic drugs or psychotropic substances);* 326 *quinquies* (*Abusive medical prescriptions);* 331 – 339 (*Crimes against public morality and family order)*; 364 – 371 (*Murder*); 372 – 375 (*Personal injury*); 402 – 404 *(theft)*; 406 – 412 (*Robbery, extortion and blackmailing*); 413 (*Fraud and other forms of embezzlement*); 416 *bis* (*Embezzlement prejudicial to the State*); 416 *ter* (*Aggravated fraud aimed at obtaining public funds);* 416 *quater* (*Undue receipt of Funds in circumstances prejudicial to the State);* 417 – 420 (*Misappropriation);* 421 (*Receipt of stolen goods*); 422 (*Usurpation*), 459 bis (*Smuggling*); 460 – 470 (*Offenses concerning explosive or other lethal weapons or devices)*; 472 *bis* (*Environmental crimes*); 472 ter (*Organized activities for the illicit trafficking of waste);*

as well as any other criminal acts punishable, pursuant to the Criminal Code, with a minimum penalty of six months or more of imprisonment or detention; or with a maximum penalty of one year or more of imprisonment or detention.

6. *"acts performed with a terrorist purpose"*: for the purposes of articles 138 *bis, ter, quater, quinquies, sexies* and *septies* of the Criminal Code, acts intended to cause death or serious bodily injury to civilians or to persons not taking active part in hostilities in cases of armed conflict, when the act, by its nature or context, is carried out with the intent to:

a) intimidate a population;

b) compel the public authorities or an international organization to carry out or to abstain from carrying out any act;

7. *"acts performed with a subversive purpose"*: for the purposes of articles 138 *bis, ter, quater, quinquies,*

sexies and *septies* of the Criminal Code, acts intended to cause death or serious bodily injury to civilians or to persons not taking active part in the hostilities in a situation of armed conflict, when the purpose of such acts is to destabilize the fundamental political, constitutional, economic and social structure of a State or of an international organization;

8. *"financing of terrorism"*:

a) the acts referred to in article 138 *ter* of the Criminal Code;

b) participation in one of the acts referred to in article 138 *ter* of the Criminal Code, association to commit, attempt to commit, and aiding, inciting, or counseling the commission of such act, or abetting its execution.

9. "*explosives or other lethal weapons or devices"*: weapons or devices that are:

a) explosive or incendiary – designed or having the capability to cause death, serious bodily injury or substantial material damage;

b) designed or having the capability to cause death or serious bodily injury through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material;

10. *"currency"*:

a) currency (banknotes and coins that are in circulation as a medium of exchange);

b) instruments issued or negotiable to the bearer, including travelers *cheques*, *cheques*, money orders and promissory notes issued or made out without restrictions to a fictitious payee or otherwise issued or made out in such a form that the title passes upon delivery; as well as incomplete instruments, signed but with the payee's name omitted;

11. *"funds"*: assets of every kind, whether tangible or intangible, movable or immovable, as well as legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets;

12. *"other assets"*: the activity and assets of every kind, whether tangible or intangible, movable or immovable, including the accessories, interests and dividends which are not funds but may be used to obtain goods and services;

13. *"designated subjects":* the natural and legal persons, and the associations, groups or entities of any kind designated as subject to the freezing of funds and other assets provided for in article 24 of this law;

14. *"freezing"*:

a) regarding funds, the prohibition to move, transfer, convert, dispose, use, manage, or access those funds so as to modify their volume, amount, location, ownership, possession, nature, destination, as well as any other change that would allow their use, including the management of an investment portfolio;

b) regarding other assets, the prohibition to move, transfer, convert, use or manage those assets, including their sale, attachment to or constitution of any other rights or warranties over them in order to obtain goods or services;

15. *"beneficial owner"*: the natural person or persons on whose behalf a service or a transaction is conducted or, in the case of a corporation or legal person, the natural person or persons who are the ultimate owners or exercise ultimate control of such corporation or legal person, or who are its beneficiaries according to the criteria set forth in the Appendix to this law;

16. *"identification data"*: the name, surname, place and date of birth, address, and the number and date of the identification document or, in the case of legal persons, the legal name and registered office;

17. *"providers of services related to companies or legal persons"*: any natural or legal person that conducts professionally one of the activities listed in article 2, paragraph 1, letter b), subsection ii), of this law;

18. *"politically exposed persons"*: persons who are or who have been entrusted with prominent public functions, as well as their immediate family members and those with whom they publicly maintain a close association, as determined pursuant to the criteria set forth in the Appendix to this law;

19. "*narcotic drugs or psychotropic substances"*: any agent or substances, natural or synthetic, whose active principles may provoke hallucinations, states of grossly altered perception, or similar effects upon the central nervous system;

20. *"shell bank"*: a bank, or a credit institution that conducts similar activities, that has been incorporated in a State where it has no physical presence and which enables it to be directed and managed effectively without being affiliated to any regulated financial group;

21. *"correspondent current accounts"*: the accounts held by banks, normally on a bilateral basis, for the provision of inter-bank services (remittance of drafts, cashier's and bank *cheques*, credit orders, transfer of funds, remittance of documents and other transactions);

22. *"payment services provider"*: the natural or legal person whose activities include the provision of payment services or wire transfers;

23. *"payment services"*: services to execute deposits, withdrawals, transactions and payment orders, including the transfer of funds to a payment account, or to issue and/or acquire payment instruments and currency remittances;

24. "*wire transfer*": a transaction carried out, by electronic means, by a provider of payment services on behalf of an originator person with a view to making an amount of funds available to a beneficiary person at another payment services provider; the originator and the beneficiary may be the same person.

25. "*relationship"*: a business relationship, that is, relationship of a professional or commercial nature linked to activities conducted professionally by the subjects referred to in article 2, paragraph 1, and that, at its outset, is expected to be protracted in time;

26. *"service"*: a professional or commercial service linked to one of the activities carried out by the subjects referred to in article 2, paragraph 1;

27. *"transaction"*:

a) the transfer or movement of means of payment;

b) for the subjects referred to in article 2, paragraph 1, letter c), a determined or determinable activity with a financial or patrimonial scope, to be conducted through a professional service, that modifies the preexisting legal situation;

28. *"linked transaction"*: a transaction that, even if autonomous in itself, forms, from an economic point of view, a unitary transaction with one or more operations conducted at different moments within a seven working days period, for a total value of 15,000 euro or more;

29. *"means of payment"*: currency, bank and postal *cheques*, cashier's *cheques* and other similar or comparable instruments, credit or debit orders, credit cards and other payment cards, as well as any other existing instrument to transfer, move or acquire – including through electronic means – funds, titles, or other assets;

30."*financial instruments*": securities; money-market instruments; shares in investment funds; options; derivative financial instruments;

Article 1 *bis*

(Transparency and integrity of the economic, financial and professional sectors)

In order to protect and promote the integrity and transparency of the economic, financial and professional sectors, it shall be prohibited:

a) to open or hold anonymous or ciphered accounts, deposits, savings accounts or similar relationships, under imaginary or fictitious names;

b)to open or hold correspondent current accounts in a shell bank, or to open or hold correspondent current accounts in a bank or in a financial or credit institution that is known to permit a shell bank to use its own accounts;

c) to open casinos.

Article 1 *ter*
(General legal system and the right to privacy)

1. The policies, measures and procedures required by this law to prevent and counter money laundering and the financing of terrorism shall be adopted and applied in conformity with:

a) the social context and the regime of public monopoly in the economic, financial and professional sectors in place in the State;

b) the institutional nature of the subjects bound pursuant to article 2, paragraph 1;

c) the level of risk relating to the type of counterpart and the kind of relationship, service or transaction.

2. The provisions of this law shall be applied in conformity with the general principles of canon law, which is the primary normative and interpretative source of the State's legal system.

3. The provisions of this law shall be applied without prejudice to the right to privacy, as guaranteed by the general principles and fundamental norms of the legal system in force, apart from the exceptions explicitly set forth in this law for the purposes of the cooperation and exchange of information among the Authorities competent for the prevention and countering of money laundering and the financing of terrorism.

Article 2
(Scope of application)

1. The following are bound to observe the measures regarding customer due diligence, registration, and record-keeping, as well as the reporting of suspicious transactions:

a) all persons, either natural or legal, that conduct professionally one of the following activities:

i. the acceptance of deposits and other repayable funds from the public;
ii. lending;
iii. financial leasing;
iv. transfer of funds;
v. issuing and managing means of payment;
vi. issuing financial guarantees and commitments;
vii. trading in any kind of financial instruments, exchange rate and interest contracts;
viii. participation in issuing securities and the provision of related financial services;
ix. management of individual or collective portfolios;
x. safekeeping and management of currency and other securities;
xi. any other form of investing, administering or managing currency, funds or other assets;
xii. underwriting and placing life insurance and other investments related to insurance;
xiii. currency exchange;

b) the following professionals:

i. lawyers, notaries, accountants, and external accounting or tax consultants when they engage or participate in any financial or real estate transaction, or when they assist someone to plan or execute transactions related to: buying or selling real estate or business entities; managing currency, financial instruments or other funds or other assets; opening or managing banking, savings or securities accounts; and organizing the contributions necessary for the creation, operation or management of corporations or legal persons;

ii. Trust and company service providers when:

they create a corporation or legal person; act as director, manager or partner in a partnership, or in a similar position in another kind of legal person, or arrange for another person to occupy such a position; provide a registered office, a business, administrative or postal address and connected services to a corporation or legal person; act as a trustee in an express trust or in a similar entity, or arrange for another person to act in such a role; act as a nominee shareholder on behalf of third persons or arrange that another person do so, unless it is a corporation quoted in a regulated market and bound to disclosure.

In order to protect the professional secret, the duty to report suspicious transactions does not apply to the professionals mentioned in letter b), number i), regarding the information they receive while assessing the legal position of their client, or in his defense or representation in a mediation, an arbitration, or in a judicial or administrative proceeding, including when advising on the possibility of initiating or avoiding such a process, regardless of the stage when such information is received.

c) the following subjects:

i. real estate agents, when they engage in a transaction for buying or selling real estate;

ii. dealers in precious metals or stones, when they engage in a transaction equal to or exceeding 15,000 euro;

2. Public Authorities shall report suspicious transactions to the Financial Intelligence Authority when they know, suspect, or have reasonable grounds to suspect that currency, funds, or other assets are the proceeds of a crime; or when money laundering or financing of terrorism has been committed, is in the course of being committed, or has been attempted.

Article 2 *bis*
(Branches, subsidiaries and controlled institutions)

1. The branches and subsidiaries in other States of the subjects referred to in article 2, paragraph 1, as well as the institutions controlled exclusively or jointly, directly or indirectly, by them, shall observe the requirements set forth in this law.

2. When the requirements in force in the foreign State are not equivalent with those set forth by this law, the branches, subsidiaries or controlled institutions shall observe the requirements set forth in this law, to the extent that the laws of the foreign State so permit.

3. When the requirements in force in the foreign State are not equivalent with those set forth by this law, the branches, subsidiaries or controlled institutions shall inform the Financial Intelligence Authority.

Article 2 *ter*
(Organization and Personnel training)

1 The subjects referred to in paragraph 2, paragraph 1, shall adopt adequate policies, organization, measures and procedures to prevent and counter money laundering and the financing of terrorism,

on the basis of the development of new technologies and of the phenomena of money laundering and the financing of terrorism.

2. The subjects referred to in article 2, paragraph 1, shall select those who exercise managerial functions, direction or control, among persons of suitable competence and professionalism.

3. The subjects referred to in article 2, paragraph 1, shall adopt policies, programs and measures to ensure that their employees, consultants, and collaborators of whatever nature, have attained an adequate professional level to permit the proper and effective observance of the requirements set forth in this law.

These measures shall include training programs and ongoing formation on the prevention of money laundering and the financing of terrorism.

Article 2 *quater*
(Registration of legal persons)

1. Legal persons having their registered office in the State, regardless of their nature and activity, shall register, pursuant to the legal system in force, with the Governorate, where information regarding their nature, activities, organization, organs of administration, direction and control, shall be kept and updated.

2. The registry referred to in paragraph 1 shall be accessible to the competent authorities for the prevention and countering of money laundering and financing of terrorism.

CHAPTER I *bis*
Competent Authorities

Article 2 *quinquies*
(The Secretariat of State)

1. The Secretariat of State is responsible for the definition of the policies for the prevention and countering of money laundering and the financing of terrorism. In those sectors, it promotes cooperation among the various authorities of the Holy See and the State competent in the prevention and countering of money laundering and the financing of terrorism.

2. The Secretariat of State is responsible for the adhesion of the Holy See to international treaties and agreements as well as for its relation with, and participation in, the various international institutions and organizations competent for the definition of norms and best practices regarding the prevention and countering of money laundering and the financing of terrorism.

Article 2 *sexies*
(The Pontifical Commission for Vatican City State)

The Pontifical Commission for Vatican City State is responsible for the adoption of general regulations for the implementation of this law.

Article 2 *septies*
(The Financial Intelligence Authority)

1. The Financial Intelligence Authority shall perform the functions set forth in this law with operational independence and autonomy and, in the application of those principles, it shall have adequate resources.

2. Regarding the supervision of the subjects listed in article 2, paragraph 1, the Financial Intelligence Authority shall:

a) monitor their compliance with the requirements set forth in this law to prevent and counter money laundering and the financing of terrorism;

b) verify, including through on-site inspections, the suitability and effectiveness of the policies, organization, measures and procedures adopted by them pursuant to article 2 *ter,* to prevent and counter money laundering and the financing of terrorism;

The on-site inspections shall be governed by a regulation issued by the Pontifical Commission for Vatican City State.

The Financial Intelligence Authority may conclude Memoranda of Understanding with the subjects listed in article 2, paragraph 1, for the activities set forth in subparagraphs a) and b).

c) issue guidelines and enforceable measures regarding:

i. the requirements set forth by article 2 *ter* regarding the adoption of policies, organizational instruments, measures and procedures;

ii. the requirements set forth in Chapters V, VI and VII regarding adequate verification, registration and record-keeping, and the reporting of suspicious transactions;

iii. wire transfers.

3. Regarding the reporting of suspicious transactions, the Financial Intelligence Authority shall:

a) receive reports of suspicious transactions;

b) make a financial analysis of the reported suspicious transactions;

c) refer to the Promoter of Justice those reports it deems sufficiently well-founded and which may constitute cases of money laundering or financing of terrorism;

d) access, on a timely basis, the necessary financial, administrative and investigative information to undertake effectively the tasks set forth in subparagraphs b) and c);

e) issue guidelines to facilitate the reporting of suspicious transactions and provide the subjects listed in article 2, paragraph 1, with guidance regarding the manner of reporting, including the specification of reporting forms and the procedures to be followed when reporting.

f) prepare and disseminate models and typologies of unusual behaviors in the economic and financial fields that may indicate cases of money laundering or financing of terrorism;

g) provide updated intelligence on the money laundering and financing of terrorism activities to the subjects listed in article 2, paragraph 1, in order to facilitate, *inter alia*, the training of the staff of the subjects under obligation to report suspicious transactions;

h) suspend for up to five working days, whenever doing so does not prejudice a judicial investigation, those transactions suspected of money laundering or financing of terrorism, also upon request of the Judicial Authorities, and notify those same authorities immediately of such a step.

4. The Financial Intelligence Authority, using, *inter alia,* the information gathered while fulfilling the tasks set forth in paragraph 3, shall:

a) prepare analysis and studies on particular sectors or instances of the economic and financial activity that is deemed to pose a risk, and also on specific anomalies that could be caused by incidents of money laundering or financing of terrorism;

b) release to the public periodic reports containing non-confidential statistics and information related to the exercise of its own activity.

5. All data, information and documents held by the Financial Intelligence Authority:

a) shall be preserved using mechanisms that ensure their security and integrity;

b) are confidential, except the communications and exchanges of information among the competent authorities, in the cases provided for by this law and within the limits set forth by the laws in force.

6. The Financial Intelligence Authority shall apply the administrative economic sanctions in the cases provided for by article 42.

7. *The Financial Intelligence Authority enters into Memoranda of Understanding with similar authorities in other states for the exchange of information for the preventing and countering of money laundering and the financing of terrorism. The Secretariat of State is informed when such Memoranda of Understanding are concluded.*[1]

8. By 31 March of every year, the Chairman of the Financial Intelligence Authority shall submit to the Secretary of State a report on the activities carried out by the Authority during the previous solar year.

A detailed account of the resources used by the Authority in carrying out its tasks and linked activities shall be attached to the report.

9. The guidelines and other enforceable measures issued by the Financial Intelligence Authority shall be published in the Supplements to the *Acta Apostolicae Sedis*.

Article 2 *octies*
(The Gendarmerie)

1. The Gendarmerie shall conduct investigations for the prevention and countering of criminal activities, including money laundering and the financing of terrorism, within the limits of the competences entrusted to it by the laws in force.
2. The Gendarmerie shall promote the ongoing professional formation of all its members, officers and agents, on money laundering and the financing of terrorism, and it shall adopt advanced investigative techniques to further its capacity to prevent and counter money laundering and the financing of terrorism.
3. With the *nihil obstat* of the Secretariat of State, the Gendarmerie may conclude Memoranda of Understanding with similar authorities from other States to prevent and counter criminal activities, money laundering, and the financing of terrorism.

CHAPTER II
Criminal provisions on money laundering

Article 3
(Money laundering and self-laundering)

In book II of the Criminal Code: "On particular crimes", Title X "Crimes against Property," Chapter V, after the section "Receiving stolen goods" the following is added: "On money laundering, self-laundering, and the use of proceeds from criminal activities". In the same Chapter, after article 421 the following article 421 bis *is added:*

421 *bis*

1. Whoever, apart from the cases provided for in article 421:

a) replaces, converts or transfers currency, funds or other assets, knowing that they proceed from a predicate offense or from participation in a predicate offense, for the purpose of concealing or disguising their illicit origin or of assisting any person who is involved in the commission of such criminal activity to evade the legal consequences of his actions;

b) conceals or disguises the true nature, source, location, disposition, movement, ownership of, or the rights with respect to currency, funds or other assets, knowing that they proceed from a predicate offense or from participation in a predicate offense;

[1] Article amended by Article 1 of Law no. CLXXXV of 14 December 2012.

c) acquires, possesses, holds, or uses currency, funds or other assets, knowing, at the time of their receipt, that they proceed from a predicate offense or from participation in a predicate offense;

shall be punished with four to twelve years of imprisonment and with a fine ranging from 1,000 to 15,000 euro.

2. The crime of money laundering exists regardless of the value of the currency, funds or other assets that proceed from the predicate offense, even when there has been no conviction for that offense.

3. The crime of money laundering exists even when its author is the same person who committed the predicate offense.

4. The crime of money laundering exists even when the offense from which the currency, funds or other assets proceed was committed in another State.

5. In the case of conviction, the judge shall order the confiscation of:

a) the proceeds of the money laundering, direct or indirect, including the instrumentalities used or destined for that purpose;

b) the profits or other benefits originating, directly or indirectly, from the proceeds of the predicate offense.

6. Whenever it is not possible to confiscate the goods referred to in paragraph 5, subparagraphs a) and b), the judge shall order the confiscation of currency, funds or other assets of an equivalent value from among those owned or possessed, directly or indirectly, exclusively or jointly with others, by the one convicted, without prejudice to the *bona fide* rights of third parties.

7. The currency, funds and other assets confiscated pursuant to paragraphs 5 and 6 are acquired by the Holy See and are destined, bearing in mind any international agreements on the sharing of confiscated proceeds, for the charitable and religious works of the Supreme Pontiff.

8. The judge shall adopt precautionary measures, including the seizure of the currency, funds or other assets likely to be confiscated, to prevent their sale, transfer or disposal, as well as other measures to enable the competent authorities to identify, trace, and freeze the currency, funds or other assets likely to be confiscated, without prejudice to the *bona fide* rights of third parties.

Article 3 *bis*
(Use of proceeds from criminal activities)

In book II of the Criminal Code: "On particular crimes", Title X "Crimes against Property," Chapter V, "Receiving stolen goods," the following is added to the title: "On money laundering, self-laundering, and the use of proceeds from criminal activities". In the same Chapter, after article 421 bis *the following article 421* ter *is added:*

421 *ter*

1. Whoever uses, in economic or financial activities, currency, funds, or other assets that proceed from a crime shall be punished with four to twelve years of imprisonment and with a fine ranging from 1,000 to 15,000 euro.

2. In case of a conviction, paragraphs 5, 6, 7, and 8 of the preceding article apply.

CHAPTER III
Other forms of criminal activity

Article 4
(Associations for purposes of terrorism or subversion)

In book II of the Criminal Code: "On particular crimes", Title I "Crimes against the Security of the State," after

Chapter IV "Common provisions", Chapter V is added: "Other measures to prevent and counter terrorism", in which the following article 138 bis *is inserted:*

138 *bis*

1. Whoever promotes, creates, organizes, or directs associations that intend to commit acts for a terrorist purpose or for the purpose of subversion, shall be punished with five to fifteen years of imprisonment.

2. The terrorist purpose is present even when the violent acts are directed against another State, or an international institution or organization, or when they are committed in another State.

3. Regarding the person convicted, the confiscation of the goods used or intended to be used to commit the offense, as well as the goods that constitute its price, proceeds, profits, or the use thereof, is always mandatory, without prejudice to the *bona fide* rights of third parties.

4. Whenever it is not possible to confiscate the goods referred to in paragraph 3, the judge shall order the confiscation of currency, funds or other assets of an equivalent value from among those owned or possessed, directly or indirectly, exclusively or jointly with others, by the one convicted, without prejudice to the *bona fide* rights of third parties.

5. The goods confiscated pursuant to paragraphs 3 and 4 are acquired by the Holy See and are destined, bearing in mind any international agreements on the sharing of confiscated proceeds, for the charitable and religious works of the Supreme Pontiff and are dedicated, at least in part, to provide assistance to the victims of terrorism and their families.

6. The judge shall adopt precautionary measures, including the seizure of the currency, funds or other assets likely to be confiscated, to prevent their sale, transfer or disposal, as well as other measures that permit identifying, tracing, and freezing the currency, funds or other assets likely to be confiscated, without prejudice to the *bona fide* rights of third parties.

Article 4 *bis*
(Financing of terrorism)

In book II of the Criminal Code: "On particular crimes", Title I "Crimes against the Security of the State," after Chapter IV "Common provisions", Chapter V is added: "Other measures to prevent and counter terrorism" in which the following article 138 ter *is inserted:*

138 *ter*

1. Whoever by any unlawful and fraudulent act, directly or indirectly, collects, provides, deposits or holds currency, funds or other assets, however obtained, with the intention that they should be used or in the knowledge that they are to be used, in whole or in part, in order to commit one or more acts for a terrorist purpose or to abet the commission of one or more acts for a terrorist purpose, regardless of whether those funds or assets are used to commit or to attempt to commit those acts, shall be punished with five to fifteen years of imprisonment.

2. The crime exists whether the acts are intended to finance associations or whether they are intended to finance one or more natural persons.

3. The terrorist purpose is present even when the acts are directed against another State, or an international institution or organization, or when they are committed in another State.

4. Regarding the person convicted, the confiscation of the goods used or intended to be used to commit the offense, as well as the goods that constitute its price, proceeds, profits, or the use thereof, is always mandatory, without prejudice to the *bona fide* rights of third parties.

5. Whenever it is not possible to confiscate the goods referred to in paragraph 4, the judge shall order the confiscation of currency, funds or other assets of an equivalent value from among those

owned or possessed, directly or indirectly, exclusively or jointly with others, by the one convicted, without prejudice to the *bona fide* rights of third parties.

6. The goods confiscated pursuant to paragraphs 4 and 5 are acquired by the Holy See and are destined, bearing in mind any international agreements on the sharing of confiscated proceeds, for the charitable and religious works of the Supreme Pontiff and are dedicated, at least in part, to provide assistance to the victims of terrorism and their families.

7. The judge shall adopt precautionary measures, including the seizure of the money, goods or assets likely to be confiscated, to prevent their sale, transfer or disposal, as well as other measures that make it possible to identify, trace, and freeze the money, goods or assets likely to be confiscated, without prejudice to the *bona fide* rights of third parties.

Article 5

(Recruitment for purposes of terrorism or subversion)

In book II of the Criminal Code: "On particular crimes", Title I "Crimes against the Security of the State," after Chapter IV "Common provisions", Chapter V is added: "Other measures to prevent and counter terrorism" in which the following article 138 quater *is inserted:*

138 *quater*

1. Whoever, apart from the cases foreseen in article 138 *bis*, recruits one or more persons to commit acts for a terrorist purpose or for the purpose of subversion, or to sabotage essential public facilities or services, shall be punished with seven to fifteen years of imprisonment.

2. The crime exists even when the acts are directed against another State, or an international institution or organization, or when they are committed in another State.

Article 6

(Training activities for purposes of terrorism or subversion)

In book II of the Criminal Code: "On particular crimes", Title I "Crimes against the Security of the State," after Chapter IV "Common provisions", Chapter V is added: "Other measures to prevent and counter terrorism" in which the following article 138 quinquies *is inserted:*

138 *quinquies*

1. Whoever, apart from the cases foreseen in article 138 *bis*, trains or otherwise provides instructions on the preparation or use of explosives or other lethal weapons or devices, or on any other technique or method of committing acts for the purpose of terrorism or subversion, or in order to sabotage essential public facilities or services, shall be punished with five to ten years of imprisonment. The same penalty shall apply to the one receiving such training.

2. The crime exists even when the acts are directed against another State, or an international institution or organization, or when they are committed in another State.

Article 7

(Attacks for purposes of terrorism or subversion)

In book II of the Criminal Code: "On particular crimes", Title I "Crimes against the Security of the State," after Chapter IV "Common provisions", Chapter V is added: "Other measures to prevent and counter terrorism" in which the following article 138 sexies *is inserted:*

138 *sexies*

1. Whoever commits, for purposes of terrorism or subversion, an act intended to cause death or serious bodily injury to one or more civilians or to persons not taking active part in the hostilities in a situation of armed conflict, shall be punished, in the first case, with no less than twenty years of imprisonment and, in the second case, with no less than six years of imprisonment

2. The crime exists even when the acts are directed against another State, or an international institution or organization, or when they are committed in another State.

Article 8
(Acts of terrorism with explosives or other lethal weapons or devices)

In book II of the Criminal Code: "On particular crimes", Title I "Crimes against the Security of the State," after Chapter IV "Common provisions", Chapter V is added: "Other measures to prevent and counter terrorism" in which the following article 138 septies *is inserted:*

138 *septies*

1. Unless it constitutes a more serious crime, whoever commits acts for purposes of terrorism or subversion, intended to damage public or private movable or immovable goods, using explosives or other lethal weapons or devices, shall be punished with two to five years of imprisonment.

2. The crime exists even when the acts are directed against another State, or an international institution or organization, or when they are committed in another State.

Article 9
(Embezzlement prejudicial to the State)

In book II of the Criminal Code: "On particular crimes", Title X "Crimes against Property," Chapter III "Fraud and other forms of embezzlement," after article 416, the following article 416 bis *is added:*

416 *bis*. Whoever, not being a public official, on receiving, from the State or from some other public entity or institution, contributions, subsidies or funds intended to aid the execution of public interest works or activities, fails to utilize them for such purposes, shall be punished with six months to four years of imprisonment.

Article 10
(Aggravated fraud aimed at obtaining public funds)

In book II of the Criminal Code: "On particular crimes", Title X "Crimes against Property," Chapter III " Fraud and other forms of embezzlement," after article 416 bis, *the following article 416* ter *is added:*

416 *ter.* If the crime set forth in article 413 involves contributions, funds, favored loans or other similar allowances, however designated, that are granted or bestowed by the State or by other public entities or institutions, the penalty shall be of one to six years of imprisonment and shall be applied *ex officio.*

Article 11
(Undue receipt of funds in circumstances prejudicial to the State)

In book II of the Criminal Code: "On particular crimes", Title X "Crimes against Property," Chapter III " Fraud and other forms of embezzlement," after article 416 ter, *the following article 416* quater *is added:*

416 *quater*. Unless the circumstances constitute the crime set forth in article 413, whoever unduly obtains for himself or for others contributions, funds, favored loans or other similar allowances, however

designated, that are granted or bestowed by the State or by other public entities or institutions, through the use or presentation of declarations or documents that are false or that attests falsehoods, or by omitting to provide due information, shall be punished with six months to three years of imprisonment.

If the circumstances are of minor significance, the penalties shall be reduced accordingly.

Article 12
(Insider dealing)

In book II of the Criminal Code: "On particular crimes", Title VI "Crimes against public faith" after Chapter V "Frauds in trades, industries and auctions," Chapter V bis *is added "Insider dealing and market manipulation" in which the following article 299* bis *is inserted:*

299 bis

1. Whoever possesses privileged information by virtue of his membership in the administrative, management or supervisory bodies of the issuer, or by virtue of his holding in the capital of the issuer, or through the exercise of his employment, profession, or duties, including public or official duties, shall be punished with one to six years of imprisonment and with a fine ranging from 20,000 to 3,000,000 euro, if he:

a) acquires, sells, or otherwise handles financial instruments, either directly or indirectly, either for himself or on behalf of third parties, by making use of that information.

b) communicates the said information to another, unless in the normal exercise of his employment, profession, functions, or office duties.

c) counsels or induces others, on the basis of such information, to perform one of the activities referred to in subparagraph a).

2. The same penalty shall apply to anyone who, possessing privileged information by virtue of his preparation or participation in criminal activities, performs one of the activities referred to in paragraph 1 above.

3. The judge may increase the fine up to threefold, or, if greater, up to ten times the amount of the proceeds of the crime, when even the maximum figure stipulated for the fine appears inadequate in view of the seriousness of the offense, the personal conditions of the one convicted, or the amount of the profit or proceeds of the crime.

Article 13
(Market manipulation)

In book II of the Criminal Code: "On particular crimes", Title VI "Crimes against public faith" after Chapter V "Frauds in trades, industries and auctions," Chapter V bis *is added, "Insider dealing and market manipulation," in which the following article 299* ter *is inserted:*

299 *ter*

1. Whoever disseminates false information, or causes to take place simulated transactions, or other artifices concretely prone to provoke a notable alteration in the prices of financial instruments, shall be punished with one to six years of imprisonment and with a fine ranging from 20,000 to 5,000,000 euro.

2. The judge may increase the fine up to threefold, or, if greater, up to ten times the amount of the proceeds of the crime, when even the maximum figure stipulated for the fine appears inadequate in view of the seriousness of the offense, the personal conditions of the one convicted, or the amount of the profit or proceeds of the crime.

Article 14
(Trafficking in human beings)

In book II of the Criminal Code: "On particular crimes," Title II "Crimes against freedom," Chapter III "Crimes against individual freedom," article 145 bis *is added* in the following sense:

145 *bis*

1. Whoever engages in human trafficking in the manner referred to in article 145, and whoever, in order to commit the offense set forth in that article, induces through deception or coerces through violence, threat, abuse of power, or abuse of a situation of physical or psychical vulnerability or need, or through the offer or conferral of money or other benefits, a person over whom he has control, to enter, sojourn, or exit the territory of the State or to move into its territory, shall be punished with eight to twenty years of imprisonment.

2. The penalty is increased by one-third to one-half if the acts referred to in paragraph 1 are committed against a minor under eighteen years of age, or if they are directed towards exploitation through prostitution or towards removal of organs from the victim.

Article 15
(Sale of industrial products with false labels)

In article 295 of the Criminal Code, paragraphs 1 and 2, the respective penalties are amended as follows: "with up to one year of imprisonment or with a fine of up to 10,000 euro" and "with up to two years of imprisonment or with a fine of up to 20,000 euro".

Article 16
(Manufacture, introduction, sale and possession of weapons in the State)

1. In article 460, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro".

2. In article 461, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro".

3. In article 462, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro".

4. In article 463, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro".

5. In article 464, paragraph 1, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro"; in paragraph 2 "with up to two and a half years of imprisonment and with a fine ranging from 100 to 3,000 euro", and in paragraph 3, "with up to three years of imprisonment and with a fine ranging from 100 to 3,000 euro".

6. In article 466, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro".

7. In article 467, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro" and "in the most serious cases, with up to two and a half years of imprisonment and with a fine ranging from 1,000 to 3,000 euro.

8. In article 468, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro".

9. In article 469, the penalty is amended as follows: "with up to two years of imprisonment and with a fine ranging from 500 to 2,000 euro".

Article 17
(Smuggling)

In book III of the Criminal Code: "Particular offenses ", Title I "Offenses against public order," Chapter X "Smuggling" is added, in which the following article 459 bis *is inserted:*

459 *bis*

1. Whoever commits one of the following acts shall be punished with up to two years of imprisonment or, alternatively, with a fine of not less than two and not more than ten times the duties due:

a) introducing foreign goods through the land borders, in violation of the norms, prohibitions and limits established in paragraph 2;

b) being found with goods concealed on his person, in his luggage, packages, furnishing, or among goods of any other kind, or in any means of transportation, in order to hide them from the customs controls;

c) removing goods from customs offices without having paid the respective duties and without having guaranteed their payment;

d) taking national or nationalized goods, that are subject to exit duties, outside the customs territory, under the conditions indicated in the previous subparagraphs.

2. Goods may pass through customs only at the places established by the law in force.

3. The boundary with the Italian State shall be the customs' line.

4. Customs territory shall be defined by the customs' line.

5. The sites where a customs service operates, as well as the areas under the Customs' surveillance and control, are deemed customs areas. The boundaries of the customs areas are determined by the customs authority bearing in mind the conditions of each site.

6. Included under the heading « duties » are all the duties that the Customs office is obliged to collect, pursuant to a law in force in the State.

7. In order to ensure compliance with the provisions of this article, the customs authorities may:

a) proceed to inspect means of transport of any sort that cross the customs line at the customs offices or that move within such areas;

b) proceed to inspect the luggage and other objects in the possession of those persons who cross the customs line at the customs offices or who move within such areas;

c) invite those who move, for any reason, within the customs areas to present any objects or valuables they carry on their person; in case of a refusal and if there are substantiated motives for suspicion, the customs authority may enjoin, through a written order giving detailed reasons, that those persons be subject to a personal search. A written account of the personal search shall be prepared and transmitted within forty-eight hours, together with the above-mentioned order, to the Promoter of Justice, who is to validate the procedure within the following forty-eight hours if he deems it legitimate.

Article 18
(Environmental crimes)

In book III of the Criminal Code: "Particular offenses ", Title II "Offenses against public safety," after Chapter II "On the collapse and lack of repair of buildings" Chapter II bis *is added, "On the protection of the environment", in which the following article 472* bis *is inserted:*

472 *bis*

1. Whoever contaminates the soil, subsoil, surface waters or underground waters, shall be punished with six months to one year of imprisonment and with a fine ranging from 2,600 to 26,000 euro.

2. The same penalty set forth in paragraph 1 shall apply also to anyone who contaminates the atmosphere.

3. If the contamination is caused by dangerous substances, the penalty shall be of one to two years of imprisonment and a fine ranging from 5,200 to 52,000 euro.

Article 19

(*Organized activities for the illicit trafficking of waste)*

In book III of the Criminal Code: "Particular offenses", Title II "Offenses against public safety," after Chapter II "On the collapse and lack of repair of buildings" Chapter II bis *is added, " On the protection of the environment", in which the following article 472* ter *is inserted:*

472 ter

1. Whoever cedes, collects, transports, imports, or otherwise illegitimately manages significant quantities of waste, through organized means, various operations, and continuous activities, in order to obtain an unjust profit, shall be punished with one to six years of imprisonment.

2. If the waste is highly radioactive, the penalty shall be of three to eight years of imprisonment.

Article 20

(Illicit production, trafficking and possession of narcotic drugs or psychotropic substances)

In book II of the Criminal Code: "On particular crimes", Title VII "Crimes against public safety," after Chapter III "Crimes against public health and nutrition," Chapter III bis *is added, "Control of narcotic drugs and psychotropic substances," in which the following article 326* bis *is inserted:*

326 *bis*.

1. Whoever, without having been authorized, cultivates, produces, manufactures, extracts, refines, sells, offers or puts on sale, cedes, distributes, trades with, transports, supplies, sends, conveys or dispatches in transit, or delivers for any purpose narcotic drugs and psychotropic substances, shall be punished with six to twenty years of imprisonment and with a fine ranging from 26,000 to 260,000 euro.

2. The penalties set forth in paragraph 1 shall apply also to anyone who imports, exports, acquires, receives for any reason or otherwise illegally possesses, without proper authorization, narcotic drugs and psychotropic substances in such quantities that they do not seem to be destined solely for personal use. Should the substances be destined for personal use, the above-mentioned penalties shall be reduced by one-third to one-half.

3. Whenever, due to the means, mode or circumstances of the act, or the quality or quantity of the substances, the offenses described in this article are of minor import, the penalty shall be of one to six years of imprisonment and a fine ranging from 3,000 to 26,000 euro.

4. The penalty shall be increased if the offense is committed by three or more persons acting jointly.

5. The penalties set forth in this article shall be reduced by one-half to two-thirds for anyone who endeavors to prevent any further consequences of the criminal activity, for example, by helping the judicial authorities to seize the resources needed for the commission of the crimes.

Article 21

(Collaboration for illicit trafficking in narcotic drugs or psychotropic substances)

In book II of the Criminal Code: "On particular crimes", Title VII "Crimes against public safety," after Chapter III "Crimes against public health and nutrition," Chapter III bis *is added, "Control of narcotic drugs and psychotropic substances," in which the following article 326* ter *is inserted:*

326 *ter*

1. When three or more persons collaborate to commit a number of the crimes set forth in article 326 *bis*, whoever promotes, creates, directs, organizes or finances such collaboration, shall be punished, for this alone, with no less than twenty years of imprisonment.

Whoever participates in such collaboration shall be punished with no less than ten years of imprisonment.

2. The penalty shall be increased if there are ten or more collaborators or if some of them are addicted to the use of narcotic drugs or psychotropic substances.

3. If the association is armed, the penalty set forth in paragraph 1 shall be of not less than twenty-four years of imprisonment. An association shall be deemed armed if the participants have access to explosives or other lethal weapons or devices, even if concealed or stored.

4. The penalties set forth in this article shall be reduced by one-half to two-thirds for anyone who has operated effectively to obtain evidence of the crime or to deprive the association of resources required for the commission of the crimes.

Article 22

(Aggravating circumstances and confiscation)

In book II of the Criminal Code: "On particular crimes", Title VII "Crimes against public safety," after Chapter III "Crimes against public health and nutrition," Chapter III bis *is added, "Control of narcotic drugs and psychotropic substances," in which the following article 326* quater *is inserted:*

326 *quater*

1. The penalties established for the crimes set forth in article 326 *bis* shall be increased from one-third to one-half:

a) when the narcotic drugs or psychotropic substances are delivered to or destined for a minor under eighteen years of age;

b) for whoever has induced a person addicted to the use of narcotic drugs or psychotropic substances to commit the crime or to collaborate in it;

c) if the crime has been committed by an armed or disguised person;

d) if the narcotic drugs or psychotropic substances have been adulterated or mixed with other substances so that their potential to cause harm is increased.

2. If the crime involves large quantities of narcotic drugs or psychotropic substances, the penalties shall be increased by one-half to two-thirds.

3. The judicial authorities, on reaching a guilty verdict, shall order the confiscation and destruction of the narcotic drugs or psychotropic substances.

Article 23

(Abusive medical prescriptions)

In book II of the Criminal Code: "On particular crimes", Title VII "Crimes against public safety," after Chapter III "Crimes against public health and nutrition," Chapter III bis *is added, "Control of narcotic drugs and psychotropic substances," in which the following article 326* quinquies *is inserted:*

326 *quinquies*

1. The penalties set forth in article 326 *bis* shall also apply to the surgeon who writes prescriptions for narcotic drugs and psychotropic substances other than for therapeutic purposes.

2. The penalties set forth in article 326 *bis* do not apply to pharmacies, as far as the purchase of

narcotic drugs and psychotropic substances is concerned, or for their acquisition, sale or delivery, in the form and dosage of medicines, on the basis of medical prescriptions.

Article 23 bis
(Piracy)

In book II of the Criminal Code: "On particular crimes", Title VII "Crimes against public safety," Chapter I "Arson, flooding, submersion, and other crimes that create a common threat," after article 311, the following article 311 bis *is added:*

311 *bis*.

1. The kidnapping, depredation, or any other illicit act of violence committed for private ends by the crew or the passengers of a private ship or aircraft and directed against another ship or aircraft or against the persons or property on board the same, shall be punished with ten to twenty years of imprisonment.

2. Regarding the one convicted, the confiscation of the goods used or intended to be used to commit the offense, as well as the goods that constitute its price, proceeds, profits, or the use thereof, is always mandatory, without prejudice to the *bona fide* rights of third parties.

CHAPTER IV
Measures to prevent and counter the financing of terrorism

Article 24
(Measures to counter the financing of terrorism and the activities that threaten international peace and security)

1. In order to prevent and counter the financing of terrorism and the activities that threaten peace and international security, the Secretariat of State shall draw up a list of designated persons subject to the freezing of funds and economic assets on the basis, *inter alia*, of the relevant United Nations Security Council resolutions.

The Secretariat of State shall update the list of designated persons, and possibly remove persons from that list, on the basis, *inter alia*, of the relevant United Nations Security Council resolutions.

2. The Financial Intelligence Authority, by its own provision, without delay and without giving previous notice, orders the freezing of the funds and other assets owned or possessed, exclusively or jointly, directly or indirectly, by the persons designated by the Secretariat of State.

The freezing of assets shall be communicated without delay to the subjects referred to in article 2, paragraph 1, and has immediate effect.

The Financial Intelligence Authority's order shall define the terms, conditions and limits of the freezing of funds, in order, *inter alia*, to protect the *bona fide* rights of third parties.

3. The Secretariat of State shall:

a) acquire, both from domestic and international competent authorities, any information that might be useful to fulfill the tasks set forth in paragraph 1;

b) maintain contacts with foreign and international authorities with a view to enhancing the necessary international coordination;

c) propose to the competent international authorities the names of persons to be included on the list.

Whenever, on the basis of the information gathered pursuant to subparagraphs a) and b), there are sufficient elements to propose to the competent international authorities the names of persons to

be included on the list, and when there is a risk that the funds and other assets subject to the freezing might be concealed or used to finance terrorism, the Secretariat of State shall inform the Promoter of Justice and the Financial Intelligence Authority for the adoption of precautionary measures.

d) propose to the competent International Authorities the delisting of designated persons, on the basis, *inter alia*, of recourses filed by the persons concerned pursuant to paragraph 4.

4. The Tribunal shall receive and assess the applications for exemption from the freezing of funds and other assets filed by the persons concerned, in order, *inter alia*, to protect the *bona fide* rights of third parties.

Article 25
(Effects of the freezing of funds and assets)

1. The frozen funds may not be transferred, disposed of, or used in any way.

2. The frozen assets may not be transferred, disposed of, or used in any way to obtain, through any means, goods and services.

3. Any legal act performed in violation of the prohibitions set forth in paragraphs 1 and 2 shall be null and void.

4. It is forbidden to provide, directly or indirectly, funds or other assets to the designated persons, or to devote funds and assets to their benefit.

5. Intentional cooperation in activities aimed at circumventing, directly or indirectly, the freezing measures, is forbidden.

6. The freezing of funds shall be without prejudice to the effects of any eventual seizure or confiscation orders adopted, regarding the same funds or other assets, in the course of a judicial or administrative procedure.

7. Unless there is gross negligence, the freezing of funds and other assets as well as the failure or refusal to render financial services, if considered in good faith to be pursuant to this law, shall not entail any responsibility for the acting natural or legal person who implements them nor for its legal representatives, administrators, directors, employees, consultants, and collaborators of whatever nature.

Article 26
(Reporting requirements)

Within thirty days of the issuing of the order referred to in article 24, paragraph 2, the subjects referred to in article 2, paragraph 1, subparagraph a), shall communicate to the Financial Intelligence Authority:

a) the measures applied pursuant to this Chapter, indicating the subjects concerned as well as the amount and the nature of the frozen funds or other assets;

b) any available information regarding relationships, services and transactions, as well as any other intelligence available, related to the designated persons or to those persons who, on the basis of the indications that may have been received, are in the process of being designated.

Article 27
(Custody, administration and management of the frozen assets)

1. The Administration of the Patrimony of the Apostolic See, either directly or through the appointment of a custodian or administrator, provides for the custody or administration of the frozen funds and other assets.

APSA may perform, either directly or through a custodian or administrator, all acts of ordinary administration. For acts of extraordinary administration, the *nulla osta* of the Prefecture for the Economic Affairs of the Holy See is required.

2. Whenever, in the course of a judicial or administrative proceeding, the seizure or confiscation of the funds and other assets referred to in paragraph 1 of this article is ordered, the authority that has ordered their seizure or confiscation shall provide for their administration.

3. The custodian or administrator shall operate under the direct control of the Administration of the Patrimony of the Apostolic See.

The custodian or administrator shall conduct his/her activity in conformity with the directives of the Administration of the Patrimony of the Apostolic See, and shall present periodic reports and a final accounting at the conclusion of his/her activity.

4. The expenses of custody or administration, including the remuneration of the custodian or administrator, shall be deducted from the funds or other assets in custody or administration, or from any funds or other assets produced by them.

5. The Administration of the Patrimony of the Apostolic See shall present periodic reports to the Secretariat of State on the situation of those funds or other assets and on the acts of administration executed.

6. When a person is delisted, or when the funds or other assets are unfrozen by the Tribunal, the Secretariat of State shall request the Gendarmerie to notify the person concerned pursuant to articles 170ff. of the Criminal Procedure Code.

The said notification invites the person concerned to take possession, within six months of its date, of the funds and other assets in question and it supplies information regarding the acts of administration conducted pursuant to paragraph 8.

7. Regarding registered mobile or immobile goods, a similar notification shall be made to the competent authorities with a view to cancelling the freezing measure from the public registers.

8. After the funds or other assets have been unfrozen, and before they have been transferred to the entitled person, the Administration of the Patrimony of the Apostolic See shall provide for their custody and administration as set forth in paragraphs 1, 2, 3, 4, and 5.

9. If the entitled person does not request the funds or other assets within six months after the notification referred to in paragraph 6, those funds and assets shall be acquired by the Holy See and shall be destined, bearing in mind any international agreements on the sharing of confiscated proceeds, for the charitable and religious works of the Supreme Pontiff, and are dedicated, at least in part, to provide assistance to the victims of terrorism and their families.

10. The order enjoining the acquisition shall be communicated to the person entitled to those funds or assets and shall be communicated to the competent authorities as set forth in paragraph 7.

CHAPTER V
Customer due diligence requirements

Article 28
(Scope of application)

1. The subjects referred to in article 2, paragraph 1, subparagraphs a) and c), shall fulfill customer due diligence requirements:

a) when they establish a relationship;

b) when they carry out occasional transactions equal to or in excess of 15,000 euro, regardless of whether this takes the form of a single transaction or various linked transactions;

c) when they transfer funds for an amount equal to or in excess of 1,000 euro;

d) when money laundering or the financing of terrorism are suspected, regardless of any derogations, exemptions, or applicable thresholds;

e) when there are doubts about the veracity or adequacy of the previously obtained counterpart's customer identification data;

2. The subjects referred to in article 2, paragraph 1, subparagraph b), shall undertake customer due diligence measures:

a) when the professional services have, as their object, means of payment, funds or other assets equal to or in excess of 15,000 euro;

b) when they provide occasional professional services involving the transfer or movement of means of payment equal to or in excess of 15,000 euro, regardless of whether this takes the form of a single transaction or various linked transactions;

c) every time that the transaction is of an indeterminate or indeterminable value. For the purposes of customer due diligence requirements, the constitution, management or administration of a corporation or other legal persons shall always be deemed to involve a transaction of an indeterminable value;

d) when there exists a suspicion of money laundering or financing of terrorism, regardless of any derogations, exemptions, or applicable thresholds;

e) when there are doubts about the veracity or adequacy of the data previously obtained for identification of the counterpart;

The subjects referred to in article 2, paragraph 1, subparagraph b), shall undertake customer due diligence measures when conducting their activities individually, jointly, or in association with others.

3. Customer due diligence requirements subsist throughout the relationship, and include the monitoring of the transactions conducted during the relationship in order to verify, *inter alia*, that the transactions are coherent with the typology and risk level of the counterpart and its [the counterpart's] activities.

4. Customer due diligence requirements are also binding with regard to relationships already in existence when this law enters into force.

Article 28 *bis*
(Risk based approach)

1. Customer due diligence requirements shall be fulfilled in a manner proportional to the risk associated with the category of the counterpart and the typology of the relationship, the service provided or the transaction.

2. To assess the risk of money laundering or of the financing of terrorism, the subjects referred to in article 2, paragraph 1, observe the guidelines of the Financial Intelligence Authority.

3. The subjects referred to in article 2, paragraph 1, shall give particular attention to the risk of money laundering or financing of terrorism associated with those services, transactions or financial products that favor anonymity, and shall adopt those measures that might be necessary to prevent their use for purposes of money laundering or the financing of terrorism.

Article 28 *ter*
(Duties of the counterpart)

1. The counterpart shall provide the subjects referred to in article 2, paragraph 1, with all documents, data and information necessary to fulfill the customer due diligence requirements.

2. The counterpart shall also provide all the documents, data and information necessary to identify the beneficial owner.

Article 29
(Content of customer due diligence requirements)

1. The subjects referred to in article 2, paragraph 1, subparagraphs a) and c), shall fulfill the customer due diligence requirements before entering into a relationship, providing a service or conducting a transaction.

2. The subjects referred to in article 2, paragraph 1, subparagraph b), shall fulfill the customer due diligence requirements at the initial stage of their assessment of the counterpart's position.

3. The subjects referred to in article 2, paragraph 1, shall identify the counterpart, be it a natural or legal person, and shall verify its identity on the basis, *inter alia*, of documents, data, and information obtained from a trustworthy and independent source.

In the case of legal persons, the due diligence shall include the legal nature, legal denomination and registered office, as well as the identity of those persons who perform the functions of legal representatives, administrators or directors.

The subjects referred to in article 2, paragraph 1, shall request from the counterpart, be it a natural or legal person, those documents, data and information necessary to fulfill the customer due diligence requirements. Such information shall include the purpose of the relationship.

4. Should it not be possible to fulfill the customer due diligence requirements, it is forbidden to enter into the relationship, provide the service, or conduct the transaction in question. Should the relationship already exist, the subjects bound to observe customer due diligence must terminate it. In all of these cases, the subjects bound to observe the requirements are to assess whether to report the suspicious transaction to the Financial Intelligence Authority.

Article 29 *bis*
(Beneficial owner)

1. While fulfilling the customer due diligence requirements, the subjects referred to in article 2, paragraph 1, shall determine the identity of the beneficial owner and verify it on the basis, *inter alia*, of documents, data, and information obtained from a trustworthy and independent source.

2. In the case of corporations or legal persons, in order to identify the beneficial owner, they shall also:

a) ascertain the ownership and control of such corporation or legal person;

b) identify and verify the natural person or persons who are the ultimate owners of or who exercise ultimate control over such legal person, or who are its beneficiaries according to the criteria set forth in the Appendix to this law.

Article 29 *ter*
(Delegates)

While fulfilling the customer due diligence requirements, the subjects referred to in article 2, paragraph 1, shall ascertain whether those who intend to represent or to act in the name and on behalf of the counterpart, be it a natural or legal person, are duly authorized, they shall identify them and verify their identity on the basis, *inter alia*, of documents, data, and information obtained from an independent and trustworthy source.

Article 30
(Simplified requirements and exemptions)

1. The subjects referred to in article 2, paragraph 1, shall be exempted from observing the customer due diligence requirements if the counterpart is a credit or financial institution located in a State that imposes requirements equivalent to those set forth in this law.

2. The Secretariat of State, by its own provision, identifies those States that impose requirements equivalent to those set forth in this law.

3. The subjects referred to in article 2, paragraph 1, shall be exempted from observing the customer due diligence requirements if the counterpart is a Public Authority.

4. In the cases referred to in paragraphs 1 and 3 above, the subjects referred to in article 2, paragraph 1 shall gather enough information to determine whether the counterpart falls within one of the categories indicated in paragraphs 1 and 3 above.

5. The simplified customer due diligence requirements shall not be applied when money laundering or the financing of terrorism are suspected, or when there are reasons to believe that the verification previously carried out is unreliable or insufficient to enable the acquisition of the necessary information.

6. The subjects referred to in article 2, paragraph 1, shall be exempted from observing the customer due diligence requirements in relation to:

a) life insurance policies where the annual premium is not in excess of 1,000 euro or where the single premium is a sum not in excess of 2,500 euro;

b) complementary pension schemes, provided that there is no surrender clause and that they cannot be used as collateral for a loan;

c) obligatory and complementary pensions and similar schemes that provide retirement benefits, when the contributions are made through deductions from the wages and when the rules do not permit the beneficiaries to transfer their own rights until after the death of the title holder;

d) beneficial owners of pooled accounts managed by foreign notaries or professionals that conduct similar activities in another State, provided that they are subject to requirements regarding the prevention and countering of money laundering and the financing of terrorism equivalent to those set forth in this law;

e) electronic money, on condition that no more than 150 euro can be memorized in the device when it is not rechargeable; and on condition that no more than 2,500 euro can be deducted in a legal year when it is rechargeable, unless a sum of 1,000 euro or more is reimbursed to the titular in the same legal year.

7. The Financial Intelligence Authority, by its own provision, may authorize the subjects referred to in article 2, paragraph 1, not to apply the customer due diligence requirements regarding particular categories of counterparts and typologies of relationships, services and transactions which are characterized by low risk of money laundering or financing of terrorism.

Such authorization shall be granted pursuant to the criteria set forth in the Appendix to this Law.

Article 31
(Enhanced requirements)

1. The subjects referred to in article 2, paragraph 1, shall enhance the customer due diligence requirements in those situations which, by their nature, involve a greater risk of money laundering or financing of terrorism, including the cases indicated in paragraphs 2, 4, and 5 of this article.

2. When there is no face-to-face relationship with the counterpart, the subjects referred to in article 2, paragraph 1, shall apply one or more of the following measures:

a) verify the identity of the counterpart in the relationship through additional evidence, on the basis, *inter alia*, of documents, data, and information obtained from a trustworthy and independent source;

b) adopt additional measures to verify and certify the documents provided, or require for those documents a confirming certification from a credit or financial institution subject to customer due diligence requirements equivalent to those set forth in this law.

c) ensure that the transaction's first payment be carried out through an account in the counterpart's name in a credit or financial institution subject to customer due diligence requirements equivalent to those set forth in this law;

3. The customer due diligence requirements shall be deemed to be fulfilled, even in the case of non-face to face transactions, in the following cases:

a) when the due identification has been previously made regarding an already existing relationship, insofar as the information is updated;

b) for transactions made at electronic points of sale or ATM machines, through the post, or through subjects that transfer funds through banking cards. Such transactions shall be ascribed to the titular of the relevant relationship;

c) when the counterpart's identifying data and other necessary information are found in a public document, in an authenticated private deed, or in any other legal instruments that provide legal certainty;

d) when the counterpart's identifying data and other necessary information are found in a declaration of a Pontifical Representation of the Holy See.

4. Regarding correspondent current accounts with foreign banks or credit or financial institutions, the subjects referred to in article 2, paragraph 1, shall:

a) gather sufficient information regarding the correspondent institution to understand fully the nature of its activities and to determine – from publicly available registers, lists, records and documents – its reputation and the quality of the supervision to which it is subject;

b) assess the soundness of the legal system, requirements and controls in force in the foreign State regarding the prevention and countering of money laundering and the financing of terrorism;

c) before opening a new correspondent current account, obtain the approval of the responsible superior or director or of his delegate;

d) define in written form the terms of the contract with the correspondent institution, including the respective rights and duties of the parties;

e) ensure that the correspondent institution has verified the identity of any counterpart having direct access to payable-through accounts, that it has regularly complied with customer due diligence requirements, and that it is able, upon request, to provide the relevant data obtained while fulfilling those same requirements.

5. Regarding the relationships established with politically exposed persons, as well as the services and transactions conducted in their name and on their behalf, the subjects referred to in article 2, paragraph 1, shall:

a) put in place appropriate procedures to determine whether the counterpart is a politically exposed person;

b) before establishing a relationship, providing a service, or conducting a transaction, obtain the approval of the responsible superior or director or of his delegate. If a counterpart subsequently acquires the status of a politically exposed person, such an approval shall be required in order to maintain the relationship;

c) adopt every reasonable measure to establish the source of the currency, funds and other assets used;

d) conduct an enhanced and ongoing monitoring.

CHAPTER VI
Records and record-keeping requirements

Article 32
(Records and record-keeping requirements)

The subjects referred to in article 2, paragraph 1, shall preserve the documents, data and information obtained while fulfilling the customer due diligence requirements, in order, *inter alia*, to permit the Judicial Authorities to reconstruct the relationships, services and transactions in the event of a criminal proceeding.

Article 33
(Subject matter of the requirements)

1. Regarding the customer due diligence requirements, the subjects referred to in article 2, paragraph 1, shall preserve for five years from the date of the termination of the relationship, or from the date of the provision of the service or transaction, any information and documents obtained, including the correspondence, deeds and records taken.

2. Regarding the relationships, services and transactions, the subjects referred to in article 2, paragraph 1, shall record and preserve for five years from the date of the termination of the relationship, or from the date of the provision of the service or transaction: the identifying data of the counterpart, of the beneficial owner, and of their delegates, the date of the transaction; its amount, the kind of relationship, service or transaction, and the means of payment used. Regarding relationships, the subjects referred to in article 2, paragraph 1, shall also record the purpose.

3. The information referred to in paragraph 2 shall be recorded without delay and, in any case, within 48 hours of the provision of the service, the execution of the transaction, or the establishment, change or termination of the relationship.

4. The five-year period set forth in paragraphs 1 and 2 may be extended at the request of the Judicial Authorities.

5. The subjects referred to in article 2, paragraph 1, within the time limits set forth in paragraph 1, shall adopt record-keeping mechanisms that make it possible to respond promptly and efficiently to the inquiries of the competent authorities.

6. The subjects referred to in article 2, paragraph 1, shall adopt record-keeping mechanisms that make it possible to update the data and information gathered while observing the customer due diligence requirements, particularly in relation to those categories of counterparts and typologies of relationships, services and transactions that involve high risk.

CHAPTER VII
Reporting duties

Article 34
(Reporting of suspicious transactions)

1. The subjects referred to in article 2 shall report to the Financial Intelligence Authority any suspicious transactions when they know, suspect, or have reasonable grounds to suspect that the currency, funds or other assets involved are the proceeds of criminal activities, or when money laundering or the financing of terrorism has been committed, is in the course of being committed, or has been attempted.

Suspicion is based on the characteristics, amount, or nature of the transaction, and also on any other circumstances discovered in the course of services provided, bearing in mind also the economic capacity and activities of the subject involved in the transaction, be it a natural or legal person, according to the information gathered while providing the services, or following the appointment of that person to a public office.

2. The subjects referred to in article 2, paragraph 1, shall be particularly attentive to complex transactions, those involving a notable or unusual amount for the counterpart concerned, or otherwise not easily ascribed to a legitimate purpose, as determined, *inter alia*, on the bases of the guidelines issued by the Financial Intelligence Authority.

3. The suspicious transaction shall be reported as soon as the subject under obligation to report it becomes aware of the elements that substantiate the suspicion and, where possible, before providing the service or executing the transaction in question.

The report of a suspicious transaction shall be made regardless of the amount of the transaction and of any fiscal aspects that may be involved.

4. The reporting in good faith of suspicious transactions, including any information related to them, shall not give rise to any form of liability for the subjects under obligation to report them, or for their legal representatives, administrators, directors, employees, consultants, and collaborators of whatever nature, nor it shall constitute a breach of banking or professional secret, nor of any possible restrictions on the disclosure of information imposed by legal, administrative or contractual provisions.

Article 35
(Duty to withhold a service)

1. The subjects referred to in article 2, paragraph 1, shall not provide services or conduct transactions when they know, suspect, or have reasonable grounds to suspect that the currency, funds or other assets are the proceeds of criminal activities, or when money laundering or the financing of terrorism is being or has been committed, or has been attempted.

2. When it is not possible to avoid conducting the transaction or when doing so could impede investigation by the Judicial Authority, the subjects under obligation to report the suspicious transaction shall do so without delay after having provided the service or executed the transaction.

Article 36
(Prohibition of disclosure)

The reporting parties, their legal representatives, administrators, directors, employees, consultants, and collaborators of whatever nature, as well as anyone else who is aware of it, shall not disclose to the person concerned or to third parties the report of suspicious transactions, including correlative information, nor that an investigation regarding money laundering or the financing of terrorism is or could be in progress.

Article 36 *bis*
(Analysis and dissemination of suspicious activity reports)

1. Regarding the suspicious transactions reports, the Financial Intelligence Authority:
   a) makes the financial analyses;
   b) requests additional information from the reporting parties;
   c) archives the suspicious transactions reports that it deems to be unfounded, while main-

taining the evidence for ten years using systems that guarantee the security of the information and that permit the Judicial Authorities to investigate in the event that criminal proceedings are initiated;

d) transmits to the Promoter of Justice the information that it deems sufficiently well-founded and that may constitute instances of money laundering or financing of terrorism. The evidence regarding reports that have been referred to the Promoter of Justice shall be maintained for ten years using systems that guarantee the security of the information and that permit investigation and activity by Judicial Authorities in the event of a criminal proceeding;

e) informs the reporting party when a report has been archived.

2. The Promoter of Justice informs the Financial Intelligence Authority of the suspicious transactions reports that have been archived.

3. The suspicious transactions reports and the subsequent communications shall be subject to the prohibitions regarding disclosure set forth in article 36.

Article 37
(Preserving confidentiality)

1. The subjects under obligation to report suspicious transactions shall adopt adequate measures to ensure the highest level of confidentiality regarding the identity of the persons who file the report. The records and documents that reveal the identity of these persons are stored under the direct responsibility of the legal representative or of his delegate.

2. The transmission of suspicious transactions reports, as well as any subsequent requests for and exchanges of information between the Financial Intelligence Authority and the Judicial Authority, shall be conducted by manner and means proper to guarantee both the security and integrity of the information and its use within the limits set forth by this law and the legal order in force.

3. The Promoter of Justice, the Financial Intelligence Authority, and the Gendarmerie shall conclude Memoranda of Understanding to ensure that their exchanges of information are secure and that the utmost confidentiality is observed regarding the identity of the persons who make the reports.

4. When a suspicious transaction report or the report of a crime is being transmitted to the Promoter of Justice, the identity of the natural persons who have made the report, should it be known, is not mentioned.

5. The identity of the natural persons may be revealed only when the Judicial Authority, through an order which specifies the reasons, deems it indispensable for purposes of determining the crimes in question.

6. Except for those situations provided for in paragraph 5, in the case of sequester of records or documents, safety measures shall be adopted to ensure confidentiality regarding the identity of the natural persons who have reported the suspicious transaction.

Article 37 *bis*
(Financial secrecy)

1. All information, data and other details held by the subjects referred to in article 2, paragraph 1, and by their legal representatives, administrators, directors, employees, consultants, and collaborators of whatever nature, by virtue of the exercise of the activities referred to in the same article 2, paragraph 1, shall be protected by financial secrecy.

2. Financial secrecy shall not impede the activities and the requests for information from the authorities competent for the prevention and countering of money laundering and the financing of terrorism.

CHAPTER VIII
Wire Transfers

Article 38
(Wire Transfers)

1. Where wire transfers are concerned, with the exception of the limits and exemptions set forth in article 28, paragraph 1, subparagraph c), the providers of payment services to the originator and the beneficiary, as well as the intermediary providers of payment services, are obliged to practice customer due diligence, registration, and conservation with reference to the following data concerning the originator:

a) name and surname;
b) date and place of birth;
c) address;
d) account number;

2. The Financial Intelligence Authority shall issue guidelines and implementation norms regarding the transfer of funds, on the basis, *inter alia*, of the International and European norms in force.

CHAPTER IX
Currency

Article 39
(Declaration of physical cross-border transportation of currency)

1. Every person entering or exiting the State carrying an amount of currency equal to or exceeding the pre-set maximum threshold established by the Pontifical Commission for Vatican City State, on the basis, *inter alia*, of the European norms in force on this matter, is required to make a written declaration to the Financial Intelligence Authority.

2. The declaration referred to in paragraph 1 shall contain:

a) the identifying data of the declarant, of the owner and of the recipient of such currency;
b) the amount of currency and its origin;
c) the itinerary followed and its intended use;

3. The information contained in the declarations referred to in paragraph 2 shall be recorded and preserved for five years by the Financial Intelligence Authority.

4. The Gendarmerie shall carry out inquiries and inspections in order to ensure compliance with the requirements set forth in paragraph 1, within its own competences and the limits established by the laws in force.

Article 39 *bis*
(Use of Currency)

The Pontifical Commission for Vatican City State shall pre-set, through a regulation of its own, a maximum threshold for the amount of currency that may be used, on the basis, *inter alia*, of the European legislation in force in this regard.

CHAPTER X
Official Secrecy and exchange of information

Article 40
(Exchange of Information)

1. All information held by the competent authorities shall be subject to official secrecy, without prejudice to the activities of the Judicial Authorities in the event of criminal proceedings.

2. The competent authorities shall cooperate actively and shall exchange relevant information for purposes of the prevention and countering of money laundering and the financing of terrorism.

3. All data, information and documents held by the competent authorities shall be preserved using systems that ensure their security and integrity.

4. The preceding provisions shall be applied without prejudice to the norms in force regarding Pontifical Secret and State Secret.

Article 41
(International exchange of information)

1. The Financial Intelligence Authority, under conditions of reciprocity and on the basis of Memoranda of Understanding, exchanges with similar authorities in other states information for the purposes of preventing and countering money laundering and the financing of terrorism.[2]

2. Official secrecy and any eventual restrictions on the communications shall not inhibit the international exchange of information.

3. Any information received or provided must be used exclusively for the prevention and countering of money laundering and of the financing of terrorism.

CHAPTER XI
Administrative sanctions

Article 42
(Pecuniary administrative sanctions)

1. In the event of violation of the obligations set forth in articles 1 *bis*; 2 *ter*; 25 paragraphs 1, 2, 4, and 5; 26; 27; 28; 28 *bis*; 28 *ter*; 29; 29 *bis*; 29 *ter*; 30; 31; 32; 33; 34; 35; 36; 37, paragraph 1; 37 *bis*; 38; and 39; or of the related obligations established by the regulations and other enforceable measures adopted pursuant to this law, the Financial Intelligence Authority shall impose a pecuniary administrative sanction ranging from 10,000 to 250,000 euro for natural persons, and from 10,000 to 1,000,000 euro for legal persons.

2. The sanctions shall be determined pursuant to the criteria set forth in Law no. CCXVII of 14 December 1994.

3. The sum concerned shall be acquired by the Holy See and destined for the charitable and religious works of the Supreme Pontiff.

4. The person sanctioned may object to the decision of the Financial Intelligence Authority by having recourse to to a Single Judge. If it is a legal person, the entity sanctioned may have recourse against the natural person responsible for the violation.

[2] Article amended by Article 2 of Law no. CLXXXV of 14 December 2012.

5. The preceding provisions shall be applied without prejudice to the disciplinary procedures related to an employment relationship.

Article 42 *bis*
(Administrative liability of legal persons)

1. In the event of a conviction for one of the crimes set forth in articles 421 *bis* and 138 *ter* of the Criminal Code, the judicial authority shall impose a pecuniary administrative sanction ranging from 20,000 to 2,000,000 euro on the legal person involved if:

a) the person convicted exercised a function of legal representation, administration, direction, or a similar role;

b) the person convicted was under the direct responsibility, supervision or control of one of the persons referred to in paragraph a);

c) the crime was committed in favor of the legal person.

2. The legal person shall not be deemed responsible if:

a) a different person, exercising the function of legal representation, administration, direction, or a similar role, has adopted and implemented adequate policies, organization, measures and procedures to prevent the crimes set forth in articles 421 *bis* and 138 *ter* of the Criminal Code.

b) the task of internal monitoring and control has been entrusted to an outside body or entity, different from the legal person in question.

c) the crime has been committed by fraudulently evading the legal person's internal monitoring and control mechanism.

3. In addition to the pecuniary administrative sanction, a temporary interdict on the exercise of its activities shall be imposed if at least one of the following conditions obtains:

a) the legal person has incurred a notable gain from the commission of the crime;

b) the commission of the crime has been determined or abetted by serious deficiencies in the legal person's organization;

c) in the five preceding years, the legal person had already received a pecuniary administrative sanction related to the commission of one of the crimes set forth in article 421 *bis* and 138 *ter* of the Criminal Code.

4. The amount of the sanction is acquired by the Holy See and destined for the charitable and religious works of the Supreme Pontiff.

5. This norm does not apply to Public Authorities, whether domestic, foreign or international.

APPENDIX

Article 1
(Beneficial owner)

"Beneficial owner" means:

1. Regarding natural persons, the person or persons in whose name and on whose behalf a service is provided or a transaction is conducted.

2. Regarding corporations:

a) the natural person or persons who ultimately own or control a corporation through direct or indirect possession or control of shares in the joint stock, or of voting rights in such corporation, through bearer shares;

b) the natural person or persons who otherwise exercise control over the management of a corporation.

3. Regarding other legal persons that manage or distribute funds:

a) if the beneficial owners have already been determined, the natural person or persons who are the beneficiaries of the patrimony of the legal person;

b) if the beneficial owners have not yet been determined, the natural person or persons in whose primary interest the legal person was created;

c) the natural person or persons who exercise control over the patrimony of the legal person.

Article 2
(Politically exposed persons)

1. By natural persons who exercise or have exercised prominent public functions is meant:

a) Heads of State, Heads of Government, Ministers, Vice-ministers, Under-Secretaries, and persons who exercise similar functions;

b) Members of Parliament;

c) Members of the Supreme Courts, the Constitutional Courts and every other high-ranking judicial organ whose decisions are not generally subject to further appeal, and the persons who exercise similar functions;

d) the Members of State Auditors' Courts and of the Board of Directors of the Central Banks, and the persons who exercise similar functions;

e) the Ambassadors, *Chargés d'affaires,* and the High-ranking Officers of the Armed Forces, and the persons who exercise similar functions;

f) the Members of the Boards of Directors, management or supervisory organs of State-owned enterprises, and the persons who exercise similar functions;

Middle-ranking or junior officials do not fall within any of the foregoing categories. The categories referred to in subparagraphs a) and f) include, if applicable, the functions exercised at the International and European levels.

2. "Immediate family members" means:

a) the spouse;

b) the children and their spouses;

c) those who have cohabitated during the last five years with the persons mentioned in the previous paragraphs, without legal effects in the canonical or civil legal orders;

d) the parents.

3. For purposes of identifying the individuals with whom the persons referred to in paragraph 1 publicly maintain a close association, reference is made to:

a) any natural person who publicly shares with a politically exposed person the role of beneficial owner of legal persons or who has any other close business relationship with a politically exposed person;

b) any natural person who is the sole beneficial owner of a legal person publicly created for the benefit of a politically exposed person.

4. Without prejudice to the application of enhanced customer due diligence requirements on the basis of risk, the subjects governed by this law are not bound to consider a person politically exposed one year after that person has ceased to exercise prominent public functions.

Article 3

(Technical criteria regarding simplified customer due diligence requirements)

1. For the purposes of article 30, paragraph 7, particular categories of counterparts and typologies of relationships, services and transactions that are characterized by a low risk of money laundering or financing of terrorism include:

a) public institutions and corporations as well as concessionaries of public activities that fulfill all the following conditions:

i. the counterpart is a public institution or corporation, or a concessionary of a public activity conducted pursuant to the license granted by the competent Authorities and the domestic laws in force;

ii. the counterpart's identity is publicly verifiable and certain;

iii. the counterpart's activity and accounting procedures are transparent;

iv. the counterpart is subject to the monitoring and control of a Public Authority established by domestic law.

The criteria set forth in subparagraphs i) to iv) shall be applied to the counterpart and not to any institutions it may control, which shall fulfill the same criteria independently.

For the purposes of the criteria set forth in subparagraphs iii) and iv), the counterpart's activity shall be subject to the monitoring and control of competent authorities which are entitled to: conduct inspections, request changes in policies, measures and procedures, and access documents, data and other information.

b) corporations or legal persons not included under paragraph a) that fulfill all the following conditions:

i. the counterpart is a corporation or a legal person that conducts financial activities outside the scope of article 2, paragraph 1, of this law, but to which this law has been applied by extension;

ii. the counterpart's identity is publicly verifiable and certain;

iii. the counterpart's activity and accounting procedures are transparent;

iv. the counterpart is subject to the monitoring and control of a Public Authority established by domestic law.

The criteria set forth in subparagraphs i) to iv) shall be applied to the counterpart and not to any institutions it may control, which shall fulfill the same criteria independently.

For the purposes of the criteria set forth in subparagraphs iii) and iv), the counterpart's activity shall be subject to the monitoring and control of competent authorities which are entitled to: conduct inspections, request changes in policies, measures and procedures, and access documents, data and other information.

c) companies listed on a regulated stock exchange.

d) transactions and related products that fulfill all the following requirements:

i. the transaction or product has a written contractual basis;

ii. the transaction is conducted through an account of the counterpart at a credit or financial institution based in a State that imposes customer due diligence requirements equivalent to those set forth in this law;

iii. the transaction or product is not anonymous and its nature permits the fulfillment of the customer due diligence requirements as set forth in article 28, paragraph 1, subparagraph d) of this law;

iv. the product has a pre-set maximum value;

v. the profit of the transaction or product may not benefit third parties except in the case of death, disability, survival to pre-set advanced age, or similar circumstances;

vi. in the event that the transaction or product provides for the investment of funds in credit or financial activities, including in insurance and other potential credit instruments; the profits of that transaction or product are realizable only in the long term; the transaction or product cannot be used as a collateral; there are no anticipated payments and no surrender clauses, and the transaction or product cannot be cancelled before its final date.

For the purposes of the criterion set forth in subparagraph iv), the thresholds established in article 30, paragraph 6, subparagraph a) of this law shall apply also to insurance policies and savings products of a similar nature.

2. When assessing whether the counterpart, transaction or product referred to in paragraph 1, subparagraphs a), b), c) and d), presents a low risk of money laundering or of financing of terrorism, the Financial Intelligence Authority shall consider carefully whether the counterpart, transaction or product is particularly susceptible, due to its nature, to being used for money laundering or the financing of terrorism. The counterpart, transaction or product referred to in paragraph 1, subparagraphs a), b), c) and d), shall not be presumed to present a low risk of money laundering or of financing of terrorism in the absence of data or information that furnish reasonable certainty of low risk.