

Journal Special- officially number 20 January 2013

LAW N ° 003/2002 OF FEBRUARY 2002 ON A 02 BUSINESS AND THE CONTROL OF CREDIT INSTITUTIONS

EXPLANATORY STATEMENT

The banking industry knows, in recent years, profound changes due in particular to the globalization of financial activities, the interconnection of markets and computerization increasingly thrust management.

These mutations amplify the traditional risks of the profession provided that they give rise to new, making necessary the establishment of adequate supervision systems focus on prudential supervision, rather than the sectoral audits a posteriori

Insofar as the Democratic Republic of Congo embarked on deep reforms of its monetary management, the need is felt all the more acutely than the success thereof depends largely on the health sector financial in general and in particular banking system as principal vector of monetary policy.

The introduction of these devices through the establishment of an appropriate legal framework, to replace the OrdonnanceLoi No. 72-004 of 14 January 1972 on the protection of savings and control of financial intermediaries, called "Banking Law".

la this Act proposes to define a single framework covering all financial sector activities, some of which are beyond 紐 U 過 provisions of Ordinance-Law No. 72-004 of 14 January 1972 cited above.

This Explanatory Memorandum to the new provisions introduced by the new law.

TITLE I SCOPE AND GENERAL

The scope of the Ordinance-Law No. 72-004 of 1972 14.janvier only partially covers the activities of the financial sector, so that a substantial portion of cellesci escape regulation and control the monetary authority.

This Act has the advantage of covering all the financial sector and sets from their economic function is to provide banking,

Banking operations are divided into three categories, namely: receipt of public funds,, credit operations and payment transactions and managing means of payment.

Related operations are listed non-exhaustively in Article 9.

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The new "Banking Law" "includes, under the new vocabie credit institution", limited companies identified below:

1. banks; 2. savings and cooperatives

credit; 3. Savings Banks; 4. Financial Institutions

specialized; 5. financial companies.

The éiargissement field

enforcement ja nouvelle law is inspired by the interests of universality and does not affect the diversity of the national financial system or

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the particularities of each category of Credit Institutions, which are governed by specific provisions.

This concern is reflected through articles 2 and 3.

TITLE II ;

APPROVAL PROTECTION AND WITHDRAWAL OF APPROVAL OF CREDIT INSTITUTIONS

This title consists of three chapters deal successively with the approval, protection and withdrawal of approval of the Credit Institutions.

1. APPROVAL

Credit the Etablissements are required, before exercising their activity on national territory, to obtain the approval of the Central Bank (Article 10)

Obtaining if approval is subject to certain substantive conditions and the existence of the meeting are controlled by the Central Bank during the appraisal of the application for approval. These conditions are a legal and economic order.

at. Conditions Legal

The conditions Legal are three in number:

- The Credit Institution shall be a person morale. Except for banks should be, in principle, made in the form of company limited liability, the legislator does not prescribe any social form. It leaves the supervisory authorities the task of assessing the "adequacy of the legal form of the company to the activity of the Credit Institution";

- The Credit Institution must prove a minimum capital

released determined by the Central Bank; - The leaders of the Credit Institution shall not be impressed by the professional prohibition in Article 15.

b. Economic conditions

During the hearing of the application file, the Central Bank l'implantation checks if the credit institution meets an obvious economic need.

It ensures the customer security by controlling the adequacy of technical and financial resources of the Establishment of Credit in its program of activities.

When an institution authorized credit in a foreign country wants to implant a subsidiary in the Democratic Republic of Congo, the Central Bank shall consult the supervisory authorities of

country of origin of this Establishment

Credit to ensure the credibility of the promoters to avoid including the introduction into the financial system of criminal origin (i article 3).

1. PROTECTION

The legislature retains the monopoly of carrying out banking operations to Credit Institutions only, as it establishes a protection against the misuse of the terms bank, savings and credit cooperative, savings bank, finance company , a specialized financial institution.

Articles 20 and 21 define, however, the scope of activities reserved for Credit Institutions.

2 Withdrawal of the authorization

The withdrawal of approval is pronounced by the Central Bank under the authority

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administrative and disciplinary it exerts on Credit Institutions (Article 22).

The withdrawal of authorization entails the delisting Credit Institutions, Radiation automatically entails dissolution of the Credit Institution.

TITLE HI:

RULES OF CREDIT INSTITUTIONS

Although still subject to ordinary law, banking activity is subject to specific regulations justified by the need of efficient control of Credit Institutions to justify their solvency and security of public savings, pledge some of balanced growth of the national economy.

The new banking law favors the prudential supervision of credit Etablissements to reinforce their strength and thus ensure the stability of the financial system as a whole.

The legislator, however, poses the fundamental principles of ÇEfte prudential regulation, leaving to the Central Bank the task of settling as necessary, procedural details in support of an appropriate regulatory framework.

Title [V:

RULES TO THE FINANCIAL STATEMENTS

The legislator's SOLimet

Credit Institutions to uniform rules for their bookkeeping and preparing their financial statements in order to ensure transparency in their management and facilitate further the coaching work and control to be performed by the supervisory authority.

Thus, the Credit Institutions are, for example, must be a

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legal reserves in the conditions and IES procedures laid down in Article 31.

The legislator also recognizes the power to the Control Authority to request any information on the organization, operation, condition and operations of a Credit Institution (Article 34).

All Credit Institutions must end their financial year on 31 December. They are required to establish that date their summary tables and drop them for publication before 15 June of the following year.

TITLE V:

BODIES OF CONTROL

This title includes two chapters:

- The Central Bank of Congo - The Auditor

1. CENTRAL BANK OF CONGO

The legislator invests the Central Bank of Congo in general monitoring mission of all Credit Institutions. -

In this context, it surveille fa Regulatory application given the periodic reports prepared by the Credit Institutions, consecutive reports of investigations and inspections of the auditors reports.

Also, when the Central Bank finds that a particular Credit Institution does not operate in

accordance with the Act and the regulations made for its implementation, or its administrative and accounting procedures or internal control this serious fact, it may, the seriousness of the facts, send a warning to the leaders of the credit or grant them an order to the effect, in particular, take,

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within a specified period all appropriate corrective action.

The Central Bank may also appoint a Provisional Representative of Credit or appoint an Interim Manager institution or a Provisional Administrator at the head of it, in case of deficiency in its administration or management.

2. THE AUDITOR

The legislator requires every credit institution to appoint as Auditor two individuals or a corporation partner auditors authorized by the Central Bank (Article 50).

The body authorized to appoint the auditors is the General Meeting of shareholders, partners or members. Failure for the General Assembly to fulfill this obligation

legal, the Central Bank may conduct

a designation of office.

The Statutory Auditors are appointed for a term of three years, renewable. The Central Bank monitors the activity of auditors.

The Statutory Auditors cannot guarantee the performance of securities issues which are loaded Credit Institutions with which they perform their duties (Article 54).

Title VI:

Dissolution and Liquidation

The dissolution of a credit institution may be decided by the General Meeting of shareholders, partners or members (voluntary dissolution) or by the Central Bank (forced dissolution). Dissolution is also called forced when the result of a court decision (Article 56).

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Dissolved Credit Institution is deemed to exist for its liquidation.

The liquidation of a Credit Institution dissolved by decision of the General Meeting of shareholders, partners or members be made according to common law (Article 59).

Furthermore, the liquidation of a credit institution is a delicate operation that could compromise social peace if the necessary measures are not taken to protect public savings and prevent disruption of the financial system as a whole including by contagion, strengthening the supervision of the Authority power was operated by increasing legal means at its disposal to debt recovery of liquidated Credit institution.

The legislature gives the Treasury privilege to debt Credit Institutions whose forced dissolution was decided by the Central Bank in order to maximize the chances of savers and other establishments Credit business relationship with them for recover their rights (Article 69)

The validation is carried out under the supervision of the Bank Centrale.

The closing of the liquidation is published in the Journal Officiel and in at least one of the principal organs of the national press (Article 72).

TITLE VI:

RELATIONS BETWEEN CREDIT INSTITUTIONS AND

CUSTOMER BASE

The title is divided into three chapters whose provisions reflect the will of the

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legislator to protect customer deposits Credit Institutions.

The three chapters deal respectively with the professional secrecy of the system of deposit protection and prevention measures.

1. PROFESSIONAL SECRECY

The new banking law emphasizes the obligation of professional secrecy to charge anyone who participates or participated in the management or control of a Credit Institution,

However, the legislature made limitations to this obligation punishable not to disclose privileged.

Thus, professional secrecy can not be opposed neither the Central Bank nor to the judicial authority acting within the framework of criminal proceedings (Article 73).

2. PROTECTION SYSTEM

{) Eposits

The new banking law provides for the establishment of one or more deposit protection systems in order to preserve the integrity of the financial system when the situation of a credit institution in difficulty requires. The aim is to limit the probability of massive withdrawals (Article 74).

3. PREVENTION MEASURES

The Credit Institutions are required to implement appropriate policies and procedures include strict criteria of customer knowledge to prevent them being used by criminal elements motammet in money laundering operations (Article 75).

Furthermore, in order to impart to the Monetary Authority the deterrent power against traders

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offenders, the new law provides blacklisting practice.

TITLE VH || ;

SANCTIONS

Beside criminal sanctions, the new Banking Act provides for disciplinary battery contribute to consolidation of the financial system and

Securing savers

As part of its judicial function, the Central Bank may be called upon to sit as an administrative court under strict procedural rules.

When an offense has been discovered in charge of a Credit Institution, the Central Bank may, after deliberation, make a decision not later or impose disciplinary sanctions provided for in Article 77, which range from warning the withdrawal of approval.

In addition, the Central Bank may impose in addition to those sanctions, administrative fines which is constrained the Credit Institution (Article 79).

Furthermore, the Central Bank may intervene at all stages of the proceedings and a civil action (Article 83).

The new Banking Act brings another innovation in that the controlling authority no

longer has the prosecution outbreak of monopoly, the implementation thereof is now subject to common law.

TITLE IX;

ORGANIZATION OF THE PROFESSION

The Credit Institution legislator to join the Professional Association of institutions of the category to which it belongs, requires #out

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The professional association is inter alia to represent the collective interests of its members to the Public Authorities and organize services of common interest.

TITLE X:

TRANSITIONAL AND fnals

In terms of transitional and final provisions, all previous provisions contrary to this Act are repealed.

E Constituent Transition has

The Legislative Assembly passed Parliament;

The President of the Republic promulgates the law which reads as follows:

. . . . Title I; - -

CHAMP OF GENERAL APPLICATION ET

CHAPTER I: SCOPE

Article ":

The Credit Institutions covered by this Act are legal entities that perform as a regular business banking.

The include:

banking

- Reception and fundraising

public ; - Lending operations; - Payment transactions and

Management of payment.

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as their regular business.

A period of one year, however, is granted to banks, savings cooperatives and credit and financial institutions licensed under the sway of the Ordinance-Law No. 72/004 of 14 January 1972 relating to the protection of the savings and control of financial intermediaries to comply with the provisions of the new banking loi,

Article 2:

This Act applies to Credit Institutions, whatever their legal form, engaged in one or the other of the activities set out in Article! er to

It identifies five categories of Credit Institutions which are subject to regulations specific, namely:

1. The banks ; 2 °. Cooperatives Savings and credit; The savings banks; Specialized agencies; Financial companies,
39. 4 0|. financial
5 °.

Article 3:

Banks are the only Credit Institutions authorized both générale and a way to receive funds from the public sight, fixed term or with notice and to perform all other operations bank.

Cooperatives and savings and savings banks in the text limits credit may

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laws and regulations that govern them, treat other bank operations and receive public funds on sight, fixed term or with notice.

Financial companies and specialized financial institutions can not receive public funds on demand or within one year if they are authorized to be ancillary to the conditions defined by the Central Bank.

Financial companies can make the resulting bank operations or the approval decision regarding either the laws and regulations of their own,

Specialized financial institutions are Credit Institutions which the State has entrusted a public interest mission. They can perform other banking operations that celies related to their mission, except as incidental.

- Article 4: ... - sssssssssssss

This Law does not apply to:

- The Central Bank;
- Treasury;
- Services Postal Cheque Accounts, subject to the provisions of Articles 34 and 35.

Article 5:

Institutions are not credit:

- Insurance companies; - Pension funds; - les agents and / or exchange offices; - Lotteries and collection companies in the social goals that are subject to prior approval by the public authorities; - Financial messaging; - les other financial intermediaries.

However, companies, organizations and individuals referred to in this Article shall in the exercise of their activities

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transmit, at the request of the Central Bank, the documents and information provided for in Article 34.

CHAPTER II: GENERAL

Article 6:

Are considered as funds received from the public funds that a person collects a third party, particularly in the form of deposits with the right of disposal for its own account, but with the order to return them.

However, are not considered as funds received from the public:

1. funds received or left in an account by the name associates or partners of a partnership, the partners or shareholders holding at least 5 100 of the capital, the directors, members of the Management Committee and Board of. monitoring or managers as well as funds from equity loans; 2. funds that a company receives from its employees provided the amount does not exceed 10 percent of its equity. To assess this threshold, it is not given the funds received from employees under specific legal provisions.

Article 7:

Constitutes a credit transaction, any act by a person acting lequei for consideration or makes promises to make funds available to another or take the benefit of it, a engagengent by signing such that a downstream, a bond or guarantee.

Are treated as credit operations, leasing and, in general,

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any rental operation with a purchase option.

Article 8:

Are considered as means of payment, all instruments, regardless of the medium or technical process used, to enable any person to transfer funds.

Article 9:

The Credit Institutions may also carry out transactions related to their teiles activities:

1. exchange transactions;

2. metals trading

and precious pieces:

Or,

3. placement, purchase, management, custody and sale of securities and any financial product;

4. equity investments in imites} set by the Central Bank

5, advice and assistance tratière

wealth management;

6. advice and assistance in financial management, financial engineering and generally all services intended to facilitate the creation and development of enterprises, subject to the provisions relating to the illegal exercise of certain professions;

7. operating leases of movable or immovable property to companies authorized to carry out finance lease operations,

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TITLE II ;

APPROVAL PROTECTION AND WITHDRAWAL OF APPROVAL OF CREDIT INSTITUTIONS

CHAPTER TER: APPROVAL

Article 1 }

The Credit Institutions covered by this Act shall, before exercising their activity on national territory, obtain i'agrément its Central Bank,

This approval is subject to the conditions contained articles i 1-16.

Article 11:

The Credit Institutions are necessarily constituted as a legal person,

Subject to the specific legal provisions, banks must be constituted as a limited liability corporation.

The Credit Institutions must: - prove a minimum paid-up capital,

determined by the Central Bank;

- Meet an economic need

local or general,

Article 12:

The application for approval is submitted to the Central Bank.

It should include:

- An original copy of the statutes

written in French;

- The list of shareholders and management;

- Forecasts of activities,

implementation and organization;

- Details of the technical and financial means that the credit institution intends to eeuvre;

- All other items that could inform the decision of the Central Bank.

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The Bank monitors compliance of the application with the requirements of this Act.

She i'aptitude appreciate the Credit Institution to achieve its development objectives under conditions that require good

the banking system and the safety of depositors.

In the process of reviewing the application for approval, the Central Bank is authorized to collect any information deemed useful in the investigation of the demande.

Article 13:

When authorization is requested by a credit institution of which is a subsidiary of a credit institution in a foreign country, the Central Bank consuite, before granting approval, the banking supervision authorities of the country of origin to ensure in particular the credibility of the Credit institution,

Article 14:

Managing current Credit Institutions must be entrusted to two individuals at least, proof of good repute, expertise and experience required for the performance of this function.

Article 15:

Without prejudice to the legal provisions relating to commercial companies, no one can directly or indirectly:

- Offer the public the creation of a

Credit institution;

- Administer, direct or manage a

Credit institution;

1 ° if he has been convicted of an offense under this Act or the regulatory changes;

2 °. if it has been declared bankrupt and has not
rehabilitated, even when the bankruptcy opened in a foreign country;
of the

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3. if he was convicted in the DRC or abroad as author, accomplice or to attempt one
of

following offenses:

- a, counterfeiting;
- b. forgery or falsification of bank notes, treasury bills, shares, bonds, interest coupons;
- c. counterfeiting or falsifying seals, stamps, dies and trademarks;
- d. forgery and use of forgery;
- e. public official corruption
or extortion;
- f. theft, extortion, embezzlement or breach of trust, fraud or concealment;
- g. bankruptcy, fictitious circulation
commercial paper;
- h. issuance of bad check;

i money laundering; 4 ° if he has been convicted of political crimes and offenses
assimilated by law to one of ceiles listed above; 5 °. it took part in the administration,
management or the ongoing management of a credit institution whose forced dissolution
was ordered or whose bankruptcy has been declared,

When the decision result which any of the prohibitions referred to in this section
is subsequently revoked or invalidated ultimately ban ceases automatically.

Article 16:

The authorization shall be notified decision of the Central Bank.

by one

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The latter has a period of 90 days from the date of receipt of the case, to adjudicate and
decide.

The accreditation document is published at the expense of the Credit Institution, the
Official Gazette and in at least one of the principal organs of the national press.

It specifies the category in which the establishment is classified Credit and lists as
necessary, bank transactions permitted him.

The refusal of authorization shall be notified to the sponsor by the Central Bank.

Article 17:

The Central Bank prepares and maintains the list of approved Credit Institutions which
is assigned a registration number. This list and the amendments which it is subject are
published annually Officiei Journal.

The Credit Institutions must include their registration number on all correspondence or

publication.

Article 18:

At December 31 of each year, the Central Bank classifies the Credit Institutions under the following categories:

- The Credit Institutions whose entire capital is held by private:
- The Credit Institutions whose capital is mixed;
- The Credit Institutions in whose entire capital is held by the state,

This list and the amendments which it is subject are published Official Journal annually.

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CHAPTER II: PROTECTION

Article 19:

No other company Credit Institution may not:

- Carry out banking operations habitually;
- Receive public funds in order to fixed term or notice;
- Take advantage of his quality Credit Institution, or create the appearance of this quality in particular by the use of terms such as bank, banker, savings and credit cooperative, savings bank, finance company, institution specialized financial, use expressions believing that it is authorized as a credit institution.

It is prohibited for an Establishment Credit to perform operations not authorized for its category,

Article 20

Without prejudice

Special applicable to them, the prohibitions set out in Article 19 do not apply to companies, organizations, individuals and departments listed in Articles 4 and 5.

The ban on credit operations do not apply to:

- 1°, non-profit organizations as part of their mission and for social reasons, grant their own resources, loans on preferential terms to some of their members;
- 2, to organizations that exclusively ancillary activity to their manufacturer or service provider, agree to individuals accessing the property, the deferred payment price

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homes purchased or subscribed by

therebetween; 3, to companies that agree to their employees, for social reasons, salary advances or loans exceptionally.

Article 2 1:

The prohibitions set out in Article 19 are not obstacle that a natural or legal person may:

- 1, in the exercise of their professional activities, grants its contracting partners deferred or advance payments;
2. enter into property lease agreements with an option

purchasing; 3. carry out operations

cash with companies

with effect, directly or

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indirect capital links ...

giving one of the affiliated companies effective control of power over others;

4. issue securities and bonds or short-term notes traded on a regulated market;

5. issue bonds and cards issued by purchasing from it, a good or a particular service.

CHAPTER Iij: WITHDRAWAL OF APPROVAL

Article 22:

The withdrawal of approval is pronounced by the Central Bank when the Credit Institution:

- Renounces the authorization;

- No longer meets the

which the approval conditional;

its terms

- Has not started operations within twelve months of the approval:

- Has ceased its activity since

at least six months.

Withdrawal of approval may also be pronounced for infringement of the provisions of this Act and its implementing measures.

Article 23:

Else withdrawal of authorization entails the delisting of Credit Institutions,

Radiation automatically entails dissolution of the Credit Institution,

The withdrawal of authorization shall be notified to the Credit Institution concerned and published in the Official Gazette and in at least one of the principal organs of the national press.

All Etablissement Credit whose approval has been withdrawn into liquidation.

Title III:

RULES OF CREDIT INSTITUTIONS

Article 24:

The own funds of Credit Institutions, as defined by regulation by the Central Bank may at any time fall below the minimum capital which time the matter under Article 11

Article 25:

Under the conditions set by the Central Bank, the Credit Institutions must respect

management standards intended in particular to ensure their liquidity and solvency in respect of applicants and third parties, as well as the balance of their structure financial.

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They are required in particular to respect coverage ratios and risk division.

Article 26:

The Credit Institutions may, under the conditions and simites defined by the Central Bank, take or hold interests in existing or new undertakings,

Article 27:

The Credit Institutions may grant, within the limits and conditions defined by the Central Bank, credits or guarantees to persons involved in the management, administration or operation, or stand surety for them for a total amount greater than 20% of their capital.

It is the same with regard to the companies in which the above mentioned persons or Credit Institutions themselves détierinent any interest.

Article 28:

It is forbidden for Credit Institutions to use the money and valuables they have to exercise, directly or indirectly, interested in influencing public opinion.

This prohibition does not apply to regular commercial advertising.

The Credit Institutions hold a consistent and detailed accounting of their advertising costs and any payments or grants and other donations.

Article 29:

Are subject to the prior approval of the Central Bank:

at)

any amendment to the articles of a credit institution;

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b) any merger or absorption interesting 詎 鲨 1 Credit Institution;

c) any transaction making

participation, exchange of securities or any other transaction which would focus directly or indirectly for the benefit of one person or company at least 20% of the voting rights of Credit Institution;

d) any transfer by a credit institution, of all or, within the limits set by the Central Bank of part of its assets,

its customers or its business;

any acquisition by a Credit Institution, shares in a foreign company; f) any investment transaction - on "securities - Engis - or guaranteed by a foreign state, an international organization Gu a foreign company; the opening, transfer or closing of a branch or agency of the Credit Institution in the country or abroad.

Permission is granted within ninety days of the date stated on the receipt issued by the Central Bank. If no decision on expiry of that period is authorized.

Article 3 {};

When la situation of a credit institution requires, the Central Bank may invite its shareholders sui bring the necessary support.

She further appeal to all Credit Institutions to

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determine with them the necessary measures to protect the interests of depositors and third, the proper functioning of the financial system and the preservation of the renowned instead.

To this end, the Central Bank and Credit Institutions resort including deposit protection system which is referred to in Article 74 of this Law.

PART IV:

RULES FOR ANNUAL AUXCOMPTES

Article 31:

The Credit Institutions are required before any decision assignment of their net income by the General Assembly to include each year to a legal reserve account an amount at least equal to 10% of credit side their income statement, net of one schedular tax on income.

This obligation is suspended when the balance of the legal reserve account reaches the amount of paid up capital.

Article 32:

No credit institution can not advertise or offer a dividend payment as expenses of first establishment, teiles that organization expenses, share placement commissions, brokerage, losses and any capital expenditures that would not have to the acquisition consideration for realizable assets have not been written or as its capital is reduced by losses.

Article 33:

The Credit Institutions are required to submit to the Central Bank by 31 March each year, according to Law No. 7'6 / 020 of 16 July 1976 concerning the standardization of

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Zaire accounting and accounting rules, their summary tables as at 31 December of the previous year.

Article 34:

The Central Bank may require Credit Institutions in the forms and the rules it sets, all information or data it deems necessary for their advertising, their assets and liabilities, their summary tables,

The Central Bank may publish, in whole or in part, the information and data provided to it pursuant to the provisions of this Law, provided that such publication does not involve any disclosure of the specific business of a Credit Institution or their customers, unless the written consent of the Credit institution, that client and in general for all the parties concerned has been obtained beforehand.

The Central Bank requires Credit Institutions, the development and communication of any document analysis and control.

Article 35:

The Credit Institutions are required to file, before 15 June each year for publication in the official gazette and in one of the principal organs of the national press, their summary tables at December 31 of the previous year, in the forms prescribed by the accounting Act,

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TITLE V:

BODIES OF CONTROL

CHAPTER Ter; CENTRAL BANK OF CONGO

*Fe Section: General**Article 36:*

The Central Bank's responsibilities include:

1. issue Accreditation

Credit Institutions, their managers and auditors as well as authorizations or individual exemptions in

the limits set by the laws and regulations applicable to

Credit Institutions;

2. enact the applicable regulations

the Credit Institutions;

3. ensure compliance with the Credit Institutions, the iégales and regulations applicable to them;

4, consider the operating conditions Settlements

credit ;

5. ensure the quality of the financial position of Credit Institutions and respect of conduct of the profession;

6. 6. punish breaches with legal and regulatory provisions applicable to

Credit Institutions;

Article 37:

The Central Bank made regularly or whenever it deems necessary, make one or more

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persons authorized by elte for this purpose, control on the spot and on any Credit Institution to establish if it is healthy and if they respect the laws and regulations governing the activities and supervision of Credit Institutions ,

Articie 38:

The Credit Institutions are required to submit their cash, securities and portfolio securities and their books, records, accounts, receipts and other documents to the control of any person authorized for this purpose by the Central Bank, and to provide anyone making the controls all information and explanations that he deems necessary.

The inspectors of the Central Bank review documents and values referred to in paragraph précédentsans move.

Article 39:

When the Central Bank finds:

- The operations of a credit institution are conducted in a manner contrary to this Law, laws and regulations;
- The management structure of a Credit Institution, its administrative and accounting procedures or internal control have serious shortcomings;
- A Credit Institution refuses to submit to control or otherwise hinders this contrôie; and depending on the gravity of the facts, it can be:

send him a warning after putting its leaders to submit their explanations;

1)

2) send him an injunction particular to take, within a specified period all measures appropriate corrective;

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3) take any safeguard measure deemed necessary including the appointment for a period not exceeding six months, a Provisional Representative of the Central Bank;

appoints a full Administrator Provisional or Interim Manager at the head of the Credit Institution;

withdraw approval.

4)

5) Section 2: Provisional Representative

Article 40:

The Interim Representative of the Central Bank's essential mission is to ensure that managers of the Credit Institution pose acts likely to aggravate the general situation of the latter.

To this end:

- Attends, in an advisory capacity to the * - meetings of the Board of Directors

or any other body empowered to manage the credit institution to which he is delegated,

- It may suspend any decisions of the above bodies and in this case, report immediately to the Central Bank. If the suspension of the decision is not subject to confirmation by the Central Bank within eight days of the date of the decision in question, the latter becomes automatically enforceable;

- It ensures the implementation of the program defined by the Central Bank and which the credit institution concerned is subject. At the end of his mission, it presents a report to the Central Bank stating the results of the execution of this program.

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Section 3: Provisional Administrator

Provisional manager

Article 41:

When the affairs of the Credit Institution are conducted so as to compromise its solvency, the interests of investors and those of shareholders, partners or members, the Central Bank may ex officio or at the request of shareholders, partners or members, appoint the head of the Credit institution, a Provisional Administrator or a Provisional Manager.

Article 42:

The decision ordering the establishment of a Credit under the management of a Provisional Administrator or a Provisional Manager shall be published by the Central Bank in the Official Gazette and in a newspaper of general circulation.

It is also displayed in the Establishment of Credit and making the measurement,

The Establishment of Credit under the management of a Provisional Administrator or a Provisional Manager shall have 10 days, from the date of the planned review of the display to the previous Alimea to introduce with the High Court of the spring an action for annulment

against that decision.

This appeal does not suspend the execution of the contested decision.

Article 43:

The Provisional Administrator or the Interim Manager's essential mission:

- Ensure good management
the Credit Institution;
- Develop a recovery plan
- Propose possible liquidation of the Credit Institution.

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The appointment of a Provisional Administrator or a Provisional Manager has
divests himself Council
Administration of the Establishment
Credit its management powers.

In fulfilling its

mission, the Provisional Administrator has the most extensive powers to manage the Credit Institution. He has the power to continue or discontinue the operations to cease or the limiter commitments to employ staff and to conduct any action or proceeding to laquelle Credit l'Etablissement could be part.

Article 44:

No prescription runs against claims and legal actions of a Credit Etablissement put under the management of a Provisional Administrator or a Provisional Manager.

Article 45:

The assets of a credit institution under the management of a Provisional Administrator or a Provisional Manager can not be executed,

However, the Tribunal may allow up to 1% of paid up capital, the execution of these assets of any present judicial decision before it takes effect designation decision by the Provisional Administrator or Temporary Manager.

Article 46:

The Central Bank may, at any time to terminate the mission of a Provisional Administrator or a Provisional Manager,

Except in cases of force majeure or for any other duly substantiated reason, the mission of a Provisional Administrator shall end three months after his appointment if, in the meantime, it has not filed

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a recovery plan or proposed liquidation of the credit institution concerned,

Section 4; Recovery plan.

Article 47:

The recovery plan is developed by the Provisional Administrator Provisional Manager or with the support of all stakeholders.

HI is Central.

Article 48:

The recovery plan is executed by the Provisional Administrator, the Interim Manager or any agent appointed for this purpose by the Central Bank.

approved by the Bank

The duration of the recovery plan is fixed by the Central Bank on the proposal of the Provisional Administrator or Temporary Manager.

During the implementation period, yaws redressement, y modifications can be made by the Provisional Administrator, the Interim Manager or agent responsible for its implementation, subject to the prior approval of the Central Bank.

CHAPTER JI: STATUTORY

EOMPTES

Article 49:

The General Meeting of shareholders, partners or sociétaites of each credit institution is required to designate as Auditor or two individuals, a corporation among those approved by the Central Bank.

The conditions of approval are:

1. for individuals

- Have Congolese nationality;

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- Be resident in the Republic

Democratic of Congo;

- Exercise independent professional activity in the field of accounting control;

- Be affiliated with an organization

recognized professional. 2. for legal persons

- Being congolais law and capital held by the majority of the Congolese; - Be managed by the National; - Exercise independent professional activity in the field of accounting control;

- Be affiliated with an organization

recognized professional.

Article 50:

The term of office of the auditors shall be three years renewable.

Except in the case of resignation, it can be terminated early at

- Term of a commissioner by order or - "

authorization of the Central Bank for reasons of incompetence or immorality,

Article 51:

If the Central Bank is opposed to the appointment of a Commissioner or if terminated its mandate in one of the circumstances referred to in Article 50 Credit l'Etablissement has a period of ninety -Ten days from the date of receipt of the decision of the Central Bank opposing the designation or ending the auditor, or ia date the Commissioner term ended, to

appoint a new Commissioner in accordance with Article 50.

If a credit institution fails to designate its statutory accounts in accordance with the provisions of Articles 53 and 54, the central Bank conducts a designation of office.

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Article 52:

The remuneration of commissioners, whether appointed by the General Assembly or the Central Bank, is the responsibility of the Credit Institution to which they are attached,

The amount of compensation is set by the agreement Credit Institution with the Central Bank to commissioners appointed by the General Meeting of Shareholders and the Central Bank to commissioners appointed by it.

Apart from this remuneration, it can not be granted to them any direct or indirect advantage in any form whatsoever,

Article 53:

No one can be the External Auditor with a Credit Institution:

1. if it is in one case

provided for in Article 15; 2. If he has or acquires other than as a depositor, any interest in the establishment of Credit or has exercised or exercises another function such as to his independence into question.

Article 54:

The auditors can not guarantee, directly OLL

indirectly, the successful completion of issuances of securities which are loaded Credit Institutions with which they perform their duties.

Article 55:

The auditors Sournetterit annually to the Assembly

General shareholders a report on the annual accounts of the Credit Institution in accordance with professional standards. A copy of this report is communicated to the Central Bank.

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TITLE VI:

DISSOLUTION AND LIQUIDATION

CHAPTER TER: GENERAL

Article 56:

È dissolution of a Credit Institution may be voluntary or forced,

Dissolution is called voluntary when it is decided by the General Meeting of shareholders, partners or members of the Credit Institution. It is acquired only if adopted by two thirds of the shareholders, partners or members having the right to vote and representing at least half the capital social.

Dissolution is called forced when performed by the Central Bank or the Judicial Authority.

Article 57:

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The Credit Institution is dissolved

deemed to exist for its liquidation.

It can not undertake new operations, but can do everything is clean to conduct liquidation så successfully.

During the liquidation the Credit Institution remains under the control of the Central Bank.

It can refer to its quality of Credit Institution in stating that it is in liquidation.

Article 58:

Actions underway against Etablissements Credit liquidated on the day of dissolution and its liquidation is finalized.

The dissolution stops against creditors during the Credit Institution interests of any debt. It does not cause an event of default.

Article 59:

Except as otherwise provided in this Law, the liquidation of a Credit Institution dissolved by decision of the General Meeting of shareholders, partners or members be made according to common law.

Article 60:

liquidation the Credit Institutions having been forced dissolution is carried out in accordance with Articles 62-72.

CHAPTER: The liquidator AND LIQUIDATION OF OPERATIONS

Article 61:

In case of voluntary dissolution of a Credit Institution, the liquidators appointed by the General Meeting of shareholders, partners or members, subject to the prior approval of the Central Bank ... "-----

The liquidators appointed by the General Assembly are subject to the control of the Central Bank and are subject to disciplinary sanctions under the provisions of Article 77.

The Central Bank may also remove from office any liquidator appointed by the General Meeting which is not shown, in liquidation, competence and experience work necessary to accomplish its mission.

In this case, she asks

General Assembly to replace him or proceeds, if any, to a designation of office,

Article 62:

The Central Bank may appoint a liquidator to the Credit Institutions whose approval has been withdrawn

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accordance with Articles 22, 39 and 77 as well as from companies that illegally exercising the activity defined in Article 1 or violate any of the prohibitions set out in Article 19

Article 63:

Within thirty days from his appointment, the liquidator sends letter to any depositor, creditor and any person with a title of a law on funds or assets held or held by the Credit Etablissement, notice of liquidation conternant [the GUS information that the Central Bank may prescribe.

The opinion was also visibly displayed on the premises of every office and branch of the Credit Institution and is the subject of any other measure of advertising that can prescribe the Central Bank.

Article 64:

inadmissibility, make claims on the Establishment of Credit with the liquidator or agent thereof, within two months from the posting of the notice specified in Article 63,

An additional period of two months is known to creditors not resident in the Democratic Republic of Congo.

Article 65:

The creditors claim from the liquidator of the Credit Institution or its agents the amount of their claims with a production slip coated with an accredited signed with the Credit Institution and showing the amounts claimed and, if appropriate , the documents submitted.

Article 66:

The liquidator performs the verification of claims and establish the order of receivables

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within four months following the last day specified in the notice under section 64 for the registration of claims.

If there is dispute all or part of a claim, the liquidator shall notify the creditor by registered letter with acknowledgment of receipt and invite him to provide any written or verbal explanations within a period of thirty days from the reception.

Article 67:

After verifying claims and review of the claims, the liquidator shall, within the period provided in Article 66, a statement these claims verified and arrested.

The liquidator wide dissemination of this statement before going forward for approval to the Central Bank.

The creditor whose claim was rejected partly or wholly may refer the matter within ten days of publication of the statement, the Présidetit the High Court of the headquarters of the liquidation Credit Institution and statue by order after debate.

Article 68:

recovery operations receivables of the Credit Institution are performed by the liquidator or agents, they are made by agreement or by any legal means,

Article 69:

Treasury privilege for scheduler contributions on income is granted to the Central Bank.

This privilege is exercised for the recovery of debts exigibies Credit Institutions whose forced dissolution was decided under the provisions of Article 56 paragraph 3.

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This privilege is exercised also for the recovery of debts due to recovery in credit Etablissements under Articles 47 and 48. -

The exercise of this privilege conditions are defined by Decree, Article 7 }

The achievements of tangible and incorporeis assets are performed by the liquidator or agents by sale to amicably or auction,

The product of these achievements is used to discharge, after deduction of liquidation expenses, debts telia given in the statement of claims verified and arrested.

Article 7H:

The liquidator realizes mensuellement to the Central Bank of the previous month's accomplishments and those it expects to initiate during the following month.

The liquidator establishes each month

the attention of the Central Bank, an activity report tracing the operations of the past month.

Article 72:

A liquidation of the closing balance sheet is drawn up by the liquidator and submitted for voluntary dissolution, the General Meeting of shareholders, partners or shareholders to obtain the discharge.

The closing balance sheet of the liquidation of an institution that has been a forced dissolution is sent to the Central Bank for approval. The closing of the liquidation shall be published in the Official Gazette and in at least one of the principal organs of the national press,

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TITLE VII:

Allow us to observe BETWEEN CREDIT INSTITUTIONS AND THEIR CUSTOMERS

Chapter I: professional secrecy

Article 73:

Any person who, in any capacity, or has been involved in the management or control of a credit institution is bound by professional secrecy under pain of sanctions under Article 73 of the Congolese Penal Code, Book II.

Apart from the cases provided by law, professional secrecy can not be opposed neither the Central Bank nor the judicial authority acting within the framework of criminal proceedings.

CHAPTER II: PROTECTION SYSTEM. DEPOSITS

Article 74:

The Central Bank may establish one or more deposits of protective systems which the Credit Institutions are required to join and the organization and financing shall be laid down by regulations.

CHAPTER II: PREVENTION MEASURES

Article 75:

Under conditions determined by the Central Bank, the Credit Institutions are required to declare:

1. monies recorded in books and appear iours

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derive from drug trafficking or other criminal activity; 2. transactions that relate to amounts of money that appear to come from drug trafficking or other criminal activities.

Article 76:

In order to better protect the public and the financial system savings, the Central Bank may, at any time or at the request of Credit Institutions, take protective measures, including blacklisting, in against the natural or legal persons that maintain outstanding, issue bad checks or violate the provisions on regulatory changes.

The blacklisting implies the suspension or prohibition for the benefit of services and facilities to all Credit Institutions. It can be published in the conditions set by the Central Bank.

TITLE HIV:

SANCTIONS

Chapter I: ADMINISTRATIVE SANCTIONS AND DISCIPLINARY

Article 77:

If a Credit Institution violates any law or regulation relating to its business, does not comply with an order or does not take account of a warning, the Central Bank may impose one of the following disciplinary sanctions:

1. warning;
2. blame;
- 3, the prohibition of certain operations or activities;
- 87
4. the suspension or resignation of responsible leaders;
5. revocation of or Auditors;
6. withdrawal of approval.

Article 78:

Without prejudice to the provisions of Articles 39 and 77, the Central Bank may fix a credit Institution a deadline by which it must:

- a) comply with certain provisions of this Act or regulations made pursuant thereto
- b) make the adjustments set on its organization and functioning.

Failing this, the credit institution concerned is liable to an administrative fine at the rate set by the Central Bank - - - - -

CHAPTER I: PENALTY PAYMENTS

Article 79:

The Credit Institutions not meeting the ratios set by the Central Bank are liable to a penalty at the rate fixed by regulation.

The fines shall be paid to the Central Bank to the Treasury account.

CHAPTER III: PENALTIES

\$ {Item}

Is punishable by penal servitude of one month to one year and a fine of 50,000 to 500,000 Congolese Francs or one of these penalties:

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1. any person who, directly or in his capacity as director or officer of a Credit Institution, contravenes the provisions of l'article 29;

2. Any person who violates the provisions of Articles i, 15, 19,75

3. 87 and any person who, directly or indirectly in the administration, management, control or management of a credit institution: impedes the mission persons authorized by the Central Bank to carry out an inspection provided for in Articles 37 and 38; impedes the mission of the Provisional Representative under Article 39;

b)

Central or persons authorized by it of knowingly inaccurate information or incomplete;

4. any person who, participant administration, the management, control or management of a credit institution, contravenes the provisions of Articles 15, 27, 53 and 54;

5. Any person who refuses to submit its books, accounts and records to the review of the Bank

Central accordance U X Article 34. Article 81:

The Credit Institutions are legally responsible sentences the fine imposed under the provisions of Articles 80 and 85 against any

who participates directly or

communicates to the public at the Bank

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indirectly, their administration, management or control,

However, the civil liability of Credit Institutions does not play regarding directors, interim managers and representatives and the auditors appointed by the Central Bank

Article 82:

Any information relating to an offense under this Act shall be notified to the Central Bank by the judicial or administrative authority dealing with the case.

Article 83:

The courts seized in connection with offenses under this Act may, in any case, require the Central Bank any relevant advice and information.

In applying the provisions of

this Law, the central bank can

a civil party. Article 84:

The Central Bank is authorized to transact and set itself the conditions of the transaction for offenses committed in violation of the provisions of this Act.

The transaction accepted by the prosecution off public action even in regard to penal servitude sentences.

Article 85:

Without prejudice to articles 79 and 80 above, any offense committed in violation of the provisions of this Act is liable to a fine of 300,000 to 3,000,000 Congolese francs,

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X TITLE: ORGANISATION OF PROFESSION

Article 86:

All Establishing credit is required to join the Professionnelse Association of Credit Institutions of the category to which it belongs.

The latter is:

- Representing the collective interests of its members with public authorities; - Information of its members and

public; - The study of any matter of common interest and the development of recommendations related to, if necessary, to foster cooperation between networks; - Organization and management

services of common interest.

Its statutes are subject to the approval of the Central Bank.

Title X:

PROVISIONS

Article 87:

Any person, agent or not of a foreign credit institution that habitually without exercise within the territory of the Democratic Republic of Congo one of the activities referred to in Article 1 of this law is that Credit Institution in the territory of the Democratic Republic of Congo and wants to undertake any activity on behalf or in favor of this Etablissergent of credit on the same territory, must be expressly authorized by the Central Bank for this activity or representation.

This authorization, which is in no case transmitted, is set at a time

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to suspend all operations and mjörgent

not exceeding one year. Permission is renouveiable and can be canceled at any time by the Central Bank if its holder exceeds the limits.

Article 88:

When there are indications that a company not listed on the list of Credit Institutions performs the operations provided for in Article 1 of this Act, the Central Bank may examine the books and records of accounts and determine if this company has contravened or is contravening the provisions of this Act.

{Refusal to submit its books, accounts and records for the consideration of the Central Bank, is a suspected breach of the provisions of this Act,

Article 89:

The President of the Republic, on a reasoned recommendation from the Council of the Central Bank may, by Order,

Credit Institutions operating in the territory of the Republic for a period not exceeding five working days, which period may be extended once for a further period not exceeding five working days.

Article 9 }

Outside of public holidays and days of general closure, days and hours of public access to Credit Institutions are fixed by them in agreement with the Central Bank.

Article 9 f:

The Central Bank collects from each Credit Institution control costs.

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TITLE XI:

Transitional provisions and

fnals

Article 92:

The Credit Institutions which already are operating in the territory of the Republic at the time of entry into force of this Act are considered and approved automatically enrolled on the list of Credit Institutions.

9s)

Its have a period of one year from the entry into force of this Act to comply with its provisions.

Article 93:

This Act repeals all previous provisions contrary to it and enter into force on the date of its promulgation,

Done at Kinshasa, 1 February 2, 2002

Major General Joseph Kabila

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LAW N ° 005/2002 DU 07 MAI 2002 ON THE CONSTITUTION, THE ORGANIZATION AND OPERATION OF THE CENTRAL BANK OF CONGO

EXPLANATORY STATEMENT

The national economy is now at a turning point for his recovery. The political will of the Government to translate into action its economic decisions, increased confidence manifested in internal and external partners are major assets for the economic future of the country,

In this context, the Central Bank of Congo will play an essential role in monetary terms. Also, the laws that govern it to date, Legislative Ordinance No. 93-002 of 28 September 1993 on the establishment and organization of the Bank of Zaire and Legislative Decree No. 87 of January 21, 1999 on the organization and functioning of the Bank

Central Congo, they require

profound adaptation to changing nationaie and international economic situation. The Bank missions should be refocused emphasis on banking principles to promote the integration of the country in international and regional economic communities.

It is within the objectives defined by the new economic policy of the Government and the need for the establishment of a healthy monetary public policy which should be placed under this Act on the establishment, organization and operation of the Central Bank of Congo.

Focuses on four tracks, this Act has as main objective to guarantee the Democratic Republic of Congo, through its Central Bank monetary policy with a global backdrop of seeking national prosperity.

The first title sets out provisions on the independence of the Central Bank. It clarifies and expands its mission by providing the appropriate legal means. This independence is especially located in the formulation and implementation of monetary policy in order to stabilize the main purpose of the general level of domestic prices. The stability of the general price level is likely in turn to strengthen public confidence in the currency nationaie.

This independence does not call into question the principle of the scheduling center of

uniqueness recognized the Ministry of Finance in accordance with the financial law, the General Regulations on Public Accounts and the Convention

Cashier of the State nor the visa exigence

obtained from the Department of Budget established by the various budget laws

In other words, in performing its function of cashier of the State, the Central Bank can not perform any expenditure of the State which is previously decided by the Government, referred by the Department of Budget and sequenced by the Ministry of Finance.

The second title determines SEZ organs of the Central Bank as well as their mode of operation. The law puts er: up three bodies, namely:

- The Board of the Bank, organ

Supreme Body;

- The Governor servicer;

- The Board of Statutory

Accounts.

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Moreover, the law specifies the procedure for appointing the leaders of these órganos.

They are appointed by the President of the Republic.

The term of office provided for facilitators is to:

- 5 years, renewable once for

Governor;

- 4 years, renewable once for

Vice Governor,

- 3 years renewable for other

members.

In view of the independence of the Central Bank, the present law differs completely Ordinance No. 93-002 yourself of 28 September 1993 on the establishment and organization of the Bank of Zaire and Decree No. j up 87 of 21 January 1999 on the organization and operation of the Central Bank of Congo, especially by the absence of

Members of the Government in the. -

Board of the Central Bank.

In the interests of transparency, the law requires the transmission of reports of the Statutory Auditors 31 :: U X LE Government. It also directs the annual publication of accounts certified by the Central Bank in the Official Journal.

This Act also provides that a law sets the rules for keeping the accounts of the Central Bank, while stipulating that such provisions must comply with accounting standards national and international.

In addition, the current faith requires that the benefits resulting from the withdrawal from circulation of banknotes are excluded from the account of the Bank's results; they should be allocated, after consultation with the Minister having Finance in its attributions, to cover the cost of production of banknotes,

The third title defines the relationship between the Central Bank and the Government. The Central Bank has relationships with the Government, especially through the channel of the Ministry having Finance in its attributions,

In this context, the Central Bank is expected to:

- Provide any useful information

carrying out economic, monetary financial and - Complete Banker functions of the State, Government Counsellor *登嵐* material

economic, monetary and financial, and the State Cashier under an agreement to be concluded with the Ministry having Finance in its attributions.

Still in the context of relations with the Government, the law prohibits the Central Bank to grant advances to the Treasury, if required, the Government must "go to the market like any trader. The issuing bank can now process credit with financial institutions.

Finally, in its fourth title, entitled "Transitional and Final Provisions", the law provides that the Central Bank for a period of one year, from the date of entry into force of this Act, may, under certain conditions, grant to the state of direct advances to enable it to cope with fluctuations in its ordinary revenue.

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€ t Constituent Assembly Legislative Transitional Parliament adopted:

The President of the Republic promulgates the law which reads as follows:

TITLE I:

CONSTITUTION

CHAPTER I: Name AND SEAT

Article "?:

The Central Bank of Congo, "BCC" in acronym, hereinafter referred to as "the Bank", is an institution under public law, with legal personality. It is governed by the provisions of this Act.

Article 2:

The Head Office of the Bank is established

In urgent cases and in accordance with Article 18 of this Act, the Bank may temporarily transfer its seat at all

other place.

The Bank may establish and abolish the seats of activities in the localities of the national territory and, if necessary, abroad.

CHAPTER H: MAIN OBJECTIVE, legal status and CAPITAL

Article 3:

The Bank is responsible for defining and implementing the monetary policy of the country whose main objective is to ensure the stability of the general price level.

The Bank is independent in achieving this goal. To this end, the Bank, through its Council, in the person of the Governor or any member

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its decision-making bodies, should be no act likely to alienate that independence.

Without prejudice to the primary objective of stability of general price level, the Bank supports the general economic policy of the Government.

Article 4:

The Bank has the capacity to contract, to compromise, to compromise, to courts, to acquire property and to dispose of.

The Bank, its assets, property, income, and the operations and transactions authorized by this Act shall be exempt from all taxes, duties and taxes imposed by the Government and by provincial or local authorities.

Article 5:

Capital The Bank is wholly owned by the Congolese State. A law his height and the terms of its- increase or a decrease.

CHAPTER III: RESPONSIBILITIES, operations and other activities

Article 6:

Without prejudice to the objective of stable general price level set out in Article 3, the Bank performs all the Central Bank of missions, including:

- Ensure internal and external stability has of the national currency;
- Hold and manage the official reserves of the Republic;
- Promote the proper functioning of settlement systems and payment; - Develop regulations and control of Etablissements Credit institutions Micro Finance and other financial intermediaries;

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- Enact the standards and regulations for operations on foreign exchange;
- Participate in the negotiation of any international agreement involving payment terms and the implementation thereof;
- Promote the development of money markets and capital.

Article 7:

The Bank has the sole authority on the national territory, to issue banknotes and coins legal tender.

Banknotes and coins legal tender are denominated in the currency of the Democratic Republic of Congo, ie Franc Congolais or its subunits.

The Bank may, by notice published in the Official Journal norri in the Democratic Republic of Congo and other high-circulation publications, declare that certain cuts or parts cease to be legal tender from a stated date.

The Bank remains bound to ensure, within three years, the exchange at its counters against other denominations or legal tender coins.

Notwithstanding section 658 of Book III of Title XII of the Congolese Civil Code, the right

to claim does not apply to banknotes and coins legal tender in the territory of the Democratic Republic of Congo, where the owner is sincerity.

Any other provision relating to securities lost or stolen bearer is not applicable to plus legal tender banknotes.

Article 8:

To achieve its objectives to accomplish its tasks, the Bank may
and

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- Operate in the capital markets, including buying and selling outright, taking and ITElta; ## CIL board, by lending or borrowing claims and marketable securities denominated in foreign currencies or national, as well as precious metals;

- Conduct credit operations with Credit Institutions and other stakeholders of the money markets or capital on the basis of adequate collateral for loans.

Article 9:

The Bank may also perform including the following:

- Issue and redeem its own shares

loans; - Take deposits of securities and precious metals, undertake the collection of securities and act on behalf of others in the trading of securities, other financial instruments and precious metals; - Conduct investment operations and financial management of its holdings of foreign currencies and of other external reserve elements; - Obtaining credit abroad and this

end give guarantees.

Article! ():

The Bank shall implement the international monetary cooperation agreements concluded by the Democratic Republic of Congo, in accordance with conditions determined by agreements signed between it and the Ministry having Finance in its attributions. It provides and receives payment and credits required for the implementation of these agreements.

The State shall guarantee the Bank against any loss and guarantees repayment of any credit granted by the Bank following

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the execution of agreements or participation in agreements or international monetary cooperation operations which, subject to approval of the Government, the Bank is a party.

Article II:

The Bank may, with the agreement of the state, on conditions determined by agreement or under the faith and subject to their compatibility with its main task of maintaining stability of the general price level, be responsible for the execution of public tasks.

At the request of the State or with its

Agreement, the Bank may provide services on behalf of one or third parties, these benefits are

paid to cover the costs incurred by the Bank.

Article 12:

The Bank may, in addition, be responsible for collecte statistical information following

the implementation of agreements or participation in agreements or international co-operation relating to any task under section 11. And 11.

Article 13:

The Bank may carry out all transactions and provide all the services incidental to the missions referred to in Article 1.

Article 14:

The Bank may entrust the performance side missions entrusted to it or which it takes the initiative to one or more distinct legal entities specially set up for this purpose and controlled by it. In this case, the direction is provided by one or more frames of the Bank.

These entities are subject to review by the Court of Auditors.

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When the task is entrusted by law to the Bank, it sticks informed the Government,

Article 15:

The Bank may establish in its books of accounts:

- The Treasury; - Foreign central banks;
- The Credit Institutions domestic and foreign;
- International financial organizations and international organizations;
- Any other body specifically authorized.

Article 16:

It is prohibited for the Bank:

- Ask commercial acts not apparent from its object;
- Acquire stakes in commercial companies;
- To accept the shares of guaranteed commercial companies;
- Grant loans and advances not covered by appropriate security,
- To guarantee the debts and obligations of the state, political subdivisions and public companies or organizations;
- To acquire properties that are not intended to meet its operating needs,

3 {} II L T 3

TITLE II ;

AND THE ORGANISATION [Di] OPERATION

CHAPTER 1: BODIES

Article 17:

The bodies of the Bank are:

- The Bank's Board; - the governor;

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- The Board of Statutory

accounts.

Section 1 " : Council of the Bank

Article 18:

The Board of the Bank, hereinafter referred to as "the Council", is the supreme body that has the powers to design, guide the policy of the Bank and control management.

Without prejudice to other provisions of this Act, the Council takes any action affecting the Bank include:

- The definition and implementation of

Monetary Policy ; - Regulation of credit and

exchange; - The possible transfer of the registered office

Bank anywhere; - The establishment or abolition of provincial departments and agencies; - Approving the budget and

the preparation of financial statements; .

- The definition of the status of workers, particularly working conditions and the length of service of all staff members.

Article 19:

The Board takes the actions he deems necessary for the proper performance of the main task and secondary tasks entrusted to the Central Bank of Congo by this Act.

The competent courts hear disputes relating to actions taken by the Bank in the context of achieving the main objective defined in Article 3 or in carrying out the tasks entrusted to it under the provisions of this Act.

Article 20:

The Board consists of seven members;

ie Governor, the Deputy Governor, five Directors experts.

;

called

Council members must enjoy a recognized moral integrity. They are chosen for their competence, qualification and professional experience in economic, monetary and financial.

Article 21:

The Governor and the Deputy Governor are appointed by the President of the Republic.

The mandate of the Governor of five years renewable once, that of Vicegouverneur is four years renewable once.

They are relieved of their duties following the same procedure, if they no longer fulfill the conditions for} exercise of their duties or if they

matic seriously the obligations of their "

fillers,

The President of the Republic shall appoint, for a term of three renewable aris, the five experts including the Director of the Treasury, the other four, on a proposal from lists of three names submitted by ie Governor respectively, Parliament, academia and the Patronage ,

The experts question the previous Alimea are removed from office by the President of the Republic on the proposal of the Government, if they fulfill the conditions necessary for the exercise of their duties or if they have committed a serious misconduct.

The Supreme Court of Justice knows only offenses committed by members of the Council: in the exercise of their functions. They are indicted by the President of the Republic, under the conditions and following the procedures provided,

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for members of the Government, by Articles 101 and following of the Ordinance-Law No. 82-017 of 31 March 1982 on the procedure before the Supreme Court of Justice,

Article 22:

The Council is chaired by the Governor or, in the absence or incapacity of the latter, by the Vicegouverneur.

Article 23:

The Governor shall convene the Board at least quarterly.

At the reasoned request of two members of the Board, the Governor shall convene the Council within five days.

Five members of the Board constitute a quorum. However, no meeting can be validly held without the presence of the Governor or, in the absence or prevention thereof, of. Vicer.

Governor.

Article 24:

The Council decisions are taken by absolute majority of members present. In case of equality of votes, the Chairman has the casting vote.

Article 25:

The Council may require technical advice from any person or Organisme that may provide expertise or assistance on an item on the agenda of its meetings.

As such, the expert or the organization invited the representative may participate in an advisory capacity in meetings of the Council at which the matter is l'examen.

Article 26:

In emergency cases defined in the rules of procedure provided for in Article 28 and

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which do not permit the convening of meetings, the Governor, after consultation of at least two members of the Council may take any action pursuant to the authority of the Council and provisionally suspend any prior act of the

This.

When a measure was adopted following the provisions of Alimea above, the Governor must convene within five days of the Council meeting to explain the actions and justify the abandonment of normal procedures. The Council ratifies, modify or rescind the action so taken.

Article 27:

Board members receive attendance fees and, if appropriate, a travel allowance or other benefits determined by the President of the Republic on proposal of the Council, in accordance with market standards.

Article 28: ...-....-.....-.....-

Without prejudice to the provisions of Articles 22 to 27 above, the organization and functioning of the Council are established by its rules.

*Section it: Governor**Article 29:*

The Governor directs the Bank. Prepares and implements Council acts.

Article 3 {}

The Governor has all the necessary powers to ensure the ongoing management of the Bank.

H determines the guidelines of the management and supervision of its execution.

The Governor may, within the limits compatible with the main objective of the Bank under section 3 and respect the prerogatives of the organs of the

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Bank by this Act, entrust special powers to one or more agents. He shall define their duties, fees or any compensation,

Article 31:

The Governor represents the Bank in all dealings and relationships with third parties, including the Government and, as such, has the following powers:

sign single notes and securities issued by the Bank, annual reports, balance sheets and results of the training table

3-,

b-, sign alone or with others the contracts concluded by the Bank, correspondence and other Bank documents;

sign with the Statute of the Bank's agents, acts of engagement, promotion and dismissal of staff

represent the Bank in legal proceedings; .

delegate the powers conferred on it by the provisions of paragraphs b and d of this article to Bank staff;

é —.

He holds the Council regularly informed, at least once a quarter, the evolution of the monetary situation of the country and the movement of the Bank's balance sheet,

Without prejudice to the provisions of Articles 26, 29 and 30, it submits for approval to the Council projects actions it deems necessary \mathcal{A} accomplishing a mission and the Bank's policy,

Article 32:

In exercising its functions, the Governor is assisted by a Vice governor. He exercises the functions delegated to it by the Governor.

Section III: College of Auditors

In case of absence or incapacity of the Governor, the Deputy Governor replacing him.

Article 33:

In addition to the rights and benefits provided for in Article 27, the Governor and the Vicegouverneur receive a salary in the amount fixed by the President of the Republic on proposal of the Council.

Article 34:

The Governor and the Deputy Governor may not, during their term and for one year after the end of it, hold any office in a commercial company or a public body with an industrial, commercial or financial. Unless they accept another paid civil service and except in cases of dismissal for serious misconduct, they are entitled to their full salary during the year born after the end of their mandate.

*Comptes**Article 35:*

Control of the financial operations of the Bank is exercised by a panel of three auditors.

Article 36:

The auditors are appointed and, if necessary, removed from office by the President of the Republic on the proposal of the Minister having Finance in its attributions, the Council: the Ministers heard. Their term of office is two years, renewable once.

Article 37:

The Statutory Auditors have in college or separately, the right to audit all Bank management actions.

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In this regard, they have the right to audit the books, boxes, and values the portfolio of the Bank, to control the regularity and sincerity of inventories, to certify the annual report and the results of training table.

His ies may examine without moving, correspondence, minutes and generally all documents and all records of the Bank.

Article 38:

The College of Auditors shall submit to the President of the Republic, the Government and the Council of the Bank, in the form of reports, results of completed missions or requested by the Bank with proposals it deems necessary.

Article 39:

The Auditors

Bank receive the load compensation fixed by the Minister having Finance in his attributions.

*Section IV: Provisions common to**bodies of the Bank**Article 40:*

Notwithstanding the legal and regulatory provisions relating to the status of public

officers, no person shall be appointed member of an organ of the Bank:

- If he has been convicted of an offense under this Act, the law governing the activities and supervision of Credit Institutions or réglementation exchange;
- If he has been declared bankrupt and has not been discharged, even when the bankruptcy opened in a foreign country:
- He was convicted in the DRC or abroad as author or accomplice

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to attempt an offense

following:

- a) counterfeiting;
- b) counterfeiting or falsification of bank notes, treasury bills, shares, bonds, interest coupons;
- c) counterfeiting or falsification of seals, stamps, punches and frâquês;
- d) forgery and use of forgery;
- e) public official corruption
- or extortion;
- f) theft, extortion, embezzlement or breach of trust, fraud or
- rece
- g) bankruptcy, fictitious circulation
- commercial paper;
- h) NSF emission;
- i) money laundering;
- It took part in the administration, management or the ongoing management of a credit institution whose forced dissolution was ordered or whose bankruptcy was declared.

No person shall be appointed Governor of the Bank if he is not Congolese mother and father.

When the decision result which any of the prohibitions referred to in this section is subsequently revoked or invalidated ultimately ban ceases automatically.

Members of the Bank's organs should enjoy in their respective statutes of their civic rights and not to have been afflictive or infamous.

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Article 41:

The exercise of a mandate in a Bank's body is inconsistent with a legislative mandate, with a member of the quality of the Government or a body of provincial and local administrative entity, or with the quality of officer, director or representative of an authorized financial institution.

Article 42:

Council member who has an interest opposed to that of the Bank in a transaction subject to the Board's consideration is required to prevent the Council and not to take part in the deliberations on this issue. Participate in any vote in violation of this provision is considered hulle and void.

Any transaction or contract between the Bank and any other undertaking in which a

Board member directly or indirectly owns interests, carries a warrant or any function can be achieved on the authorization of the Board, the member concerned can not nor take part in the deliberations or vote. His absence will be cohosh the minutes.

Article 43:

Board members and the auditors have no personal obligation to the Bank's commitments.

CHAPTER If; STAFF

Article 44:

The Staff Regulations in particular determine the conditions of recruitment, grades, rules of advancement, compensation, benefits, disciplinary procedures, remedies, retired admission requirements and the related benefits .

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** Article 47: - - - - -*

CHAPTER Iii: SECRET

PROFESSIONAL

Article 45:

Members of the Bank's organs and members of its staff are subject to professional secrecy. They may not use confidential information for personal use subject to the sanctions provided for in Article 73 of the Congolese Penal Code Book I}.

Professional secrecy can not be opposed to the judicial authority acting in criminal proceedings.

CHAPTER IV: ORGANIZATION FİNANCJERE

Article 46:

The fiscal year of the Commerce Bank on 1 January and ends on 31 December each year,

The law establishes the rules for keeping the accounts of the Bank. These rules must be consistent with national and international accounting standards.

Article 48:

The Council approved on 15 December at the latest, on the proposal of the Governor, a state of forecast expenditure and revenue for the following year.

The Bank's budget is divided into operating budget and capital budget

For the modification of the entry concerning the operations of the investment budget, the Governor submits a new report forecasts the Council.

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Article 49:

Within three months following the close of each financial year, the Commission established after inventory:

- The budget implementation status, which has, under color: successive ties, forecasts and achievements;
- The results of the training table.

It establishes a report which provides all the information éléments on the activities of

the Bank during the exercise elapsed.

The inventory, balance sheet, results of the training table and the Board's report are made available to the Auditors, no later than April 5 of the year following the year to which they relate.

The same documents are transmitted, together with the report of the auditors, the Government and the Court of Auditors no later than 30 June of the same year,

Article 50;

Gross profits consist of operating revenues which are deducted from operating expenses. Net profits consist gross profits which are deducted the amount of depreciation and provisions. Provisions for bad and doubtful debts and extraordinary provisions are set by the Board.

Each fiscal year, sixty percent (60%) of the net profits are paid to the general reserve account and the balance credited to the General Account of the Treasury.

As soon as the account balance of the general reserve reaches an amount equal to the capital, and as long

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it remains at this level, profits

are distributed as follows:

- 20% of spéciale reserve account; - 80% to the General Account of the Treasury.

Article 51:

Profits and losses from changes in the value of the net assets of the Bank, gold and foreign currencies, following the change in the parity of the national currency unit or currency foreign, are excluded from the annual account of the results of training table,

Losses that issue in the first paragraph are the responsibility of the State. As for benefits, they will be enrolled in a special account called "revaluation account" and assigned to the amortization of debt vis-à-vis the State Bank. so will not be provided otherwise by a special agreement between the Bank and the Government.

The benefits resulting from the withdrawal of the

circulation banknotes are

assigned, by agreement of the Minister in

Finance shall, to the recovery of the stock of banknotes.

Article 52:

The State shall pay the net losses incurred by the Bank if at any time the general reserve account and the special reserve accounts are exhausted.

Article 53:

The balance sheet and the training table of results duly signed and certified first application of Articles 31 and 37 of this Act are annexed to the report on the Bank's operations during the year and published in the Official Gazette of the Republic ,

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TITLE HI:

REPORTS WITH POWERS PUBLICS

Article 54:

The Bank maintains relations with the Government, mainly through the Ministry having Finance in its attributions.

It communicates within this framework all relevant information on economic, monetary and financial questions.

Article 55:

The Bank meets the Banker functions of the State and of Government Advisor on economic, monetary and financial. It also fulfills the State Cashier function in accordance with an agreement with the Ministry having Finance in its attributions.

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- The Bank may perform the functions. .

Cashier decentralized administrative entities and public organizations under special agreements between the Bank on the one hand, and the entities and bodies concerned, on the other hand,

Article 56:

Pursuant to Article 55, the Bank:

- Accept and make payments on behalf of the state. Eile may, to this end, designate the Credit Institutions authorized to act on its behalf and for its account in the places where it is not represented; - Administers special account {State, in agreement with the Ministry concerned; - Assures the public debt; - Buys, sells, disburse, transfers, receives or holds to account

State all checks, bills of exchange, securities and other securities; - Perceive the product in principal and / or interest, from the sale of any value on behalf of the state or returning to the State as holder of values.

Article 57:

It is prohibited for the Bank to grant advances or any other type of credit l'Etat, its political subdivisions and agencies or public companies, the purchase directly from them by the Bank, instruments of their debt is also prohibited.

Paragraph! does not apply to publicly owned credit institutions which, in the context of the provision of liquidity by the Bank, receive the same treatment as private credit institutions.

Article 58:

*** As an advisor "dū

Government economic, monetary and financial, a bank may own motion or at the request of Gouvernerrent, give opinions or advice on any policy or measure which the Government intends to take.

To this end, the Governor takes part in an advisory capacity in meetings of the Government to which issues of an economic, financial or trionétaire are under investigation.

Article 59:

The Ministry having Finance in its attributions keeps the Bank informed of all external loans of # State projects.

The Ministry having Finance in its attributions and Bank shall consult together whenever the latter considers that these loans may undermine the effectiveness of monetary policy.

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Article 66):

The Bank shall, in the manner and on the terms agreed with the Ministry having Finance in its attributions, the balance of payments and international investment position of the Republic.

TITLE [V:

TRANSITIONAL AND fnals

Article 61:

For a period of one year from the entry into force of this Act, the Bank may grant to the state of direct advances to enable it to cope with fluctuations in its ordinary revenue, the amount of total advances shall not at any time exceed $\pm 5\%$ of the average tax revenue calculated based on the last three years. These direct advances may not, during the same fiscal year of the Bank, be granted for more than 300 days in total, consecutive or not.

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The Bank may also, during the period and under the conditions specified in paragraph 1 of this Article, acquire or dispose of the money market freely tradable bonds issued by the Treasury, in a year due to more from their date issue or accept collateral in advances granted by it to banks or authorized financial institutions. The volume of bills freely tradable Treasury held by the Bank pursuant to the provisions of this paragraph shall at no time exceed 20% of the average revenue collected by the state, calculated based on the last three fiscal years known.

Article 62:

This Act repeals all previous provisions contrary and is effective on the date of promulgation.

Done at Kinshasa, 07 May 2002

Major General Joseph Kabila

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LAW NO 04/016 OF 19 July 2004 CONCERNING FIGHT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING Dej

EXPLANATORY STATEMENT

Money laundering and terrorism are considered globally as the worst scourges inherited from the twentieth century, the first jeopardizing the economic and financial systems of States, the latter threatening international peace and security by the proliferation in various parts of the world, including terrorist acts motivated by intolerance and extremism.

These two scourges which were already the subject of concerns of all States, became the focal point of several international organizations including the United Nations (UN), the United Nations Program for Drug Control Crimes and Prevention (UNDCP), the Financial Action Task Force on Money laundering (FATF), which have developed legal instruments and made recommendations to boost a common future and imperatively coordinated response to this crime without borders

Furthermore, this awareness has manifested in several states through the development and implementation of legal frameworks and appropriate structures in order, firstly, to prevent the expansion of these phenomena and, Second, to achieve eradication.

The Democratic Republic of Congo could not be outdone,

Indeed, its geographic scope with nine neighboring countries, informality dominant economy, the predominance of paper money in transactions, under-administration of the

territory, compounded by the consequences of the war barely over, are a potential indubitable may constitute a breeding ground f1 (tafrli Herlt}. for bleaching.

Aware of these dangers, the authorities had arrested already in November 2002, a national strategy against corruption, money laundering and transnational organized crime. This struggle is still in its infancy.

Despite this initiative to the still modest results, it is obvious that at national level, the control objectives against money laundering and terrorist financing will not be effectively achieved without a proper legal basis.

This Act proposes to define a legal framework for the prevention, the detection and, if applicable, repression - acts constituting money laundering and terrorist financing. It is inspired, while respecting national realities, international legal and regulatory texts,

It has six titles respectively:

wearing

1. the general provisions;
2. prevention and detection of money laundering;
3. prevention and detection of routine financing of terrorism;
4. coercive measures;
- International Cooperation
6. The transitional provisions and finals.

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TITLE I:

GENERAL PROVISIONS

The first title deals with a part of the definition of money laundering offenses and the financing of terrorism, and secondly, terminology dedicated to the words and expressions used in this Act.

TITRE II:

PREVENTION AND DETECTION OF MONEY LAUNDERING

This title contains general provisions relating to the prevention of acts of money laundering offenses and those relating to detection.

Among the measures adopted for the prevention of the crime of money laundering, include in particular, set thresholds for cash transactions and due diligence in charge of credit institutions and other natural or legal persons liable.

Regarding the detection, the legislator establishes a Celluse Financial Intelligence, responsible for the collection, analysis and processing of suspicious transactions under the terms and conditions established by this Act,

TITLE III:

PREVENTION AND DETECTION OF TERRORIST FINANCING

The third title of this law on the fight against terrorist financing is articulated around some general provisions relating to the prevention and detection of acts of terrorism financing.

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It should be noted that this law only addresses specific issues related to terrorist financing and extends

therefore the phenomenon of "terrorism"

all its complexity.

Title IV:

COERCITIVE MEASURES

This title provides precautionary and punitive measures for both the money laundering offense and the financing of terrorism,

The precautionary measures include the seizure and get property or assets belonging to natural or legal persons involved as perpetrators, conspirators or accomplices of offenses under this Act.

Concerning repressive measures, there are three in number:

1. penal servitude that all offenses under this law covered, range from a minimum of two years to a maximum of twenty years;
2. criminal fine which varies depending on the offense concerned and according to the seriousness of the facts;
3. Confiscation of property considered instruments or products of the offenses under this Act.

TITLE V:

INTERNATIONAL COOPERATION

Money laundering and terrorist financing have in common transnational phenomenon of nature

requiring, therefore, close cooperation between States.

Without prejudice to agreements

existing cooperation, this Title

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addresses this concern by addressing issues relating to:

- 1, mutual assistance between the relevant departments of different States;
2. Extradition of Criminals

presumed guilty or sentenced for, as appropriate, to conduct investigations, to judge or let them serve sentences imposed on them.

Title VI:

TRANSITIONAL AND FINAL

Under the transitional provisions, the Act provides for the start of the Financial Intelligence Unit of activities within six months after its promulgation.

It also determines the Authorities responsible for its execution. - - - - -

Law

The National Assembly adopted;

The President of the Republic promulgates the law which reads as follows:

Title I:

GENERAL PROVISIONS

Article 1 "

For the purposes of this Act, are considered as constituting the offense of money laundering, the following acts when committed intentionally, namely:

1 conversion, transfer or manipulation of property for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is

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involved in the predicate offense to evade the legal consequences of his actions: 2 concealment or disguise the nature, source, location, disposition, movement or ownership of real goods ; 3. the acquisition, possession or use of property by a person who knows, who suspect or should have known that such property constitutes proceeds of crime. The knowledge, intent, or required as an element of the offense can be inferred from objective factual circumstances.

Article 2:

Constitutes the offense of financing

Terrorism is the first, to provide e

collect, gather or handle by any means, directly or indirectly, funds, securities or property with the intention of used or knowing that IIS will be used, in whole or in part, to commit an act of

terrorism regardless of the occurrence of such an act,

Article 3:

For the purposes of this Act:

1. The term "proceeds of crime" means any property or economic advantage derived directly or indirectly from one or more offenses. This may consist of a well as defined in paragraph 2 of this Article;

2. The term "property" refers to all types of assets, tangible or intangible, movable or immovable, tangible or intangible, fungible

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or non-fungible and legal documents or instruments evidencing title to such assets or rights thereto, including electronic or digital form;

. The term "instrument" means any property used or intended to be used, in any manner whatsoever, in whole or in part,

committing one or more offenses;

"Expression {{organization

crimineile "means any agreement or structured association in order to commit offenses blanchirrlent laundering and terrorist financing:

the term "predicate offense" means any criminal offense, even if committed abroad, having allowed its author to procure products as defined in this Act;

{{expression beneficial owner "means the principal, that is to say the person on whose behalf the agent acts or on whose behalf the transaction is executed;

the term "manual exchange transaction" means the immediate exchange of coins or bank

notes libellés in different currencies, directed by assignment or delivery of cash, against payment by another means of payment denominated in a different currency;

The term "terrorism" means the acts in connection with an individual or collective enterprise aimed at seriously disrupting the order public through intimidation or terror, namely:

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terms "

a. voluntary violence to life or physical integrity of the person, enlèvement and sequestration of the person and the hijacking of aircraft, ships or other means of transport;

b. theft, extortion, destruction, defacement and damage;

c. the manufacture, possession, stockpiling, acquisition and sale of machines, dangerous, explosive or other biological weapons, toxic or war;

d any other act of the same nature and goal of the introduction into the atmosphere, on the floor, in the basement or in the waters of the Republic, of any substance to endanger health humans or animals or the natural environment;

freezing "or" seizure "shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of the IE property by order of a court or other competent authority;

10. "funds" means property

of any kind, whether tangible or incorporeis, furniture {} 14 immovable, tangible or intangible acquired by any means whatsoever, and legal documents or instruments in any form whatsoever, including electronic or digital, evidencing a right property or interest in such property, including bank loans, money orders, shares, securities, its

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bonds, drafts and letters of credit, without this list being limiting.

Article 4:

This belief applies to any natural or legal person who, as part of his profession, carries, or conseilie control of operations involving deposits, exchanges, investments, conversions or any other capital movements, particularly :

1 to the Central Bank of Congo;

2. credit institutions, financial messaging, finance companies, institutions, exchange offices, insurance companies, insurance intermediaries or reinsurance, leasing companies and other financial intermediaries;

3 to checking accounts and services

money orders:

- 4 ° scholarships, securities, stock exchange companies, brokers transactions, asset management companies, companies providing investment services and organismes for collective investment in transferable securities;

5 ° to the lottery corporations;

6 ° the operators, owners and

directors of casinos;

7 ° notaries;

8. To the members of independent legal professions, including lawyers, when advising or assist clients or when they act on their behalf and for their accounts in the purchase and / or

sale of assets, businesses or business, securities or other assets, handling of assets, at the opening of bank accounts, the constitution,

operation or management of companies, trusts or similar structures, or any other financial transactions;

9 ° real estate agents and other 安 f] real estate operations advisers

10 ° to fund carriers;

11 ° to travel agencies:

12 ° to the auditors, accountants, external auditors and tax advisors;

13 ° merchants to artworks, antiques and / or precious materials.

The application of all or part of the provisions of this law can be extended to any other profession or category of business where it is found that this profession or business class realizes, controls or advises the same types

operations specified in - paragraph. . . one of this article,

TITLE || ;

PREVENTION AND DETECTION OF MONEY

CHAPTER 1ST: FROM PREVENTION

MONEY LAUNDERING

Foro Section: General Provisions

prevention

Article 5:

Any payment of money in Congolese francs or other generally equal to or greater than 10 000 US dollars can be paid by cash or bearer.

A statement of the Governor of the Central Bank of Congo determine the cases and conditions under which a derogation

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the previous paragraph is accepted in particular for traders regularly enrolled in the new register of trade to the tenants of trading houses of precious materials and their collaborators ies for agricultural operators and their employers.

Article 6:

Any transfer abroad or from abroad, funds or securities for an amount not less than US \$ 10,000 must be made by a credit institution or through.

Section 2: transparency in

financial transactions

Article 7

The State organizes the legal framework to ensure the transparency of economic relations including by ensuring that company law and legal mechanisms of protection of property do not allow the creation of fictitious entities or facade.

Article 8:

Credit institutions are required to verify the identity and address of their customers before opening an account or booklet, to take custody of securities or warrants, assign a safety or establishing any other business relationship.

Verifying the identity of an individual is performed by the presentation of an original official document valid and photograph, which a copy is made.

Verification of address is made by submitting any document to make the evidence.

The identification of a corporation is by producing the articles and any document establishing

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it was legally incorporated and has a real existence at fidentification. This copy is made

Officials, employees and agents who enter the relationship for the account of others must produce, besides the documents mentioned in paragraph 2 of this article, the documents certifying the one hand, the delegation of authority given to them and secondly, the identity and address of the beneficial owner.

Article 9:

Identification of occasional customers is carried out according to the conditions laid down in Article 8 paragraph 2, for any transaction involving a sum equal in Congolese francs or greater than US \$ 10,000.

Identification is required even if the transaction amount is below the threshold, when the legal origin of

capital is not certain,

The identification shall also take place in case of repetition of separate operations carried out in short intervals and for lesser amounts, per operation, that provided in paragraph 1 of this article.

In case ie transaction amount is not known at the time of the operation is carried out customer identification as soon as the amount is known or the threshold specified in ainéa 1 is reached,

Article 10)

If it is not certain that the client is acting on his own behalf, the credit institution has an obligation to learn by any means on the true identity of the beneficial owner,

After verification, if doubt persists on the identity of the real beneficiary, it must end the relationship, without prejudice,

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where appropriate, the obligation to report suspicions.

If cliënt is a lawyer, public or private accounting ut, a person with a delegation of public authority or agent, acting as a financial intermediary, it can not invoke professional secrecy to refuse to disclose the identity of the real operator.

Article 11:

When a transaction involves an amount equal Congolese francs or greater than US \$ 10,000 and is conducted in unusual or unjustified complexity conditions, or appears to have no economic justification or lawful purpose, the credit institution is given learn about the origin and destination of the funds as well as on the subject of the transaction and the identity of the economic players in the operation.

The credit institution establishes a confidential written report containing all relevant information on its terms, and on the subject of the transaction and the identity of the principal and, where appropriate, economic actors of the surgery.

The report is kept in accordance with Article 12 of this Law,

Special vigilance should be exercised with regard, firstly, electronic funds transfers, international or domestic, and secondly, operations from facilities that are not subject to sufficient obligations of customer identification or transaction control,

Item # 2:

Credit institutions retain and keep at the disposal of the authorities listed in Article 13, and

Central Bank of Congo, as part of its prerogatives:

1. documents relating to the identity of customers for 10 years after the closure of the accounts or the termination of relations with the client;
2. documents related to transactions by customers and the reports provided for in Article II for 10 years after completion of the transaction, unless the suspicion declaration to this effect proves to be unfounded.

Article 13:

The information and documents referred to in Articles 8-1 I are communicated, upon request, to the Financial Intelligence Unit, EII! X officials responsible for the detection and suppression of money laundering and crimes related to it acting in the under a court order and the judiciary: - - - - - . . - - -

People with the obligation to transmit the information and documents mentioned, as well as any other person with knowledge, can contact IES to other natural or legal persons with the authorization of those listed in paragraph 1 .

Article 14:

Credit institutions shall establish a money laundering prevention system. This device comprises:

1. centralizing customer information on the identity, outsourcees, as proxy holders and beneficiaries, agents, beneficial owners, and on suspicious transactions;
2. the appointment of officials with the centralization l'unité

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seat or the central management of each branch and each agency or local service;

- 3 ° a continuous training of officers or employees;

contrôle an internal device of the execution and effectiveness of the measures adopted for the implementation of this Act. The supervisory authorities may, if necessary, specify the content and modalities of application of this device they carry, if necessary, on-site investigations to verify the implementation and effectiveness thereof,

Article 15:

Exchange bureaus and other legal entities or individuals whose usual occupation to perform manual exchange transactions are required:

io of établir, in a statement, the lawful origin of the funds necessary for the creation of the institution;

the declaration must be addressed,

Before fÖllt comm 3: 1 Cement activity, the Central Bank of Congo in order to obtain the opening and authorization

operation provided by law; 2 ° to ensure the identity of their customers, by presenting an

official document valid and photograph, which a copy is made, before any transaction involving an amount equal to or greater Congolese francs 500 US dollars or any transaction conditions

unusual complexity QL 衰 unjustified; 3 record in the order

time, all operations, their nature and amount, indicating the name and post

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customer name and number of the document presented, in a register and keep the register for 10 years after

last operation recorded.

Article 16:

Casinos and gaming establishments arE tentus:

1 to address, before starting their business, an application for approval to the Ministry with the economy in its attributions with a copy to the Central Bank of Congo in order to obtain the authorization of opening and operating under faith in force, and to justify, in this application, the lawful origin of funds for the creation of the establishment!; 2 to keep regular accounts and maintain the parts during

10 YEAR. Accounting Principles ""

defined by law are applicable

to casinos and gambling clubs; 3 ° to ensure the identity by presenting an original official document valid and photograph, which a copy is made, players who purchase, provide or exchange tokens or set of plates for an amount exceeding the equivalent of US \$ 2,000; record, in chronological order, all operations referred to in paragraph 3 of this article, their nature and amount, indicating the names of players and the number of the document presented on side register and to retain such register for ten years at least

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after the last operation recorded;

5. record in the order

chronological, all transfers made between casinos and gambling clubs in a register and keep jedit register for 10 years after the last operation recorded.

In case the gambling establishment is owned by a corporation with several subsidiaries, the chips should identify the subsidiary through which they are transmitted, in any case, tokens issued by a subsidiary can not be refunded in another subsidiary, including abroad.

CHAPTER IH: detection of

LAUNDERING

Section foto: From the collaboration of

authorities

COMBAT - "laundrying

Paragraph 1. In the cell of Financial Information

Article # 7:

A Financial Intelligence Unit, has an autonomy

Financial, an own power of decision and under the supervision of the Minister of Finance, is created and organized under the conditions established by a presidential decree. The mission of the Financial Intelligence Unit is to collect and process financial information on money laundering circuits and terrorist financing.

To this end, the Financial Intelligence Cell, working with the Ministry of Justice,

The Financial Unit is responsible for:

Information

| 13

IO receive, analyze and process the reports required of the persons and organizations referred to in Article 4; 2 ° also receive any other useful information, including those provided by the judicial authorities. The Service may also, on request, obtain from any public authority and any person or entity referred to in Article 4, the communication of information and documents as part of investigations undertaken following a declaration of

SO'ttpçon;

3 ° to carry out or to make periodic studies on the evolution of

techniques used for the purposes of

money laundering and

the routine financing of terrorism

National territory ;

4. to issue opinions on the state policy in the fight against money laundering and terrorist financing and implementation. As such, it offers the appropriate reforms to strengthen the effectiveness of the fight against money laundering:

5. to report to the Public Ministry.

The Financial Intelligence Unit prepares quarterly reports on its activities. These reports indicate laundering techniques and possibly terrorist financing raised in the country and the proposals to strengthen the fight against money laundering and terrorist financing. It draws up an annual summary report. These reports, copies of which are reserved for the Minister of Justice and the Governor of the Bank

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Central Congo, addressed to the Minister of Finance.

The organization of the service, the

conditions that ensure and strengthen its independence, and the content and methods of transmission of the statements made to it, are determined by Decree of the President of the Republic,

The agents of the Financial Intelligence Unit are bound to secrecy of information collected that can not be used for purposes other than those provided by this Act.

sis have quality agents and police officers.

Article # 8:

The Financial Intelligence Unit may, subject to reciprocity, exchange information with foreign authorities responsible for receiving and processing suspicious transaction reports,

when they are subject to similar secrecy obligations and irrespective of the nature of these services. To this end, it may conclude cooperation agreements with these services.

On receipt of a request for information or transmission by a foreign service homologous treating a suspicious transaction, it shall, within the powers granted him by this Act to deal with such statements.

Article 2

The Central Bank of Congo has control and disciplinary authority in its jurisdiction.

It has a direct collaboration with the Financial Intelligence Cellule and judicial authorities through regular exchange of information.

It notifies the Financial Intelligence Cellule disciplinary proceedings against

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credit institutions and other financial intermediaries have failed in their obligations in the fight against money laundering and terrorist financing.

She is involved with the Financial Intelligence Unit in the meetings of international bodies dealing with matters related to the fight against money laundering and terrorist financing.

The declaration of Suspicion

paragraph 2

Article 2

Any natural or legal person referred to in Article 4 is required to report to the Financial Intelligence Unit, prior achievements, the operations provided for in Article 4 paragraph 1, if they concern funds suspected to come from the fulfillment of one or more offenses, or be related to the financing of terrorism.

The above-mentioned persons are obliged to report transactions made even if it was possible to suspend their execution or if it appeared only after the completion of the operation that it was on the Suspects funds

Elies required information

suspicion or

Also declare, without delay, all tending to disprove the reinforced.

Article 21:

1. The STRs are forwarded to the Financial Intelligence Unit in any written form or by telephone. If it is a fax, it must be confirmed in the shortest possible time by filing or sending the original. If there is a

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statement made by telephone, it must be confirmed in writing within for the specified above.

The following statements indicate the case:

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the description of the transaction;

b. any useful indication the

people participating;

Sulph

c. why the transaction has already been or is to be executed; the period within which the suspicious transaction to be executed,

seizure of the cell of

总 T 组 Q 毫 the 聪 总

As soon as she declaration of suspicion, Financial Information reception.

Article 22:

If, because of the seriousness or urgency of the case, the Intelligence Unit. - Financial deems it necessary, it may oppose the execution of the transaction before the expiration of the deadline mentioned by the informant. This opposition is notified to it, immediately, by fax or by any other written means. The opposition hinders the execution of the transaction for a period not exceeding 48 hours.

At the request of the Financial Intelligence Unit, the prosecutor may, on Ordinance motivated and appealable within forty-eight hours, seize funds, accounts or securities for an additional period not exceeding eight days.

Article 23:

As soon emerges to kind of serious evidence to constitute the offense of money laundering, the Financial Intelligence Celiule forward a report on the facts,

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with its opinion, the public prosecutor who appreciates ia result à give. This report is accompanied by all relevant documents, with the exception of the declaration of suspicion itself, the identity of the author of the statement and that of the agent of the Financial Intelligence Unit in charge of the case should in any case, in the report,

Section 2 Exemption

responsibility

Article 24:

No prosecution for violation of professional secrecy can not be committed against persons or directors and employees of agencies designated in Article 4 who, in good faith, have transmitted information or made statements under the provisions of this Act.

... No civil action,

Criminal or disciplinary proceedings may be commenced,

or professional sanctions imposed against persons or directors and employees of agencies designated in Article 4 who, in good faith, have transmitted information or made statements under the provisions of this Act, even if investigations or court decisions have resulted in any convictions.

No civil or criminal liability may be brought against persons or directors and employees of agencies designated in Article 4 due to damage and / or consequential damages that may result from blockage of a transaction under the provisions of article 22.

For damage resulting directly from a good faith suspicion unfounded statement, the State meets the

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damage to the conditions and within the limits of the law.

Article 25:

To obtain proof! Infringement of origin and evidence of offenses under this Act, the Crown may, on reasoned Order of the competent judge decision in chambers and for a fixed period, resort to special techniques investigative below:

to placing under surveillance

related to bank accounts; 2. access to systems, networks and

computer servers; 3. entry for surveillance or SUJ: listening to telephone lines, fax or electronic means of transmission or communication;

4 °

doings and conversations;

communication of notarial and private seal of bank, financial and commercial.

The judicial authorities may also order the seizure of the aforementioned documents or items,

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These operations are only possible when strong evidence give reason to suspect that these accounts, telephone lines, computer systems and networks or documents are used or could be used by persons suspected of involvement in offenses referred to in paragraph! this Article

Article 26:

Are criminally liable, the officials competent to the original offenses and laundering,

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audio and video recording

the sole purpose of obtaining evidence relating to offenses covered by this Act and under the conditions defined in

the following paragraph, commit acts that may be interpreted as constituent elements of a offenses referred to in Articles 1, 2, 35 and 38.

The authorization of the competent judicial authority must be obtained prior to any transaction mentioned in the first paragraph.

A detailed account tui is transmitted at the end of operations.

The lifting of secrecy

professional

section 3

Article 27:

Professional secrecy can not be invoked to deny the one hand, to provide information under Article 12, or required as part of an investigation into the facts of blanchiment or financing of terrorism ordered by, or carried out under control of the judiciary and secondly, to make the declarations provided by this Act,

Title | f | :

PREVENTION AND DETECTION OF TERRORIST FINANCING

Article 28:

Natural or legal persons referred to in Article 4 of this Act shall proceed as soon as possible, in the manner and on the terms laid down in Articles 20 and 21, the suspicious transaction reports to the Financial Intelligence Unit and the Public Ministry , when they

suspect that, firstly, funds belonging to persons or entities on the list of organizations

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considered terrorists, that of cultural charitable organizations or social trend terrorist suspects as well as organizations involved in such smuggling activities of arms, drugs, pimping and money laundering established in accordance with resolutions United Nations on the prevention and suppression of financing of terrorist acts, or on the other hand, movement of funds initiated by them or on their behalf, are related to terrorist financing or intended to be used for this purpose,

Credit institutions and other financial intermediaries are required to communicate to the Central Bank of Congo déclarations a copy forwarded to the Financial Intelligence Unit,

Credit institutions and other financial intermediaries are exempt from any liability, civil or criminal, when they performed in good faith declaration under the preceding paragraph.

Article 29:

The provisions of Articles 13, 14 and 27 of this Act are applicable to terrorist financing.

PART IV:

OF ENFORCEMENT MEASURES

CHAPTER TER: SEIZURE AND

CONSERVATOIRES MEASURES

Article 3 {}

The judicial authorities and

appropriate officials responsible for the detection and suppression of money laundering and related offenses one can enter ies goods in connection with the offense

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investigated and any kind as to identify them.

Article 3 1:

The competent judicial authority to order provisional measures may, ex officio or upon a reasoned request of the prosecution, the Central Bank of Congo or the Financial Intelligence Unit, order, at state expense, of such measures, including the freezing of funds and financial transactions on property may be seized or confiscated, regardless of the nature.

It may, by reasoned decision made at the request of the officials conducting those operations or any other relevant officials to find the original offenses and money laundering, delay gei or seizure of money or other property cu advantage until the conclusion of the investigations and order, if necessary, specific safeguards.

The release of the seizure and precautionary measures can be ordered at any time at the request of the public prosecutor or, after notice thereof, the Central Bank of Congo, the Financial Intelligence Unit or owner.

Airficie 32:

When STRs are reinforced by significant evidence as to constitute the offense of terrorist financing, after the investigations made by the Financial Intelligence Unit, the latter address, without Deadline, a written report to the Crown . The identity of the author of the statement should not be included in the report ie,

The Crown may, upon referral, oppose the execution of

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the operation. This prevents, for um period of seventy-two hours, renewable once, that the execution of the operation is continued or the funds of persons or entities suspected to be available to them in any manner whatsoever.

It may, in addition, request the competent judge the freezing or seizure of funds, assets or economic resources, or are suspected of being linked to terrorist financing or belong to entities or persons on the list provided for Article 28 or those controlled directly C U indirectly by them or to entities or persons acting on their behalf or at their direction.

Article 33:

The release of the measures contained in Article 32 can be ordered at any time to demande the prosecution.

CHAPTER I: THE PUNISHMENT OF OFFENCES

*Section 1 "The penalties**Article 34:*

Shall be punished by five to ten years' imprisonment and a fine, the maximum is six times the amount of the bleached Somme, those who have committed acts of money laundering.

The accomplice of the laundering is punishable with the same penalty as the main perpetrator.

Article 35:

The same penalties will be participation in an association or conspiracy to commit the offenses referred to in Article 34

Article 36:

Legal entities other than the State, for the account or benefit

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which a subsequent offense was committed by one of their agents or representatives, shall be punished by a fine equal to five times the fines specified for natural persons, without prejudice to the conviction of the latter as co-authors or accomplices to the offense.

Legal persons may also be sentenced:

lo to ban outright oli for a period of five years to pius, to exercise directly indirectly Gil certain professional activities; 2 to close permanently or for a period of up to five years of their establishments used to commit the offense; 3. dissolution if created for committing the offense; - 4 ° the payment of costs of publication of the decision by the press or by any other Moyer: audiovisual communication,

Article 37:

When as a result of either a serious lack of vigilance or a deficiency in the organization of internal procedures for prevention of money laundering, credit institutions, other financial intermediaries or any other person or entity referred to in Article 4 has ignored one of the obligations assigned to it by this Act, the disciplinary or supervisory authority may act ex officio as provided by professionals and laws.

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In this case it shall notify the cell of

Financial information of committed disciplinary and, after them, the decisions that punish.

Article 38:

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shall be punished by penal servitude of 2 to 5 years and a fine, the maximum is three times the amount of the sum bianchie:

a people and officers or employees of agencies designated in Article 4 who have knowingly made, the owner of the funds or the perpetrator in that article, revelations about the statement they are required to do or suites that have been reserved for it;

b, those who knowingly destroys or removes registers or documents ià conservation is provided by Article 10.1 1, 15 and 16;

c. those who have made or attempted to make a false identity any of the transactions referred to in Articles 4 paragraph I, 5, 6, 8, 9, 10, 11, 15 and 16:

d. those having knowledge due to their profession investigation for acts of money laundering, 11 allTont knowingly informed by any means, the person under investigation;

e, those who have communicated to the judicial authorities or competent officials to COIStater the original and subsequent offenses, acts or documents specified in Article 25, they knew

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garbled or incorrect, without informing;

f those who have provided information or documents to other persons than those provided for in Article 12;

g. those who have not made the declaration of suspicion pursuant to article 20, while the circumstances of the operation led him to conclude that the funds could come from an offense under that section; will be fined the maximum of which is three times the amount of the bleached sum:

. those who made or accepted

Cash regulations for sums exceeding the amount authorized by this Act or the regulations made thereunder,

Those who contravene the

Article 6 relating to international transfers of funds;

officers and employees of manual exchange companies, casinos, gaming circles, credit institutions and financial intermediaries who have violated the provisions of Articles 8 to 16;

people who will be guilty of an offense or offenses specified in paragraphs 1 and 2 above may be condemned 9. permanent ban or for a maximum of five years to practice under which the offense was committed.

Article 39:

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The penalty imposed under Articles 34 and 35 may be increased to 20 years' imprisonment and a fine, the maximum amount is equal to twelve times amounting bleached sum when offense

is perpetrated in the context of an

criminal organization,

Article 40:

The provisions of Title IV

apply even if the author of the original offense would be prosecuted or convicted, or even be missing a condition to take legal action as a result of the infringement, the author of the original offense can also be prosecuted for money laundering offenses.

Article 41:

Is punished with imprisonment from five to ten years and a fine in Congolese francs equivalent to US \$ 50,000, anyone physical author

- Co-author or accomplice of *** finfraction

financergent terrorism.

Article 42:

Is punishable by a fine in Congolese francs of up to the equivalent of i 00,000 to 500,000 US dollars, any corporation involved in any way in the financing of terrorist activities, without prejudice to the

individual criminal responsibility for any managers or agents involved.

Article 43:

The penalties provided for in Articles 34 and 35 respectively are brought to a maximum of twenty years' imprisonment and a fine in Congolese francs equivalent to US \$ 100 000: 1

when the offense is committed by using the facilities afforded

12%)

[Exercise activities

professional; 2 ° where the offense is committed within the framework of an organization

crimineile;

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Article 44:

The person guilty of financing terrorism undergoes further confiscation of property that is the instrument or the infringement of the product within the meaning of this Act.

Article 45:

Is punished with imprisonment from five to ten years, any person who, having knowledge of the projects or actions directed toward the commission of the facts of terrorist financing does not, IE time it's known, the declaration to the competent authorities.

in case of recurrence.

When the notice occurred after the offense, la sentence is halved for the author, co-author or accomplice who reports to the appropriate authorities or denouncing the perpetrators or accomplices to the offense .

However, the court may waive the penalty to incur the parents or relatives to the fourth degree inclusive, of the author, co-author oa accomplice to the financing of a terrorist act when they have only provided him housing and personal livelihoods.

Article 46:

All funds and other financial resources belonging to any natural or legal person, entity

or body whose name or designation appears on the list provided to Article 28 of the this Act shall be frozen.

Section 2: confiscation

Article 47:

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In the case of conviction for consumption or attempted laundering offense, be ordered confiscation of:

1. Object of the offense belongings,

including income and other benefits that have been learned, some person they belong, unless their owner establishes that he has acquired by paying the actual fair price or in exchange for services corresponding to their value or any other lawful title and he was unaware of the illicit origin:

2 property owned directly or indirectly to a person convicted did laundering

Moreover, in case of infringement by the court when sentence can not be executed against its author, it may nevertheless

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order the forfeiture of property on. . .
which the offense focused.

May also be imposed, the confiscation of property condemned height of enrichment, directed by him since the date of the earliest of the facts justifying the conviction, unless établis absence of link between l enrichment and the offense,

When there is confusion or property derived directly or indirectly from the offense and of property acquired légitimement, confiscation of the property shall be ordered to the extent of the value estimated by the jurisdiction, resources and property aforementioned.

The decision ordering confiscation means the property and gives the necessary details to identify and locate.

When the property to be confiscated can not be produced, confiscation may be ordered in value.

Article 48:

When the facts can not lead to prosecution, the Crown may apply to a judge for an order, as a security measure, confiscation of seized property.

The judge hearing the application may take a confiscation order:

1 if evidence is provided that such goods are the products of an offense under this Act; 2 ° if the perpetrators that generated the proceeds can not be prosecuted because they are unknown or because there is a legal impossibility to facts chief prosecution, except in cases of prescription.

Article 49:

Any unilateral act passed or without consideration inter vivos or mortis causa which

intended to safeguard property from confiscation measures provided for in Articles 47 and 48.

In case of cancellation of an onerous contract, the price is refunded to the purchaser as

to the extent it was actually paid and that it was in good faith.

Article 57):

Confiscated resources or property vests in the state that can affect a fighting fund against organized crime or drug trafficking. They remain encumbered, up to their value, rights in rem lawfully established in favor of third parties.

In case of confiscation pronounced by default, if the court, ruling on opposition, acquits the person prosecuted, it shall order restitution in value

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State of confiscated property, unless it is established that such property is the proceeds of crime.

TITLE V:

THE INTERNATIONAL COOPERATION

CHAPTER TER: APPLICATIONS

Self-help JUDICARE

Article 5³:

Without prejudice to the special judicial cooperation agreements, requests for judicial assistance

addressed to the Minister of Justice makes them run under the supervision of the Prosecutor General of the Republic.

In an emergency, they are addressed directly, and subject to reciprocity, to the Financial Intelligence Unit of that ensues, the authorities cited in the first paragraph duly informed.

Mutual legal assistance shall include

\$ Liit:

to take evidence or

statements; 2. the provision of assistance to the court of the requesting State of detainees or other persons for the purposes of evidence or assisting in the conduct of the investigation;

3. the delivery of documents

court; 4. search and seizure: 5 ° examining objects and sites; 6o the provision of information and

exhibits; 7 ° providing originals or

Certified copies of relevant records and documents

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article

including bank statements, accounting documents, records showing the operation of a business or commercial activities.

52:

The request may be refused only:

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if it does not come from a competent authority under the law or force of the requesting country or if the request was not forwarded regularly;

if its execution would infringe public order, sovereignty, security or fundamental principles of law in the Democratic Republic of Congo;

If the offense to which it relates is the subject of criminal proceedings or have been the subject of a final decision in the Democratic Republic of Congo;

if the offense in the request is not provided by the law ;

if the measures sought or any other measures having similar effects are not authorized by law or are not applicable to the offense in the request under the law;

the requested measures can be imposed or executed because of the prescription of the offense of extradition by law or that of the requesting State;

if the State

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If the decision whose enforcement is sought is not enforceable by law;

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8 ° if the foreign judgment was delivered under conditions that do not offer sufficient guarantees in respect of the rights of defense;

9 ° if there is serious reason to believe that the measures requested or the requested decision will target the person concerned that because of his race, religion, nationality, ethnic origin, political opinions , sex or status:

10 ° if the request concerns an offense motivated by political considerations;

11 ° if the importance of the case does not justify the measures requested or the enforcement of the decision rendered abroad

Professional secrecy can not be invoked to refuse to execute the request.

The Crown can appeal the decision for refusal of enforcement issued by a court within eight days of the decision,

The Government shall promptly inform the Government of the requesting state the reasons for refusal of execution of the application,

Article 53:

Measures of inquiry and instruction are in accordance with the law, unless the competent foreign authorities have requested that process in a particular form

consistent with the law.

Magistrate or officer

delegated by the foreign competent authority

may attend the execution of the measures according

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they are made by a judge or an officer,

Article 54:

The court with a request from a foreign authority for the taking, according to law, provisional measures order such requested measures according to law. It may also take a measure whose effects are more relevant to the measures requested.

In case it is opposed to the execution of measures not covered by the lei, the court hearing an application for enforcement of measures issued abroad may substitute the Legates measures whose effects best match the requested measures.

The provisions relating to the lifting of provisional measures under Article 33 of this Act, shall apply.

Article 5.5:

In the case of a demande mutual legal assistance in order to issue a confiscation order, the court rules on referral to the Crown. The confiscation order must apply to property representing the proceeds or instrument of an offense, and in the territory of the Democratic Republic of Congo, or consist of the obligation to pay a sum of money corresponding to the value this property.

The demande a court on the execution of a confiscation order issued abroad is bound by the findings of fact on which the decision is based,

Article 56:

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The Government has the power to dispose of property confiscated in the country at the request of foreign authorities unless an agreement with the Government of the requesting State provides otherwise,

CHAPTER]: extradition

Article 57:

Requests for extradition of persons wanted for prosecution in a foreign State shall be executed for offenses under sections 1 ", 2, 34, 35 and 38 point I of this Act or for the purposes of enforcing a sentence for these offenses.

The procedures and principles set by the extradition treaty in force between the requesting and the Democratic Republic of Congo will be applied.

In the absence of an extradition treaty or legislation, extradition will be executed according to the procedure and in compliance with the principles defined by the Treaty on Extradition adopted by the United Nations General Assembly resolution 45 / 1 | 6.

Article 58:

Under this law, extradition shall be executed only if the offense concerned is both foreseen and punished by the law of the requesting State and that of the Democratic Republic of Congo.

Article 59:

Extradition is not granted Sera:

lo if the offense for which extradition is requested is regarded 3: I: Republic

Republic of the Congo as a political offense, or if the request is motivated by political

considerations;

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2. if there are substantial grounds for believing that the request for extradition has been made to prosecute or punish a person because of his race, religion, nationality, ethnic origin, its political opinions, sex or status, or that may be prejudiced at that person's position for any of these reasons; 3. if a final judgment has been pronounced E1 Democratic Republic of Congo because of the offense for which extradition is requested;

4. If the person whose extradition is requested has, under the legislation of one or the other country, be prosecuted or punished because of the time that has elapsed or amnesty or any other reason;

5 if the individual whose extradition is requested has been or would be subjected in the requesting State to torture and other cruel, inhuman or degrading treatment or if he has not received or would not benefit from guarantees minimum provided during criminal proceedings, for i Article 4 of the International Covenant on civil and political Rights; 6. if the judgment of the requesting State has been rendered in absentia and if it was not given reasonable notice of the judgment and did not have the opportunity to take steps to ensure his defense and could not, or will not be able to judge the case again in his presence.

Article 6 {}

Extradition may be refused:

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if the Crown has decided not to initiate proceedings against the person concerned because of the offense for which extradition is requested, or to terminate the proceedings against the person because of that offense;

if prosecution for the offense for which is requested is the extradition course;

if the offense for which extradition is requested has been committed outside the territory of either country and, by law, the country has no jurisdiction regarding the offenses committed outside its territory in comparable circumstances;

If the person whose extradition is requested has been sentenced or liable to be tried or sentenced in the requesting State by a special court or a special court;

If the Democratic Republic of Congo, while also taking into consideration the nature of the offense and the interests of the requesting State, considers that, given the circumstances of the case, the extradition of the person in question would be incompatible with humanitarian considerations in view of age, health status or other circumstances of the individual;

if the offense for which extradition is requested is regarded by the law as being committed in whole or in part in its territory;

if the individual whose extradition is sought is a national of the

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Democratic Republic of

Congo.

Article 61 :

If the Democratic Republic of Congo denies extradition for a reason referred to in paragraph 6 of Article 60, it shall submit the case at the request of the requesting State to its competent authorities in order that proceedings may be brought against the concerned for the offense for which demand

Article 62:

To the extent permitted by law and without prejudice to the rights of third parties, all property found in the territory of the Democratic Republic of Congo, whose acquisition is the result of the offense or that may be required as evidence will be handed over to the requesting State, if it so requests and if extradition is granted.

The property in question may, if the requesting State so requests, be surrendered to that State even if the extradition agreed to can not be achieved.

When the property is likely to be entering or confiscated in the territory of the Democratic Republic of Congo, the State may temporarily retain it or hand.

When the law or the rights of third parties so require, any property so surrendered is returned to the Democratic Republic of Congo without charge, once the procedure is completed, if the DRC asks.

CHAPTER II : PROVISIONS COMMON TO REQUESTS AND REQUESTS FOR EXTRADITION

Article 63:

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Without prejudice to specific judicial cooperation agreements, requests by authorities foreign competent in order to establish the facts of money laundering or terrorist financing, in order to execute or impose provisional measures or confiscation, or for purposes of extradition are transmitted through diplomatic channels.

In an emergency, they can

be the subject of a communication through the International Criminal Police Organization (ICPO / Interpol) or communication

direct, and subject to reciprocity, to the Financial Intelligence Unit that ensues, the Minister of Justice and Attorney General of the Republic duly informed.

Requests and their annexes shall be accompanied by a translation in a language acceptable to the Democratic Republic of Congo.

64 :

Applications must specify:

article

1. to the authority requesting the measure;

2. the authority; 3. the subject of the request and any relevant contextual remarks:

4. the facts which justify it; 5. all known elements that may facilitate the identification of data, including marital status, nationality, address and occupation; 6. any information necessary

to identify and locate the persons, instrumentalities, or the subject property resources;

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7. the text of the statutory provision establishing the offense or, where applicable, a statement of the law applicable to the offense, and the indication of the sentence

for the offense. -

In special cases, applications must also contain the following:

1 ° in case of requests to take fl1 0SU irt: S conservatories U 鵲 description of the actions requested; 2 in case of application of a confiscation decision, a statement of the relevant facts and arguments to enable the judicial authorities to order the confiscation under the law;

3 ° in case of request for execution of a decision of provisional measures or confiscation:

a certified copy of the decision and, if it does not state the reasons for that decision;

a statement that the decision is enforceable and not subject to ordinary means of appeal;

c, specifying the limits within which the decision must be executed and, if applicable, the amount of the sum to be recovered on the property or properties;

if necessary and if possible, all information relating to the rights that third parties may claim on the instruments, resources, property or other things referred to;

4 ° in case of extradition request, if the individual has been convicted of an offense, the judgment or a certified copy of the judgment or any other document

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establishing that the applicant's guilt was recognized and the sentence imposed, the fact that the judgment is enforceable and the extent to which the sentence has not been executed.

Article 65:

The Minister of Justice, after ensuring the regularity of the application, forward the prosecution of where the investigations are to be conducted, the place where are the proceeds or property in, or where the location person whose extradition is requested.

The Crown seized the competent officials and requests for investigation ia jurisdiction regarding applications for 3 L IX II1 0SL iI 3S conservatories, 3 X confiscations and extradition.

A judicial officer or public official by the competent foreign authority may attend the execution of measures whether they are carried out by a magistrate or an official.

Article 66:

The Minister of Justice or the Public Prosecutor, each in regard to either of his own initiative or at the request of the jaridiction seizure may soiliciter through diplomatic channels or directly to one for the other, the foreign competent authority to provide any additional information necessary to execute the request or to facilitate implementation.

Article 67:

When the query specifies that its existence and content are required confidential, there is observed except to the extent necessary to give effect to it, If not possible, the authorities

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applicants must be informed without delay.

Article 68:

The Crown can not stay seize police authorities or the court unless measures or sought could prejudice investigations or pending proceedings, eri He must inform the requesting authority through diplomatic channels or immediately directly.

Article 69:

For offenses under this Act and if the person whose extradition is requested explicitly consents, the Democratic Republic of Congo may grant extradition after receipt of the request for remand.

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The communication or use, for investigations or proceedings other than those provided by foreign demand, the evidence that it contains, is prohibited under penalty of nullity of the said investigations and proceedings without the prior consent of the foreign Government.

article

71 :

The costs incurred to execute requests under this title are borne by the State, unless otherwise agreed with the requesting country,

Title VI:

AND OF TRANSITORES DISPOSITIONS fnals

article

Article 72:

A joint order of Ministers in charge of justice and finance their fixed powers on a proposal from the

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Governor of the Central Bank of Congo, preventive measures, and the rules in the investigation of offenders operating in the informal sector in general and in areas not served by particularly credit institutions localities.

Article 73:

The Financial Intelligence Unit referred to in Article 17 begins its activities within six months from the promulgation of this Act.

Article 74:

This Act comes into force on the date of its promulgation,

Kinshasa, ie July 19, 2004. Joseph Kabila

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THE LAW N ° 020-2002 October 16, 2002 BEARING SYSTEM OF EXEMPTIONS ON THE RESTRUCTURING OF THE CENTRAL BANK OF CONGO (OJ No. 21 OF 1 November 2002 P. 5)

Article! :

In need of restructuring, the Central Bank of Congo has a system of exemptions which the terms are defined in Articles 2 and 3 below.

Article 2:

Any action against the Central Bank of Congo, and all proceedings on the assets of

the latter are suspended until the end of the restructuring period set forth in article 4 of this Act.

Article 3:

As part of the organic restructuring, Bank

Central Congo is relieved of the administrative authorization of dismissal for operational requirements and respect of the final account payment deadline provided for in the labor legislation in force.

Article 4:

The restructuring of the Central Bank of Congo operates over a period of three years from the entry into force of this Act.

Article 5:

This law suspends all previous provisions contrary and came into force as of 1 January 2002.