

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

FINANCIAL TRANSACTIONS REPORTING

ACT, No. 6 OF 2006

[Certified on 06th March, 2006]

Printed on the Order of Government

Published as a Supplement to Part II of the Gazette of the Democratic

Socialist Republic of Sri Lanka of March 10, 2006

PRINTEDAT THE DEPARTMENTOFGOVERNMENT PRINTING, SRILANKA

TO BEPURCHASED AT THEGOVERNMENTPUBLICATIONSBUREAU, COLOMBO1

Price : Rs. 29.75 Postage : Rs.10.00

Financial Transactions Reporting 1

Act, No. 6 of 2006

[Certified on 06th March, 2006]

L.D.—O. 16/2005.

ANACTTO PROVIDEFORTHE COLLECTIONOFDATA RELATING TO SUSPICIOUS

FINANCIAL TRANSACTIONS TO FACILITATE THE PREVENTION, DETECTION,

INVESTIGATION AND PROSECUTION OF THE OFFENCES OF MONEY

LAUNDERING AND THE FINANCING OF TERRORISM RESPECTIVELY ; TO

REQUIRECERTAININSTITUTIONSTO UNDERTAKEDUEDILIGENCEMEASURES

TO COMBAT MONEY LAUNDERING AND THE FINANCING OF TERRORISM ;

TO IDENTIFY THE AUTHORITY WHICH WILL BE RESPONSIBLE FOR

MONITORING THE ACTIVITIES OF ALL INSTITUTIONS TO WHOM THIS ACT

APPLIES ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR

INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows :—

1. This Act may be cited as the Financial Transactions Short title.

Reporting Act, No. 6 of 2006.

PART I

DUTIES OF INSTITUTIONS

2. (1) No Institution shall open, operate or maintain an Identification

account, where the holder of such account cannot be essential to

conduct of

identified, including any anonymous account or any account

business of

identified by number only, or any account which to the Institution.

knowledge of the Institution is being operated in a fictitious

or false name.

(2) An Institution shall, subject to any rules issued by the

Financial Intelligence Unit under subsection (3), identify

each customer and verify their customer identification data

or information relating to a customer as is reasonably capable

of identifying a customer on the basis of any official

document or other reliable and independent source document

verifying the identity of the customer, in cases where the

Institution—

(a) enters into a continuing business relationship, or in

the absence of such a relationship, conducts any

transaction, with any customer ;

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(b) detects the carrying out of an electronic funds transfer

by a customer, other than any prescribed

transactions;

(c) entertains a suspicion relating to the commission of

an unlawful activity ; or

(d) entertains doubts about the veracity or adequacy of

the customer identification and verification

documentation or information it had previously

obtained.

(3) The Financial Intelligence Unit may issue rules

prescribing—

(a) the official or identifying document or documents,

or the reliable and independent source documents,

data or information or other evidence that is required

for identification or verification of any particular

customer or class of customers ;

(b) the timing of the identification and verification

requirements under this section ; and

(c) the threshold for, or the circumstances in which, the

provisions of this section shall apply to transactions

carried on by the customers of an Institution.

(4) The terms and conditions imposed by rules issued under

subsection (3) may vary in respect of different categories of

Institutions, different categories of transactions or different

categories of customers.

(5) The provisions of subsection (2) shall not apply—

(a) if the transaction is part of an existing and regular

business relationship with a person who has already

produced satisfactory evidence of identify unless

the Institution has reason to suspect that the

transaction is suspicious or unusual ;

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(b) if the transaction is an occasional transaction not

exceeding a prescribed sum unless the Institution

has reason to suspect that the transaction is

suspicious or unusual ;

(c) if any person has been a customer of the Institution

prior to the enactment of this Act, subject to a phase-

in period which shall not exceed three years :

Provided that by the end of such period each

Institution shall apply the provisions of subsection

(2) hereof to such persons subject to such regulations

as may be prescribed in that behalf ; and

(d) in such other circumstances as may be prescribed

by regulations made in that behalf.

(6) For the purpose of subsection (5), “occasional

transactions” means any transaction, in relation to cash and

electronic fund transfer, that is conducted by any person other

than through an account in respect of which the person is the

customer.

3. If satisfactory evidence of identity is not submitted to Procedure if

an Institution as required in terms of the provisions of section identity is not

satisfactorily

2, the Institution shall not proceed any further with the established.

transaction unless directed to do so by the Financial

Intelligence Unit established in terms of this Act, and shall

report the attempted transaction to the Financial Intelligence

Unit as a suspicious transaction under section 7.

4. (1) Every Institution shall be required to maintain — Institutions to

maintain and

(a) records of transactions and of correspondence retain records.

relating to transactions and records of all reports

furnished to the Financial Intelligence Unit for a

period of six years from the date of the transaction,

correspondence or the furnishing of the report, as

the case may be ; and

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(b) records of identity obtained in terms of section 2 for

a period of six years from the date of closure of the

account or cessation of the business relationship, as

the case may be,

unless directions have been issued by the Financial

Intelligence Unit that such records or correspondence should

be retained for a longer period, in which case the records or

correspondence should be retained for such longer period.

(2) Records required to be maintained under subsection

(1) shall contain particulars sufficient to identify the—

(a) name, address and occupation (or where appropriate

business or principal activity) of each person —

(i) conducting the transaction ; and

(ii) where applicable, on whose behalf the

transaction is being conducted ;

(b) nature and date of the transaction ;

(c) type and amount of currency involved ;

(d) parties to the transaction ;

(e) the name and address of the employee who prepares

the record ; and

(f) such other information as may be specified in rules

issued by the Financial Intelligence Unit.

(3) Where any record is required to be maintained under

this Act—

(a) it shall be maintained in a manner and form that will

enable an Institution to comply immediately with

requests for information from the Financial

Intelligence Unit or a law enforcement agency ; and

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(b) a copy of it may be kept—

(i) in a machine-readable form if a paper copy

can be readily produced from it ; or

(ii) in an electronic form, if a paper copy can be

readily produced from it and an electronic

signature of the person who keeps the records

is retained for purposes of verification.

(4) The records maintained under subsection (1) shall be

made available upon request to the Financial Intelligence

Unit for purposes of ensuring compliance with this Act.

5. An Institution shall— Institutions to

conduct ongoing

(a) conduct ongoing due diligence on the business due diligence and

scrutiny of

relationship with its customer ;

customers.

(b) conduct ongoing scrutiny of any transaction

undertaken throughout the course of the business

relationship with a customer to ensure that any

transaction that is being conducted is consistent

with the Institution’s knowledge of the customer,

the customer’s business and risk profile, including,

where necessary, the source of funds,

in order to ensure that its obligations under section 2 are

satisfied and that the transactions conducted are consistent

with the information that the Institution has of its customer

and the profile of the customer’s business.

6. An Institution shall report to the Financial Institution to

Intelligence Unit— report financial

transactions.

(a) any transaction of an amount in cash exceeding such

sum as shall be prescribed by the Minister by Order

published in the Gazette, or its equivalent in any

foreign currency (unless the recipient and the sender

is a bank licensed by the Central Bank) ; and

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(b) any electronic funds transfer at the request of a

customer exceeding such sum as shall be prescribed

by regulation,

in such form, manner, and within such period as may be

prescribed by rules issued by the Financial Intelligence Unit.

Duty to disclose 7. (1) Where an Institution—

information

relating to (a) has reasonable grounds to suspect that any

property of transaction or attempted transaction may be related

terrorist groups or

to the commission of any unlawful activity or any

property used for

commission of other criminal offence ; or

offence under this

Act. (b) has information that it suspects may be relevant—

(i) to an act preparatory to an offence under the

provisions of the Convention on the

Suppression of Financing of Terrorism Act,

No. 25 of 2005 ;

(ii) to an investigation or prosecution of a person

or persons for an act constituting an unlawful

activity, or may otherwise be of assistance in

the enforcement of the Money Laundering

Act, No. 5 of 2006 and the Convention on the

Suppression of Terrorist Financing Act, No.

25 of 2005,

the Institution shall, as soon as practicable, after forming that

suspicion or receiving the information, but no later than two

working days therefrom, report the transaction or attempted

transaction or the information to the Financial Intelligence

Unit.

(2) A report under subsection (1) shall—

(a) be in writing and may be given by way of mail,

telephone to be followed up in writing within

twenty-four hours, fax or electronic mail or such

other manner as may be determined by the Financial

Intelligence Unit ;

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(b) be in such form and contain such details as may be

prescribed by the Financial Intelligence Unit ;

(c) contain a statement of the grounds on which the

Institution holds the suspicion ;

(d) be signed or otherwise authenticated by the

Institution.

(3) A person who has made a report or has given any

information to the Financial Intelligence Unit shall provide

to the Financial Intelligence Unit any further information

that it has about the transaction or attempted transaction or

the parties to the transaction if requested to do so by the

Financial Intelligence Unit.

8. Every Institution shall, in relation to any person Disclosure to

conducting transactions with such institution, forthwith Financial

disclose to the Financial Intelligence Unit— Intelligence Unit.

(a) the existence of any property in its possession or

control, which to its knowledge is, or which it

reasonably suspects is, property derived from the

commission of any terrorist activity in terms of any

law for the time being in force ;

(b) the existence of any property in his or her

possession or control, owned or controlled by or on

behalf of a specified entity or for which there are

reasonable grounds for suspicion that it is owned or

controlled by or on behalf of a specified entity ;

(c) any information regarding a transaction or proposed

transaction in respect of property derived from the

commission of any terrorist activity in terms of any

law for the time being in force ; or

(d) any information regarding a transaction or proposed

transaction and there are reasonable grounds for

suspicion that such transaction may involve

property derived from the commission of any

terrorist activity in terms of any law for the time

being in force.

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PART II

PROVISIONSAPPLICABLE TO INSTITUTIONS AND OTHER PERSONS

Duty not to 9. (1) A person shall not disclose to any other person—

divulge

information.

(a) that a report has been made or information provided

to the Financial Intelligence Unit in terms of any

provisions of this Act ;

(b) that any suspicion in relation to a transaction has

been formed as referred to in section 7 ; or

(c) any other information from which the person to

whom the information is disclosed could reasonably

be expected to infer that a suspicion has been formed

or that a report has been or may be made.

(2) The provisions of subsection (1) shall not apply to

disclosures made to—

(a) an officer or employee or agent of the person making

the report under this Act for any purpose connected

with the performance of that person’s duties ;

(b) a lawyer, attorney or legal advisor for the purpose of

obtaining legel advice or representation in relation

to any matter ; or

(c) the supervisory authority of the relevant Institution,

in so far as it is related to the discharge of the

functions of the supervisory authority.

(3) No person referred to in paragraph (b) of subsection (2)

to whom any disclosure of information has been made, shall

disclose that information other than to a person referred to

therein, in so far as it is necessary for—

(a) the performance of the first-mentioned person’s

duties ; or

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(b) obtaining legal advice or representation in relation

to the matter.

(4) No person referred to in paragraph (c) of subsection 2

to whom the disclosure of any information has been made

shall disclose that information except for the purpose referred

to in that subsection, or for the purpose of obtaining legal

advice or making representation in relation to the matter to

the Financial Intelligence Unit.

10. (1) A person shall not disclose any information that When disclosure

will identify or is likely to identify — of information is

permitted.

(a) the person who has handled a transaction in respect

of which a suspicious transaction report under this

Act has been made ;

(b) the person who has prepared such a suspicious

transaction report ;

(c) the person who has reported such a suspicious

transaction ; or

(d) the information contained in a suspicious

transaction report or information provided pursuant

to section 7,

other than for the purpose of—

(i) the investigation or prosecution of a person or

persons for an unlawful activity, or an offence under

the Prevention of Money Laundering Act, No. 5 of

2006 or the Convention on the Suppression of

Terrorist Financing Act, No. 25 of 2005,

respectively; or

(ii) the enforcement or implementation of the provisions

of the Prevention of Money Laundering Act, No. 5

of 2006 and the Convention on the Suppression of

Terrorist Financing Act, No. 25 of 2005.

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(2) Nothing in this section shall be deemed to prohibit the

disclosure of any information for the purposes of the

prosecution of any person for the violation of the provisions

of section 7.

Disclosure not to 11. Subject to the provisions of this Act and any other

be prevented. written law for the time being in force prohibiting such

disclosure, nothing contained in section 9 or 10 shall prevent

the disclosure of any information in connection with, or in

the course of, proceedings before a Court and no person shall

be required to disclose any information to which this section

applies in any judicial proceeding unless the judge or other

presiding officer is satisfied that the disclosure of the

information is necessary in the interests of justice.

Protection of 12. (1) No civil, criminal or disciplinary proceedings

persons reporting shall lie against —

suspicious

transactions.

(a) a such Institution, an auditor or supervisory authority

of an Institution ; or

(b) a director, partner, an officer, employee or agent

acting in the course of that person’s employment or

agency of an Institution, firm of Auditors or of a

supervisory authority,

in relation to any action by the Institution, the firm of auditors

or the supervisory authority or a director, partner, officer,

employee or agent of such Institution, firm or authority, carried

out in terms of this Act in good faith or in compliance with

regulations made under this Act or rules or directions given

by the Financial Intelligence Unit in terms of this Act.

(2) The provisions of subsection (1) shall not apply in

respect of any proceedings for an offence described in section

8 of this Act.

(3) If an Institution, firm of auditors or supervisory

authority or any director, partner, officer, employee or agent,

of any Institution, firm or authority or makes a report under

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the provisions of this Act, such person shall for the purposes

of a prosecution for the offence of money laundering, be

deemed not to have been in possession of that information at

any time.

13. (1) Nothing contained in sections 4, 5, 6, 7 or 8 of Privileged

this Act shall be construed as requiring a lawyer to disclose Communication.

any privileged communication only if —

(2) (a) it is a confidential communication, whether oral

or in writing, passing between —

(i) a lawyer or legal advisor in his or her

professional capacity and another barrister,

solicitor, lawyer, attorney or legal advisor in

such capacity ; or

(ii) a lawyer or legal advisor in his or her

professional capacity and his or her client,

whether made directly or indirectly through

an agent of either ; and

(b) it is made or brought into existence for the purpose

of obtaining or giving legal advice or assistance ;

and

(c) it is not made or brought into existence for the

purpose of committing or furthering the commission

of some illegal or unlawful act.

(3) Where the information consists wholly or partly of, or

relates wholly or partly to receipts, payments, income,

expenditure, or financial transactions of a person (whether a

lawyer his or her client, or any other person), it shall not be a

privileged communication if it is contained in, or comprises

the whole or part of any book, account, statement or other

record prepared or kept by the lawyer in connection with a

trust account of the lawyer.

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Appointment of 14. (1) Every Institution shall be required to—

Compliance

Officer.

(a) appoint a Compliance Officer who shall be

responsible for ensuring the Institution’s compliance

with the requirements of this Act ;

(b) establish and maintain procedures and systems to—

(i) implement the customer identification

requirements under section 2 ;

(ii) implement procedures for the record keeping

and retention requirements under section 4 ;

(iii) implement the process of monitoring required

under section 5 ;

(iv) implement the reporting requirements under

sections 6, 7, 8 and section 22 in relation to

auditors ;

(v) make its officers and employees aware of the

laws relating to money laundering and

financing of terrorism ; and

(vi) screen all persons before hiring them as

employees ;

(c) establish an audit function to test its procedures

and systems for the compliance with the provisions

of this Act ;

(d) train its officers, employees and agents to recognize

suspicious transaction.

(2) The provisions of subsection (1) shall not apply to

an individual who, in the course of carrying on his her

business, does not employ or act in association with any

other person.

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(3) An Institution shall ensure that its foreign branches

and subsidiaries adopt and observe measures consistent with

Parts I, II and III of this Act to the extent that local laws and

regulations permit and where the foreign branch or subsidiary

is unable to adopt and observe such measures, to report the

matter to the relvant supervisory authority or in the absence

of a supervisory authority to the Financial Intelligence

Unit.

PART III

POWERS AND FUNCTIONS OF THE FINANCIAL INTELLIGENCE UNIT

15. (1) The Financial Intelligence Unit— Functions of the

Financial

Intelligence Unit.

(a) shall receive reports made in terms of the provisions

of this Act and information provided to the Financial

Intelligence Unit by any agency of another country,

information provided to the Financial Intelligence

Unit by a law enforcement agency or a government

institution or agency, and other information

voluntarily provided to the Financial Intelligence

Unit about suspicions of an act constituting an

unlawful activity ;

(b) shall collect or require the supervisory authority of

a financial institution to collect any information

that the Financial Intelligence Unit considers

relevant to an act constituting an unlawful activity,

or an offence of money laundering or financing of

terrorism, or a terrorist activity whether or not

publicly available, including commercially

available databases, or information that is collected

or maintained, including information that is stored,

in databases maintained by the Government ;

(c) may request information from any Government

agency, law enforcement agency and supervisory

agency for the purposes of this Act ;

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(d) may analyze and assess all reports and

information ;

(e) shall carry out examinations of all Institutions as

set out in section 18 ;

(f) shall refer any matter or any information derived

from any report or information it receives to the

appropriate law enforcement agency if, on the basis

of its analysis and assessment, the Financial

Intelligence Unit has reasonable grounds to suspect

that the transaction would be relevant to the

investigation or prosecution under this Act or of an

act constituting an unlawful activity, and in

connection therewith, the Financial Intelligence

Unit may send a copy of such referral or information

to the relevant supervisory authority ;

(g) shall destroy a suspicious transaction report on the

expiry of six years from the date of receipt or

collection of the report, if there has been no further

activity or information relating to the report, or the

person named in the report, or six years from the

date of the last activity relating to the person or

report ;

(h) shall instruct or require the supervisory authority of

an Institution to take such steps as may be

appropriate in relation to any information or report

received by the Financial Intelligence Unit, to

enforce compliance with this Act or to facilitate any

investigation anticipated by the Financial

Intelligence Unit or a law enforcement agency ;

(i) shall compile statistics and records, and may

disseminate information within Sri Lanka or

elsewhere, and make recommendations arising out

of any information received ;

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(j) shall issue or have the supervisory authority of an

Institution issue, rules and guidelines to Institutions

in relation to customer identification, record

keeping, reporting obligations, the identification

of suspicious transactions and such other matters in

respect of which the Financial Intelligence Unit

has been vested with the power to issue rules or

guidelines by this Act ;

(k) shall periodically report to all Institutions and other

relevant agencies regarding the outcome from reports

or information given under the Act ;

(l) may obtain further information on parties or

transactions referred to in a report made to it under

this Act ;

(m) may conduct training programs for Institutions in

relation to customer identification, record keeping

and reporting obligations and the identification of

suspicious transactions ;

(n) may undertake due diligence checks and other

inquiries as may be necessary for performance of its

duties and functions under this Act ;

(o) may conduct research into trends and developments

in the area of money laundering and the financing

of terrorism and improved ways of detecting,

preventing and deterring money laundering and the

financing of terrorism ;

(p) may educate the public and create awareness on

matters relating to money laundering and the

financing of terrorism ;

(q) may disclose as set out in section 16 and 17,any

report, any information derived from such report or

any other information it receives, to an institution

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or agency of a foreign state or of an international

organization established by the governments of

foreign states that has powers and duties similar to

those of the Financial Intelligence Unit, if on the

basis of its analysis or assessment the Financial

Intelligence Unit has reasonable grounds to suspect

that the information would be relevant to the

investigation or prosection of any act constituting

an unlawful activity, a money laundering offence or

a offence of financing of terrorism ; and

(r) may enter into any agreement or arrangement with

any domestic government institution or agency

regarding the exchange of information.

(2) Where the Financial Intelligence Unit has reasonable

grounds to suspect that a transaction or attempted transaction

may —

(a) involve the proceeds which are attributable to any

unlawful activity ; or

(b) be connected to the commission of the money

laundering offence under the Money Launderng Act,

No. 5 of 2006 ; or

(c) be preparatory to the commission of an offence under

the Convention on the Suppression of Terrorist

Financing Act, No. 25 of 2005,

it may direct the Institution in writing or by telephone to be

confirmed in writing within twenty-four hours, not to proceed

with the carrying out of that transaction or attempted

transaction or any other transaction in respect of the funds

affected by that transaction or attempted transaction for a

period to be determined by the Financial Intelligence Unit,

which may not be more than seven days, in order to allow the

Financial Intelligence Unit —

(i) to make any necessary inquiries concerning the

transaction or attempted transaction ; and

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(ii) if the Financial Intelligence Unit deems it

appropriate, to consult or advise the relevant law

enforcement agency in the inquiries.

(3) The Financial Intelligence Unit may make an ex -parte

application to the High Court of the Western Province, holden

in Colombo, for an extension of the period of time stipulated

in subsection (2) setting out the grounds for such application.

16. The Financial Intelligence Unit may disclose any Disclosure to

report or information to an institution or agency of a foreign foreign institutions

and agencies.

state or of an international organization or body or other

institution or agency established by the Government of a

foreign State that has powers and duties similar to those of

the Financial Intelligence Unit on such terms and conditions

as are set out in the agreement or arrangement between

Financial Intelligence Unit and an institution, agency or

organization or authority regarding the exchange of such

information under section 17.

17. (1) The Financial Intelligence Unit may, with the Agreements and

approval of the Minister, enter into an agreement or arrangements by

the Financial

arrangement, in writing, with—

Intelligence Unit.

(a) an institution or agency of a foreign State or foreign

States or an international organization established

by the Governments of a foreign State that has

powers and duties similar to those of the Financial

Intelligence Unit ; and

(b) a foreign law enforcement agency or a foreign

supervisory authority,

regarding the exchange of information between the Financial

Intelligence Unit and the institution, authority or agency.

(2) The information exchanged under subsection (1) shall

be information that the Financial Intelligence Unit, the

Institution or agency has reasonable grounds to suspect would

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be relevant to the investigation or prosecution of an offence

constituting an unlawful activity or an offence that is

substantially similar to such an offence.

(3) Agreements or arrangements entered into under

subsection (1) shall include the following :—

(a) restrictions on the use of information to purposes

relevant to investigating or prosecuting any act

constituting an unlawful activity or an offence that

is substantially similar to such offence ;and

(b) the stipulation that the information be treated in a

confidential manner and not be further disclosed

without the express consent of the Financial

Intelligence Unit.

Power of Unit to 18. (1) Subject to the requirements of paragraph (e) of

examine books, subsection (1) of section 15, the Financial Intelligence Unit

records &c.,

or any person authorised by it in that behalf may examine the

records and inquire into the business and affairs of an

Institution for the purpose of ensuring compliance with the

Act or any directions, orders, rules or regulations issued under

the Act, and for that purpose may—

(a) at any reasonable time, enter any premises, in which

the Financial Intelligence Unit or authorised person

believes, on reasonable grounds, that there are

records relevant to ensuring compliance with the

provisions of Parts I, II and III of this Act ;

(b) use or cause to be used any computer system or data

processing system found in the premises, to examine

any data contained in or available to the system ;

(c) reproduce any record, or cause it to be reproduced

from the data, in the form of a printout or other

intelligible output and remove the printout or the

output for examination or copying ; and

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(d) use or cause to be used any copying equipment in

the premises to make copies of any record.

(2) The owner or person responsible for the premises

referred to in subsection (1) and every person found thereon

shall give the Financial Intelligence Unit or any authorized

person all reasonable assistance to enable them to carry out

their responsibilities and shall furnish them with any

information that they may reasonably require with respect to

the administration of Parts, I, II and III of this Act or the

regulations made under the Act.

(3) The Financial Intelligence Unit may transmit any

information from, or derived from, such examination to the

appropriate domestic or foreign law enforcement authorities

or supervisory authorities, if the Financial Intelligence Unit

has reasonable grounds to suspect that the information is

suspicious or is relevent to an investigation for non-

compliance with this Act, or amounts to an offence

constituting an unlawful activity.

19. (1) A person required to conform to the requirements Imposition of

prescribed by or under Parts I and II of this Act, who fails to so penalty to enforce

compliance.

conform, shall be liable to a penalty as may be prescribed

taking into consideration the nature and gravity of relevant

non-compliance : Provided however such penalty shall not

exceed a sum of rupees one million in any given case. Where

a person who has been subjected to a penalty on a previous

occasion, subsequently fails to conform to a requirement on

any further occasion such person shall be liable to the

payment of an additional penalty in a sum consisting of double

the amount imposed as a penalty on the first occasion and for

each non- compliance after such first occasion.

(2) The Financial Intelligence Unit shall be responsible

for the collection of a penalty imposed by this section and

the money so collected shall be credited to the Consolidated

Fund.

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(3) If a person who becomes liable to a penalty in terms of

subsection (1) fails to pay such penalty, the Unit may make

an ex- parte application to the High Court of the Western

Province holden in Colombo for an Order requiring the

payment of the penalty and upon such order being made

such amount shall be recoverable in the same manner as a

fine imposed by Court.

(4) The imposition of a penalty under this section shall

not preclude a supervisory authority or a regulatory or self

regulatory authority of an Institution from taking any

regulatory or disciplinary measures including, but not limited

to, the suspension of such Institution from the carrying on of

a business or profession or the cancellation of a licence or

authority granted for the carrying on of a business or

profession, as may be permitted in terms of any applicable

written law or rules for the regulation or supervision of such

Institution.

(5) Where a penalty is imposed under this section on a

body of persons, then-

(a) if that body of person is a body corporate, every

person who at the time of the imposition of the

requirements under subsection (1) was a Director,

General Manager, Secretary or other similar officer

of that body ; or

(b) if that body is not a body corporate, every person

who at the time of the imposition of such

requirements was the President, Manager, Secretary,

partner or other similar officer of that body,

shall be liable to pay such penalty, unless he proves that he

had no knowledge of the failure to comply with the

requirement or that he exercised all due diligence to ensure

compliance therewith.

(6) Without prejudice to the provisions of subsection (1),

the Financial Intelligence Unit may issue a directive to any

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Financial Institution that has without reasonable cause failed

to comply in whole or in part with any obligations in Parts I,

II or III of this Act requiring such Institution to implement a

action plan specified in such directive to ensure compliance

with its obligations under the said Parts.

(7) Where an Institution fails to comply with a directive

issued under subsection (6), the Financial Intelligence Unit

may, upon application to the High Court of the Western

Province, holden in Colombo and upon satisfying the Court

that an Institution has failed without reasonable excuse to

comply in whole or in part with the directive issued by it

under subsection (6), obtain an order against the Institution

and any or all of the officers or employees of that Institution

in such terms as the Court deems necessary to enforce

compliance with such obligation.

20. (1) The provisions of this section shall be applicable Non-disclosure of

in relation to any person who is, or who has been, a Director, information in

certain case.

officer, employee or agent of the Financial Intelligence Unit.

(2) Except for the purpose of the performance of his or her

duties or the exercise of his or her functions under this Act, or

when lawfully required to do so by any court, the person

referred to in subsection (1) shall not disclose any information

or matter which has been obtained by him or her in the

performance of his or her duties or the exercise of his or her

functions under this Act or which he or she has knowledge

except for one or more of the following purposes :—-

(a) for securing compliance with, or detecting evasion

of, any requirement contained in any provision of

this Act or any other written law relating thereto ;

(b) the implementation of the Prevention of Money

Laundering Act, No. 5 of 2006 and the Convention

on the Suppression of Terrorist Financing Act, No.

25 of 2005 ; or

(c) the purposes of section 50A of the Exchange

Control Act (Chapter 423).

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Protection from 21. Any employee of the Financial Intelligence Unit or

liability. any authorised officer, agent or person appointed by the

Financial Intelligence Unit for the performance of its statutory

functions shall not be liable for damages for any lawful act or

omission which has occurred in the discharge or purported

discharge of any of its statutory functions under this Act

unless it is shown that the act or omission was done in bad

faith.

PART IV

FUNCTIONS OF SUPERVISORYAUTHORITY OF AN INSTITUTION AND

AUDITORS

Functions of 22. (1) Where a supervisory authority or an auditor of an

supervisory Institution has reasonable grounds to suspect that information

authority or

that it has concerning any transaction or attempted transaction

auditor under this

Act. may, be —

(a) relevent to an investigation or prosecution of a

person or persons for any unlawful activity ;

(b) of assistance in the enforcement of the provisions

of the Prevention of Money Laundering Act, No. 5

of 2006 and the Convention on the Suppression of

Terrorist Financing Act, No. 25 of 2005 ;

(c) related to the commission of any offence constituting

an unlawful act ; or

(d) preparatory to the offence of the financing of

terrorism,

the supervisory authority or the auditor of the Institution

shall report the transaction or attempted transaction to the

Financial Intelligence Unit.

(2) The supervisory authority shall at the request of the

Financial Intelligence Unit carry out any examination into

any transaction or other matter relating to the Institution and

report on such examination to the Financial Intelligence

Unit.

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(3) The Financial Intelligence Unit shall consult the

supervisory authority in respect of the issue of guidelines,

directions or regulations to an Institution which is regulated

by such supervisory authority and shall furnish to the

supervisory authority copies of all guidelines, regulation or

directions issued to such Institution.

23. The relevant supervisory authority of an Institution Supervisory

shall— authority to ensure

compliance by all

Institutions.

(a) verify through regular examinations whether that

an Institution is complying with provisions of the

Act and shall report any non-compliance to the

Financial Intelligence Unit ;

(b) co-operate with law enforcement agencies and the

Financial Intelligence Unit in any investigation,

prosecution or proceedings relating to any offence

constituting an unlawful activity.

PART V

CURRENCY REPORTING AT THE BORDER

24. (1) Where a person — Currency

reporting at

(a) is about to leave Sri Lanka or has arrived in Sri border.

Lanka ; or

(b) is about to board or leave, or has boarded or left, any

ship or aircraft ,

an authorised officer may, with such assistance as is reasonable

and necessary, and with use of force as is necessary,

(i) examine any article which a person has with him or

her or in his or her luggage ; and

(ii) if the officer has reasonable grounds to suspect that

an offence under section 27 of this Act may have

been or is being committed, search the person ;

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for the purpose of determining whether the person has in his

or her possession, any cash or negotiable bearer instruments

in respect of which a report under subsection 5 is required.

(2) A person shall not be searched except by a person of

the same sex.

(3) An authorised officer, and any person assisting such

officer may stop, board and search any ship, aircraft or

conveyance for the purposes of exercising the powers

conferred by subsections (1) or (2) of this section.

(4) Where an authorised officer has reasonable grounds to

believe that cash or negotiable bearer instruments found in

the course of an examination or search, conducted under

subsections (1) or (2) above, may afford evidence as to the

commission of an unlawful activity, the officer may seize the

cash or negotiable bearer instruments, within twenty-four

hours of such seizure.

(5) An authorised officer who has seized cash and

negotiable bearer instrument under subsection (4) shall report

such seizure to the Unit.

Seizure or 25. An authorised officer may seize and, in accordance

detention of cash with the provisions of this part detain, any cash or negotiable

&c,.

bearer instruments which is being imported into, or exported

from Sri Lanka in any form or manner if he or she has

reasonable grounds for suspecting that it is —

(a) derived from the commission of any unlawful

activity ; or

(b) intended by any person for use in the commission

of an unlawful activity ;

(c) intended to be used for or in connection with an

offence connected with the financing of terrorism

in term of the Convention on the Suppresion of

Terrorist Financing Act, No. 25 of 2005.

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26. (1) Cash and negotiable bearer instruments seized Procedure on

under subsection (4) of section 24 or section 25 shall not be seizure of cash

detained for more than five working days after seizure, unless &c,.

the High Court for the Western Province holden in Colombo,

on application made to it, grants an Order of continued

detention for a period not exceeding three months from the

date of seizure, upon being satisfied that —

(a) there are reasonable grounds to suspect that it was

derived from the commission of any unlawful

activity or is intended by any person for use in the

commission of an offence or in connection with an

offence connected with the financing of terrorism

under the Convention on the Suppresion of Terrorist

Financing Act, No. 25 of 2005 ; and

(b) its continued detention is justified while its origin

or derivation is further investigated.

(2) The Court may subsequently Order, after hearing, with

notice to parties it determines are relevant, the continued

detention of the cash and negotiable bearer instruments if

satisfied of the matters mentioned in subsection (1) but the

total period of detention shall not exceed two years from the

date of the Order.

(3) Subject to subsection (4), cash and negotiable bearer

instruments detained under this section shall be released in

whole or in part to the person from whom it was seized or to

any person establishing a claim thereto-

(a) by Order of a Court that its continued detention is

no longer justified and upon application by or on

behalf of that person ;

(b) by an authorized officer, if satisfied that its

continued detention is no longer jusitified.

(4) No cash or negotiable bearer instruments detained

under this section shall be released where it is relevant to an

investigation, prosecution or proceeding under Prevention

of Money Laundering Act, No. 5 of 2006 or the Convention

on the Suppression of Terrorist Financing Act, No. 25 of 2005.

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(5) Where the cash or negotiable bearer instruments have

not been claimed by any person within one year of it being

seized or detained, an authorised officer may make an

application to the Court that such cash or negotiable

instrument or its equivalent in Sri Lanka rupees upon sale to

the Central Bank, as the case may be, be forfeited to the

Consolidated Fund.

PART VI

OFFENCES AND LIABILITIES

Offences. 27. Any person who leaves or arrives in Sri Lanka with

more than the prescribed sum in cash or negotiable bearer

instruments on his or her person or in his or her luggage

without first having reported the fact to the relevant authority

is guilty of an offence and shall be punishable on conviction

with a fine not exceeding one hundred thousand rupees or

imprisonment of either description for a term not exceeding

one year, or to both such fine and imprisonment.

Giving false 28. (1) A person who in making a report under sections

information an 6, 7, 8 or subsection (1) of section 22 makes any statement

offence.

that the person knows is false or misleading in a material

particular or omits from any statement any matter or thing

without which the person knows that the statement is false or

misleading in a material particular is guilty of an offence

punishable on conviction to a fine not exceeding one hundred

thousand rupees or imprisonment of either description for a

term not exceeding one year, or to both such fine and

imprisonment.

(2) If a person contravenes subsection (1) of section 9 or

subsection (1) of section 10 with intent to prejudice an

investigation of an offence constituting an unlawful activity

or an offence of money laundering or financing of terrorism

or for the purpose of obtaining directly or indirectly an

advantage or a pecuniary gain for himself or herself or any

other person, or for the purpose of causing any loss or

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disadvantage to any other person, the person is guilty of an

offence punishable on conviction to a fine not exceeding

five hundred thousand rupees or imprisonment of either

description for a term not exceeding two years, or to both

such fine and imprisonment.

(3) If a person wilfully obstructs or hinders or fails to co-

operate with the Financial Intelligence Unit or any authorized

person in the lawful exercise of the powers under subsection

(1) of section 18 or any person who does not comply with

subsection (2) of section 18 is guilty of an offence and shall

be punishable on conviction to a fine not exceeding five

hundred thousand rupees or imprisonment of either

description for a term not exceeding two years, or to both

such fine and imprisonment.

(4) If a person forges, conceals or does any other act to

affect the authenticity or integrity of any document or

material knowing or having reason to believe that such

document or material is relevent to an investigation into an

offence under the Prevention of Money Laundering Act,

No. 5 of 2006 or the Convention for the Suppression of

Financing of Terrorism Act, No. 25 of 2005 is guilty of an

offence punishable on conviction to a fine not exceeding

one hundred thousand rupees or imprisonnment of either

description for a term not exceeding one year, or to both

such fine and imprisonment.

(5) If any person destroys or otherwise disposes of any

document or material which such person knows or has reason

to believe is relevent to an investigation under the Prevention

of Money Laundering Act, No. 5 of 2006 or the Convention

for the Suppression of Financing of Terrorism Act, No. 25 of

2005, is guilty of an offence punishable on conviction to a

fine not exceeding one hundred thousand rupees or

imprisonment of either description for a term not exceeding

one year, or to both such fine and imprisonment.

(6) A person who opens, operates or authorizes the opening

or the operation of an account with an Institution in a fictitious

or false name is guilty of an offence and shall be punishable

on conviction to a fine not exceeding one hundred thousand

rupees or imprisonment of either description for a term not

exceeding one year, or to both such fine and imprisonment.

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PART VII

MISCELLANEOUS

Regulations. 29. (1) The Minister may make regulations under this

Act for any matter authorized or required to be made under

this Act, or for the purpose of carrying out or giving effect to

the principles and provisions of this Act.

(2) Without prejudice to the generality of the provisions

of subsection (1) regulations may be made in respect of all or

any of the following maters :—

(a) the identification of appropriate risk management

systems in keeping with the recommendations of

the Financial Action Task Force ;

(b) the manner in which ongoing monitoring of business

relationships is to be carried out by Institutions ;

and

(c) specifying for the purpose of the application of the

Financial Action Task Force recommendations

relating to risk management-

(i) the procedure to be followed and the

guidelines that will be applicable in the

categorization of customers for the purposes

of risk management ;

(ii) the manner in which senior management

approval is to be obtained prior to establishing

business relationships with customers

categorized as high risk customers ;

(3) Every regulation made by the Minister shall be

published in the Gazette and shall come into operation on

the date of such publication or on such later date as may be

specified in the regulation.

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(4) Every regulation made by the Minister shall as soon as

convenient after its publication in the Gazette be brought

before Parliament for its approval. Any regulation, which is

not so approved, shall be deemed to be resinded as from the

date of disapproval but without prejudice to anything

previously done thereunder.

(5) Notification of the date on which a regulation is deemed

to be rescinded shall be published in the Gazette.

30. (1) This Act shall apply only in relation to the Application of Act.

transactions of all Institutions to which the provisions of

this Act applies, which have taken place after the coming

into operation of this Act.

(2) All persons to whom this Act applies shall be required

to comply with the provisions of this Act, notwithstanding

anything to the contrary contained in any other written law

for the time being in force.

(3) The provisions of this Act shall prevail over any other

law for the time being in force in relation to the matters set

out herein.

31. An Institution shall comply with the requirements Institutions have

of this Act notwithstanding any obligation as to secrecy or duty to comply

with the provisions

other restriction on the disclosure of information imposed by

of this Act.

any written law or otherwise.

32. In the event of any inconsistency between the Sinhala Sinhala text to

and Tamil texts of this Act, the Sinhala text shall prevail. prevail in case of

inconsistency.

33. In this Act, unless the context otherwise requires — Interpretation.

“account” means any facility or arrangement by which an

Institution does any of the following :—

(a) accepts deposits of currency ;

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(b) allows withdrawals of currency ; or

(c) pays cheques or payment orders drawn on the

Institution, or collects cheques or payment

orders on behalf of a person other than the

Financial Institution,

and includes any facility or arrangement for a safety

deposit box of for any other form of safe deposit;

“authorised officer” means —

(a) a Police Officer above the rank of an Assistant

Superintendent of Police or ;

(b) a Customs Officer above the rank of

Superintendent of Customs ;

“cash” means any coin or paper money that is designated

as legal tender in the country of issue and includes

bearer bonds, travellers’ cheques, postal notes and

money orders ;

“currency” means the currency of Sri Lanka or that of a

foreign country that is designated as legal tender

and which is customarily used and accepted as a

medium of exchange in the country of issue ;

“customer” in relation to a transaction or an account

includes —

(a) the person in whose name a transaction or

account is arranged, opened or undertaken ;

(b) a signatory to a transaction or account ;

(c) any person to whom a transaction has been

assigned or transferred ;

(d) any person who is authorised to conduct a

transaction ; or

(e) such other person as may be prescribed.

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“designated non-finance business” includes—

(a) individual and collective portfolio

management ;

(b) investing, administering or managing funds

or money on behalf of other persons ;

(c) safekeeping and administration of cash or

liquid securities of behalf of other persons ;

(d) safe custody services ;

(e) underwriting and placement of insurance, as

well as insurance intermediation by agents

and brokers ;

(f) trustee administration or investment

management or a superannuation scheme ;

(g) casinos, gambling houses or conducting of a

lottery, including a person who carries on

such a business through the internet when

their customers engage in financial

transactions equal to or above the prescribed

threshold ;

(h) real estate agents, when they are involved in

transactions for their clients in relation to the

buying and selling of real estate ;

(i) dealers in precious metals and dealers in

precious and semi-precious stones, including

but not limited to, metals and stones covered

by the Gem and Jewellery Act, No. 50 of

1993 when they engage in cash transactions

with a customer, equal to or above the

prescribed threshold ;

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(j) lawyers, notaries, other independent legal

professionals and accountants when they

prepare for or carry out transactions for their

clients in relation to any of the following

activities :—

(i) buying and selling of real estate ;

(ii) managing of client money, securities or

other assets ;

(iii) management of bank, savings or

securities accounts ;

(iv) organization of contributions for the

creation, operation or management of

companies ; and

(v) creation, operation or management of

legal person or arrangements and the

buying and selling of business entities;

(k) a trust or company service provider not

otherwise convered by this definition, which

as a business provides and one or more of the

following services to third parties :—

(i) formation or management of legal

persons ;

(ii) acting as or arranging for another person

to act as, a director or secretary of a

company, a partner or a partnership or a

similar position in relation to other legal

persons ;

(iii) providing a registered office, business

address or accommodation,

correspondence or administrative

address for a company, a partnership or

for any other legal person or

arrangement ;

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(iv) acting as or arranging for another person

to act as, a trustee of an express trust ;

(v) acting as or arranging for another person

to act as, a nominee shareholder for

another person ;

(l) offshore units in accordance with the

definitions provided for the same in other

written laws ; and

(m) such other business as may be prescribed from

time to time by the Minister taking into

consideration the interests of the national

economy.

“document” means any record of information, and

includes—

(a) anything on which there is writing ;

(b) anything on which there are marks, figures,

symbols, or perforations having meaning for

persons qualified to interpret them ;

(c) anything from which sounds, images or

writings can be produced, with or without the

aid of anything else;

(d) a map, plan, drawing, photograph or similar

thing ; and

(e) any of the above kept or maintained in

electronic form.

“finance business” includes any one of the following

businesses or activities :—

(a) banking business as defined in the Banking

Act, No. 30 of 1988 ;

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(b) finance business as defined in the Finance

Companies Act, No. 78 of 1988 (irrespective

of whether the person is licensed or registered

under the Act) ;

(c) lending, including consumer credit, mortgage

credit, factoring (with or without recourse) and

financing of commercial transactions ;

(d) financial leasing other than transactions

relating to consumer products ;

(e) the transfer of money or value ;

(f) money and currency changing services ;

(g) issuing and managing means of payment (i.e.

credit cards, travellers’ cheques, money orders

and bankers’ drafts and electronic money) ;

(h) issuing financial guarantees and

commitments, including but not limited to

consumer credit, factoring with or without

recourse and financing of commercial

transactions including forfeiting ;

(i) trading for its own account or for the account

of customers in money market instruments (i.e.

cheques, bills, certificates of deposit and

derivatives), foreign exchange, exchange,

interest rate and index instruments,

commodity futures trading and transferable

securities ;

(j) participating in securities issues and the

provision of financial services related to such

issues ; and

(k) such other business as may be prescribed from

time to time by the Minister taking into

consideration the interests of the national

economy.

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“Financial Intelligence Unit” means the government

department, public corporation, statutory body,

institution, or authority, or any department or unit

of such department, corporation, body, institution

or authority designated by the Minister by Order

published in the Gazette, which shall be charged

with the administration of the provisions of this

Act ; the Minister shall in making the Order take

into consideration the capacity of the Government

department, public corporation, statutory body, or

authority to be designated in relation to its functions

and manpower and its overall ability to act

efficiently in the discharge of the functions under

this Act ;

“Institution” means any person or body of persons

engaged in or carrying out any finance business or

designated non-finance business within the meaning

of this Act;

“money transmission services” means a person (other than

a bank licensed by the Central Bank) carrying on

the business of—

(a) exchanging cash or the value of money ;

(b) collecting, holding, exchanging or remitting

funds or the value of money, or otherwise

negotiating transfers of funds or the value of

money, on behalf of other persons ;

(c) delivering funds ; or

(d) issuing, selling or redeeming traveller’s

cheques, money orders of similar instruments;

“negotiable bearer instrument” means a document

representing ownership of debts or obligations,

including bills of exchange, promissory notes or

certificates of deposit, whether made payable to the

bearer or not ;

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“Offshore Unit” means a unit or department of a licensed

commercial bank or a licensed specialized bank

carrying on banking business, subject to the

provisions of Part IV of the Banking Act, No. 30 of

1988, dealing with Offshore Banking ;

“person” means any natural of legal person including a

body of persons, whether it has legal personality or

not and includes a branch of such person or body of

persons incorporated or established outside

Sri Lanka ;

“prescribed” means prescribed by regulations made under

this Act ;

“money laundering offence” means an offence as defined

in section 4 of the Prevention of Money Laundering

Act, No. 5 of 2006 ;

“offence of financing of terrorism” means an act

constituting an offence in terms of the Convention

on the Suppression of Terrorist Financing Act,

No. 25 of 2005 ;

“property” means any currency, and includes any asset of

any kind, whether corporeal or incorporeal, movable

or immovable, tangible or intangible whether

situated in Sri Lanka or elsewhere, and legal

documents or, instruments in any form whatsoever

including electronic or digital form, evidencing title

to, or interest in, such assets, including but not

limited to bank credits, travellers' cheques, bank

cheques, money orders, shares, securities, bonds,

drafts, letters of credit and includes any legal or

equitable interest in any such property ;

“record” means any material on which data is recorded or

marked and which is capable of being read or

understood by a person, computer system or other

device ;

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“suspicious transaction report” means a report required to

be made under section 6 ;

“specified entity” means —

(a) an entity that has knowingly —

(i) committed ;

(ii) attempted to commit ;

(iii) participated in committing ; or

(iv) facilitated the commission of,

any act connected with an act constituting an

offence in terms of any written law for the time

being in force in Sri Lanka relating to terrorism ;

or

(b) an entity prescribed by the Minister of

Foreign Affairs in terms of regulations made

under the United Nations Act, No. 45 of 1968;

“terrorist act” means an act constituting an offence in terms

of any written law for the time being in force in Sri

Lanka relating to terrorism ;

“terrorist property” means :

(a) proceeds from the commission of a terrorist

act ;

(b) property which has been, is being, or is likely

to be used to commit a terrorist act ;

(c) property which has been, is being, or is likely

to be used by a terrorist group ;

(d) property owned or contrrolled by or on behalf

of a terrorist group ; or

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(e) property which has been collected for the

purpose of providing support to a terrorist

group for funding a terrorist act ;

“transaction” means any activity connected with finance

business or designated non-finance business ;

“transaction” in relation to property includes—

(a) a purchase, sale, loan, charge, mortgage, lien,

pledge, transfer, delivery, assignment,

subrogation, transmission, gift, donation,

creation of a trust, settlement, deposit

including the deposit of any article,

withdrawal, transfer berween assets, extension

of credit ;

(b) any agency or grant of power of attorney ;

(c) any other disposition or dealing of property

in whatever form, or whatsoever description

or nature, howsoever described, which results

in any right, title, interest or privilege, whether

present or future, or whether vested or

contingent, in the whole or any part of such

property being conferred on any person ; and

“unlawful activity” means any act which constitutes an

offence under :—

(a) the Poisons, Opium and Dangerous Drugs

Ordinance (Chapter 218) ;

(b) any law or regulation for the time being in

force relating to the prevention and

suppression of terrorism ;

(c) the Bribery Act (Chapter 26) ;

(d) the Firearms Ordinance (Chapter 182), the

Explosives Ordinance (Chapter 183) or the

Offensive Weapons Act, No. 18 of 1966.

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(e) The Exchange Control Act (Chapter 423) ;

(f) an offence under section 83 C of the Banking

Act, No. 30 of 1988 ;

(g) any law for the time being in force relating to

transnational organised crime ;

(h) any law for the time being in force relating to

cyber crime ;

(i) any law for the time being in force relating to

offences against children ;

(j) any law for the time being in force relating to

offences connected with the trafficking of

persons ; and

(k) an offence under any other law for the time

being in force which is punishable by death

or with imprisonment for a term of seven years

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