

MASAK

**SUSPICIOUS TRANSACTIONS
GUIDELINE**

JULY 2006

INTRODUCTION

A meeting was held at our Chairmanship between the dates November 3 – 5, 2004 in order to prepare a guidebook, within the scope of improving a suspicious transaction reporting system and reporting capacity of liable parties, among the main purposes of “Anti Money Laundering Capacity Development Project” being carried out with the cooperation of Italian Ministry of Economy and Finance; and a working group has been formed by considering the assessments made at the meeting.

It is aimed at increasing the susceptibility of the liable parties about the subject, to have the information which may be needed available to wider populations and to realize the cooperation with the liable parties at the maximum; with the “Suspicious Transaction Reporting Guidebook” prepared by the working group formed by the representatives of Financial Crimes Investigation Board (MASAK), related institutions and financial sector besides the close cooperation and contribution of Ufficio Italiano dei Cambi.

Besides the measures to be taken towards preventing money laundering, also those for terrorist financing are included in the guidebook and concepts, methods and international developments and national legislation and applications have been separately discussed, based on each and every subject.

The 1st Book and the 2nd Book of the Guidebook has been prepared under the titles of “Preventing Money Laundering” and “Preventing Terrorist Financing” respectively. In the 1st Book suspicious transaction reporting indications have been determined with respect to the sectors in which liable parties operate. In the 2nd Book, the indications pertaining to the fact that financial transactions have been carried out with the purpose of terrorist financing, have been separately included.

We thank to the representatives of our institutions and Ufficio Italiano Dei Cambi who have contributed to the preparation of this guidebook in order to improve the consciousness towards preventing money laundering and terrorist financing and enhancing the suspicious transaction reporting capacity within this context and we hope that the study will be helpful for those who will use it.

Ankara, 15 July 2006

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1.BOOK PREVENTING MONEY LAUNDERING

I. CHAPTER GENERAL INFORMATION

A. THE CONCEPT OF MONEY LAUNDERING

Money laundering is defined, in its broadest meaning, as; “the money acquired by illegal means entering into the economical system, by being legalized by concealing its source and changing its attributes”. Due to the fact that the traces of large amount of illicit proceeds whose origin can not be explained can constitute evidence in capturing criminals and it is possible to seize illicit proceeds, all sorts of criminal organizations need to launder the proceeds derived from illegal activities.

Considering the fact that the basic motive of many crimes is the desire to gain money and advantage; it can be seen that the traditional sanctions like imprisonment and monetary sanction are not effective and enough to break the motivation to commit the crime. To ensure the efficiency of the combat and for deterrence reasons, a distinctive crime and punishment approach has come to order. The main purpose in accepting money laundering as a crime separate from the predicate offences; is preventing the crimes to be committed for profit, by depriving persons who profit from the crime, of this income.

For the money laundering to be accepted as a crime and the combat against money laundering dates back to 1980’s. Parallel to the increasing threat created by international drug traffic, the susceptibility regarding this matter has also increased at the international platform and for the first time, money laundering oriented activities has been included in 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

International activities currently being carried out within the United Nations, European Union, European Council and OECD; have become more concrete by the Financial Action Task Force (FATF), with 31 member countries including Turkey and 2 international member organizations, established especially by G-7 countries in 1989; making recommendations to the countries regarding this matter by preparing international regulations on anti money laundering.

These developments that took place at the international platform have brought recommendations and suggestions to all countries on the matters like treating money laundering as a crime by making the legal arrangements; making necessary arrangements for the financial institutions, non-financial institutions and for the professionals offering professional services in accordance with the principle of “knowing the customer”; and participating in the international cooperation.

Our Country also takes place in the international combat on money laundering by means of both the membership of the international establishments and being a party to international agreements.

Within this context, “money laundering” concept has entered our legal system by Law No. 4208 Concerning the Prevention of Money Laundering, dated November 19, 1996.

B. ECONOMICAL, SOCIAL AND POLITICAL EFFECTS OF MONEY LAUNDERING

One of the most effective methods used in combating crime is to track down the profit of crime and consequently to deprive the criminals from this profit. However, what is more important than that is; to ensure the financial systems and institutions to remain just and to preserve the confidence of the society in the system. For this purpose, what is intended to be done is to set strong barriers between the “legal” financial market and the “illegal” market; that is, to prevent the illicit money entering the legal financial system. Actually, money laundering activities are carried out in legal economical markets for the purpose of concealing illegal activities.

Therefore, laundering is a kind of crime that has negative effects on many areas varying from economy to social and political structure. Since the launderers act neither according to a rational logic such as choosing the best investment instrument on the market nor the basic economical indicators; during the money laundering process, money moves especially to the countries that do not have adequate regulations or to those with poor control on this matter. In other words; the launderers choose the countries, not by considering the rate of return as rational investors, but by considering the regulation and inspection differences.

1. ECONOMICAL EFFECTS

It is very difficult to predict the periods, during which the money flow into the country will get intense, within the money laundering process. As it is not possible to know when the profit of crime will enter and leave the country, unexpected fund activities out of the conjuncture may be seen. This situation will especially cause instability in the money market and affect the implemented economic and monetary policies in a negative manner, by leading to a result like demand not being possible to be foreseen and give rise to fluctuations and instabilities in the markets.

Money laundering may have negative effects on income distribution also by causing revenue and wealth accumulation. The profit of crime, being legalized by completing the money laundering process, accumulates in the possession of certain persons and groups in the economy when it returns back to its possessor, and this situation may cause inequity in the income distribution.

Money laundering also creates a risk by causing changes in financial structures of the companies at micro levels. Within this context, companies established and operating with the purpose of laundering the profit of crime will not have any financial problems because they can establish active passive balances without being bound with the economical conjuncture and current conditions in the market and will come to a more advantageous position against the companies in the sector, operating solely according to the market conditions. Since this condition will cause unfair competition in the market and this competitive inequality to be created by money laundering process affects also the registered legal activities, in the long term it will cause the public finance to disintegrate and tax revenue to drop down.

In money laundering activities, it is common that the launderers exchange currency in order to divert the money from its illicit source. Within this scope, the money entering the country as foreign currency to be reserved for a while after being exchanged to domestic currency, will result in the domestic currency to gain too much value in the middle term, this situation may

reflect probably to payment balances; since it results in a decrease in export and favor importing it may create a reducing effect on total demand.

In addition to that, this change in the foreign currency rates of exchange, will cause a rate of exchange risk; and this will create a situation which is favorable for those who become indebted with foreign currency, and unfavorable for those who become indebted with domestic currency. This situation may cause big problems, not only for banks but also in the commercial sector where term payments are common, and bankruptcies.

A similar instability may occur in stock market. This illegal cash flow may give rise to an artificial increase in the stock market, and when the money decides to go out of the country there may be sudden decreases in the stock market.

Instability may occur in real estate prices and the values of these assets may increase and decrease out of control. The increases and decreases in the values of the assets will affect the expectations of the real estate owners; and therefore it will cause excessive increase in prices.

To sum up, while the proceeds of crime preventing the formation of free market conditions in the economy it enters, may cause to be experiencing important instabilities in the values of assets and give rise to increase the inflation by making pressure on the general price level.

All these financial instabilities may affect the real economy in a negative manner. It will be especially more difficult to bring foreign investors into the country where money laundering activities are intense. In fact the instabilities created in the financial system by profit of crime, will also affect the credibility of the economy; since rational entrepreneurs consider the country risk when they invest, they will hesitate to go to that country. Therefore the Gresham Law that could be roughly summarized as “bad money gets the good money out of the circulation”, will start to function in a different way; illegal money will get the legal money out of circulation. The legal money to refrain from entering the country will result in low investment rates. And in the long term, this situation will cause the continual growth to decrease.

Moreover there are also findings showing that the illegal profit is channeled towards risky and small businesses instead of efficient investments and therefore is not effective on economical growth too.

2. SOCIAL AND POLITICAL EFFECTS

Besides there are negative economical effects of money laundering, there are also the social and political effects pertaining to it. The first effect to be talked about within this scope is the attenuation of the social texture, social and ethic structure of trade. Money laundering will allow the criminals, and most of all the drug and arms smugglers and the members of crime organizations, to perform their illegal activities. Also beyond this, high amounts of illegal funds accumulating in the possession of crime organizations will not only provide economical power to these organizations but also will shake the grounds of legal economy and will turn into a weapon that will threat also the safety of democratic institutions. By spreading crime and criminals, the opinion of people working in legal and registered sectors regarding a link between crime organizations and the government may get common and this situation will shake the confidence in government and will lead to social disturbances. Also as a reflection

of the illegal activities becoming common and the confidence in government being lessened, the confidence in legal system will also lessen and the legal system will be interrogated.

C. STAGES AND METHODS OF LAUNDERING

1. STAGES OF THE LAUNDERING PROCESS

There have been important steps taken in the combat against laundering crime by developing both preventive sanctions and special investigation techniques. Meanwhile the criminals did not wait long for developing their own laundering techniques against the measures brought into effect. Parallel to the complexity of the laundering techniques, professionals who expertise in this job have begun to come up. These persons may develop new techniques based on the financial system, economical conditions and the control power of the country they reside and may be able to easily abuse the countries and their sectors especially where the control is weak.

In the laundering process; it is aimed for the proceeds of crime to be exchanged into other assets as to maintain its value, not to gain the attendance of the authorities and to increase its availability in the financial system by being passed through a process.

Although the conducted studies show that many methods may be used towards laundering, they have unraveled some common points of these methods too. In almost all methods, the crime revenue is entered into the economy as legalized by means of certain similar stages. This process, which is thought similar to the laundering of a dirty cloth in the laundering machine, is handled in three phases namely placement, layering and integration.

At the placement phase; it is aimed to integrate revenue resulting from crime to legal economic system. Revenue resulting from crime especially has the cash form in drugs trade. But today where financial tools such as check or bond is used frequently, revenue resulting from crime may not be in cash form all the time. Though money in cash form draws attention, for example checks that endorse more than a time may be used for revenue resulting from crime to enter into the system.

The phase of revenue resulting from crime in any form to enter into the legal system by the obligators that are making activities in financial or other sectors is the hardest phase for launderers. Because the link between the revenue and its illegal source has not been broken yet and launderer does not have a legal reasoning regarding the source of the money. It is, however, the easiest phase for the proceeds of crime to be detected and confiscated from the point of view of the units fighting against laundering crime .

For this reason during the entering of revenue resulting from crime to system, it is expected from liable parties to be more careful within the principle of knowing the customer.

At the layering phase; it is aimed at ensuring the money to go away from its illegal source as much as possible and at hiding the proceeds of crime. With a series of transaction similar to legal transactions on frequency, complexity and volume tracking the revenue resulting from crime becomes harder.

The developments in computer and communication fields and with the regulations on free movement of capital causing the movement of funds between the countries intense, importance of international cooperation for combating crime is especially seen here. It is very

important for liable parties to have maximum care in their relations with customers for determining the suspicious transactions in this phase.

At the integration phase, the economical value which was placed in financial system and removed from its illegal source is ready to be used. There is no need for proceeds of crime to change its form. At the end a legal explanation can be given regarding the source of it.

It is not a must for these three phases to occur separately in every laundering event. Sometimes two or three of these phases may occur in a single process or the laundering process may be completed without some phases being realized. This situation may depend on many different variables from the country where money will be laundered, financial facilities to other activities of launderers.

2. LAUNDERING METHODS

Methods that many people would not think of may be used within the laundering process. Therefore, it would not be wrong to say that there are limitless number of laundering methods. The laundering methods vary between the countries depending on the variety of the instruments used in financial systems.

The methods used mostly may be listed as follows.

- Smurfing method
- Structuring method
- Tax havens (off-shore)
- Shell banks
- Shell companies
- Display companies (Companies using cash money)
- Auto-finance loan method (Loan-back)
- Exchange offices
- Informal Money Transfer Systems(Hawala Hundi, Far Asia Chit System, etc.)
- False invoice (fictitious export-import)
- The funds to be taken abroad physically

In the laundering process more than one method may be used simultaneously. For example, smurfing method and the layering method are methods that are suitable to be used together.

a) Smurfing Method

Smurfing method consists in depositing large amount of illicit proceeds by dividing it into several accounts opened on behalf of many persons for the purpose of not drawing attention and avoiding official reporting thresholds.

At some countries there is the obligation of reporting cash transactions above certain amounts. This limit, for example, is 10.000 Dollars for USA and in case a transaction equal or greater than this amount is carried out, it is necessary to be reported. In order to avoid the scope of reporting obligation, present fund is divided into amounts close to this limit and deposited to many banks or different branches of the same bank by many persons (smurf).

For example in case of a 9.000 dollars that is put on different branches of banks by 20 people, in a day 180.000, in 10 days 1.800.000 dollar will be placed to the system without cash

reporting scope. The money entering the system may be taken out of the country by means of fund transfers or some other financial instruments (layering).

Only avoiding cash reporting may be aimed by this method in a country with cash transaction reporting. In fact, it is necessary to inform the authorities about suspected cases without any monetary threshold in suspicious transaction reporting.

Though there is not a legal requirement for cash transaction reporting in our country, banks are obliged to report to the Central Bank about transfers abroad exceeding the threshold of US\$ 50.000 or its equivalent of Turkish Lira or other foreign currencies, excluding payments for import, export, invisible transactions and capital movements, according to Decree No.32 Regarding the Protection of the Value of Turkish Currency and within the framework of CBRT directives.

This kind of information can be used in money laundering investigations as well. Thus, the transactions conducted under this threshold and alike, which are the subjects of reporting procedure, should be taken into consideration.

b) Structuring Method

It may not be possible all the time to find many persons (smurfs) to divide the present fund into small amounts and deposit it to the bank. In this situation it may be possible to avoid reporting by increasing the number of transactions instead of number of persons. It is possible to compare structuring method with smurfing method. Because in both of them high amounts are subjected to process by being divided into low amounts.

In this method again in order to avoid reporting, not to leave a trace and to enter the crime revenue into the system without being noticed, structuring method is being used and a transaction with a very high amount is divided into many transactions with small amounts. For example an amount of 1,5 million dollars, may be laundered by being transferred by means of more than 200 transactions of 7000 dollars each.

c) Tax Havens (Off-Shore Centers)

Tax Havens are places where money laundering especially by means of the local banking system and dummy companies is easy.

Banks based in tax heavens are basically like other banks, collecting deposits, giving credit and conveying transactions based on trust. But they had the advantages of confidentiality, political stability, zero or near zero taxation, full freedom in capital movements, closeness as geographical position to the developed countries provided by the off-shore centers. Also support of expert personnel like telecommunication, transportation and accommodation services together with the tax advisers and lawyers is provided. Launderers use these advantages with the purposes of staying out of control, leaving the investigations performed by legal authorities inconclusive.

Lists published by relevant international institutions can be accessed to these purposes. For example Organization for Economic Cooperation and Development's tax heavens list may be accessed from the website www.oecd.org.

In the same way, list of Non-Cooperative Countries and Territories that doesn't obey or insufficiently practice the recommendations of Financial Action Task Force that operates within OECD can be accessed from the institution's website www.fatf-gafi.org.

d) Shell Banks

These are the banks that do not have a physical service office in a country, and are not under a legal authority's supervision and permission on banking transactions and registration. Transaction made within these banks or by means of these banks makes tracking harder like in shell companies. FATF requires from the member countries not to licence this kind of banks and to ensure financial institutions not to provide services with these banks directly or indirectly.

e) Shell Companies

This companies are companies which do not perform any trade or manufacturing activity and generally established at the centers across the border. They are different from the non-functional companies; although laundering purposes also exist in the non-functional companies, there is a legal activity and a workplace too. But the dummy companies exist only on papers. The purpose of their establishment is to make tracking harder in the inspection period by the fund transfers being passed through these companies in layering phase. A dummy company may actually enter legal transactions in order to increase the masking. It is hard to differentiate these types of companies, where it is not possible to learn who the partners are due to their secrecy liabilities, from others and a couple of hundred dollars is enough to establish a company at many centers across the border.

Launderers may own many companies of this type and to mix up the traces, they transfer the funds from one company to another. As a result of the transfers carried out between the companies, dummy company may be shown as a very profitable company. In such a case instead of the profit seen on the paper revenue derived from crime is placed in the safe. Tax for this money is paid and it is legalized or dummy company may buy many companies with high profit rate or low profit rate, real estate or valuable papers. These investments seem to be utilized with intentional speculations, trade on the paper and again by paying the tax for it, the money is laundered. The launderer is always ready to pay the taxes for the laundered and legalized money.

f) Display Companies (Companies Using Cash Money)

In this method, companies like fast food, gas station where cash flow is intense are established. The reason for this type of businesses to be chosen is that the accounting inspection of these being pretty difficult. By this way, funds from illegal sources may be mixed with the revenues derived from these businesses.

g) Auto-Finance Loan Method (Loan-Back)

In this method the proceeds of crime deposited to the financial organizations returns to its owner as credit.

For example; the person who is going to launder the money goes to the off-shore center and deposits the money into Bank A operating there. Then the person applies for credit from bank

C at his own country by putting up its account at bank A as a security. Bank C gives this credit and he invests with the credit borrowed as he desires. Later he does not pay the credit back to bank C and bank C confiscates the money deposited as a security by this person at bank A. Thus the money of that person is laundered as an investment subject to credit request.

h) Exchange Offices

These institutions established in many countries and work mainly with cash are open to abuse. It can be possible to keep the revenue far from its source upto a point because of the transfer of money by means of these institutions. Small bank notes may be exchanged into larger ones or the currencies in hand may be converted to other currencies. Thus it may get easier for it to be integrated into the system.

Although it is not mentioned in our country, in some countries foreign exchange offices may transfer funds and give some monetary instruments (like traveler's checks, euro checks) in exchange of cash.

i) Informal Money Transfer Systems

“Informal Money Transfer Systems” which are the only way of transferring money in some regions and their existence dates back to the times when the contemporary banking system was not present is a system that enables the money to be transferred from one geographical region to others without using formal transfer systems and there is no physical cash flow from the country. The system may be used in transfers of both legal and illegal funds. The reasons for the system to be preferred are the advantages of cost, term, trust, anonymity, work hour and little bureaucracy when compared to traditional banking system. The system provides ease in identification and confidentiality matters; this situation makes it pretty hard for the transaction to be detected by current preventive mechanisms.

Mostly it is used by certain ethnic groups, these ethnic groups come from the same historical and cultural root and the rate of usage of these systems increases by increasing international immigration movements. Trust is the basis of the system and ethnic or denominational loyalty brings easiness for the formation of a reliance atmosphere and keeps the system on its feet. Because there is no evidence; even if there is any, these are records towards tricking the authorities. Therefore it is not possible to apply to legal authorities in case of a disagreement. The system to operate effectively despite these problems, depends on the reliance comprehension ingrained.

In the system, unofficial operators spread over various countries work as the correspondents of each other. By this way a network covering many countries is being formed. The person at country A as the one, who will transfer money, gives his or her money to local operators for the purpose of having it sent to a person in country B, and the operators gives him or her a code. The operator receiving the money calls the operator in country B and conveys the information regarding the remittance. Later on, the customer in country A calls the buyer in country B and tells him or her the code that will enable him or her to get the money remitted and the buyer goes to the operator in country B and takes his or her money. Furthermore in the remittances transferred by some networks even the code is not needed. Thus the remittance process is conducted rapidly, without requiring bureaucratic formalities and without drawing the attention of the authorities. Remittance orders are generally given by telephone and it has been designated that the operators use a coded language for the

conversations not to be understood by others and even some recording operators write these records coded during the conversations of operators.

These kind of systems have a weak part even if they look uncontrollable. This weak part is the point where the process comes under the sunlight, that is, the point where it enters the traditional banking system. In fact the operator of the system may have to use the banking system. This has two principal reasons; to close the balances with other operators and to obtain arbitrage by taking the advantage of the rate differences of different currencies in different countries.

Operators who become indebted to each other due to remittance processes, may appeal some balancing processes and a part these processes – like balancing the remittance by a counter remittance – does not require the banking system to be used. For this reason the matter which is of importance for law enforcement units, is to catch this weak moment in case the banking system is used and banks are the units that will play the most important role. The system can be detected the moment it started to use the bank and the investigation may be started by reporting the situation to the law enforcement units by means of suspicious transaction reports.

j) False Invoice (Fictitious Export- Import)

Money may be laundered by means of fictitious export conveyed by using fake or as of contents, misleading documents. According to this a property of low or no value is shown as exported and the invoice is prepared compliant to that; then the crime revenue abroad may be brought into the country as if it is export revenue. For example for a property of actual worth 50 thousand dollars, crime revenue of 450 thousand dollars worth acquired from drugs trade may be shown as export revenue and be laundered by preparing an invoice for 500 thousand dollars.

The invoice prepared in this method may either be a misleading invoice showing the price of a property pretty high while it had a lower value or a fake invoice showing the price of a property that do not actually exist as if it is all equal to the amount being laundered, but in the second case, the risk is bigger since it may be easier to be detected. The company at the country where the export is conveyed to may be an active legal company, a display company or a dummy company.

Similar case applies to import too and this time the crime revenue in the country may be taken out of the country in exchange of import.

k) The Funds To Be Taken Abroad Physically (Currency Smuggling)

This method is the process of taking the funds physically to another country where there are defects in inspection of funds or there are institutions suitable to cooperation and easily be passed, from the country it was acquired due to the tight regulations in this country. The money physically taken out of the country as in cash form, check to bearer, travel check, bonds and other financial instruments has gone far from its source at least up to a certain extent. Later with a series of processes at the country where it went, it may be brought to its original country by visiting several countries and as laundered.

D. LEGAL REGULATIONS TOWARDS LAUNDERING CRIME

1. NATIONAL LEGISLATION

Laundering crime has been included in our legal system by Law No. 4208 concerning the anti money laundering on November 13, 1996. “Illicit money” and “Money laundering” has been defined in articles 2/a and 2/b of the Law and the crimes which are the sources of benefit and values (predicate offences) are determined by listing method.

However, in Turkish Penal Code No 5237, article 282, which was entered into effect on June 01, 2005, with the title “laundering the values of assets derived from crime”, has been amended as to correspond to the “illicit money” and “money laundering” definitions in article 2 of Law No 4208 and has been moved from a special law to general penal code.

Abovementioned provision of the article is as follows:

“Laundering of Proceeds Derived from Crimes

ARTICLE 282 - (1)Whoever transfers abroad the proceeds derived from an offence requiring a minimum of one year or more imprisonment or subjects the proceeds to any transaction for the purposes of disguising illicit sources of them and misleading as if they were derived from legitimate sources, is sentenced to imprisonment from 2 years up to 5 years and to judicial fine up to twenty thousand days.

(2)In case this offence is committed by public servants or particular professionals, during the execution of their professions, the sentence to imprisonment shall be increased by half of it.

(3)In case this offence is committed in the context of the activities of a criminal organization designed for the purpose of committing offences, the sentence shall be increased by one fold of it.

(4)With regard to legal persons involved in this offence, security measures pertinent to them are taken.

(5) Before initiating the prosecution procedure, whoever enables the competent authorities to seize the proceeds subject of the offence or facilitates seizing the proceeds by informing competent authorities about where the proceeds are concealed shall not be sentenced under this Article.”

By the amendment; instead of the “illicit money” concept, the concept of “the values of assets derived from crime” is used; listing method is abandoned and threshold approach is adopted, in determining the predicate offences. According to this; instead of listing crimes one by one as in Law No 4208, **values derived from crime whose minimum imprisonment penalty is one year or more** constitutes the subject of money laundering crime.

Also by the amendment stated, the components of laundering is described as “transferring the proceeds of crime to abroad or making such proceeds subject of any operations and transactions in order to disguise the illicit origin of them or gives an impression as if they were derived from legal sources”.

In paragraph 4 of the article, it has been stated that with regard to legal persons involved in this crime, security measures pertinent to them are taken. The security measures mentioned above are listed in article 60 of the Law No.5237 According to that;

“(1) The permission of the corporate body which operates based on the licence given by a public authority shall be cancelled when a conviction for a deliberate offence in favor of legal entity with the participation of its organs or representatives by abusing the power given to them.

(2) The confiscation provisions shall be applied to corporate bodies in such circumstances that the offence is committed in favor of them.

(3) If the implementation of the provisions of the paragraphs above generate more serious results in comparison to the act perpetrated then the judge may not award to these measures.”

The confiscation of proceeds of crime is also regulated by article 55 of Turkish Penal Code No 5237 with the title “Confiscation of benefits”. According to that;

“(1) The material benefits derived from committing a crime or constitutes the subject of the crime or provided for committing the crime with the economical earnings obtained by the deposition or conversion of them shall be confiscated. In order to give the confiscation decision in accordance with this paragraph, the material benefit can not be returned to the inflicted person.

(2) When the property or material benefits can not be seized or submitted to the competent authorities, an equivalent value of these assets shall be confiscated.”

2. INTERNATIONAL REGULATIONS

The first international document on this matter is the Recommendation No R(80)10 accepted at the European Council Committee of Ministers meeting dated June 26, 1980. “United Nations Agreement against Narcotic and Psychotropic Materials Smuggling” (Vienna Convention) approved on January 16, 1996 and “United Nations Agreement against Organized Crimes across the Border” (Palermo Convention) approved on February 26, 2003 by Turkey are comprehensive international agreements adopted in international criminal law to date.

When the matter is handled by European Union Acqui; it is seen that important steps have been taken in this matter by the European Council Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime dated 1990 entered by Turkey on June 06, 2004. The regulations regarding laundering crime in abovementioned agreement, emphasizing the need for national systems to be supported by the provisions concerning monitoring and searching the proceeds of crime and the back log for ensuring international cooperation, also named as Strasbourg Convention, are as follows:

“Laundering offences

Each Party shall adopt such legislative and other measures as may be necessary to establish as offences under its domestic law, when committed intentionally:

a.the conversion or transfer of property, knowing that such property is proceeds, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;

b.the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds; and, subject to its constitutional principles and the basic concepts of its legal system;

c. the acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds;
d. participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.”

The purpose of the European Union Directives within the context of Acqui is to prevent the use of financial system as a laundering means. In the Council Directive 91/308/EEC dated 10 June 1991, pursues the following purposes; identifying their customers, keeping the records regarding that, reporting suspicious transactions and to constitute internal audit and education programs liabilities have been brought for credit institution and financial institutions. The scope of Directive 91/308/EEC is widened for predicate offences and liable parties by Directive 2001/97/CE dated 19 November 2001 prepared towards this direction.

“European Council Directive 2005/60/EC Concerning Preventing the Use of Financial System for Purposes of Laundering and Financing Terrorism” dated 26.10.2005 which is prepared by taking into consideration of the international standards that developed within time has abolished by the Directive 91/308/EEC. With this change, financing terrorism is also taken into the scope of Directive with laundering, a risk based approach for liable parties in relations with their customers for preventing these crimes is envisaged.

Another important international attempt regarding the matter is the Financial Action Task Force (FATF) established under OECD by G-7 countries at year 1989. FATF, of which Turkey became a member in 1991; has been established in order to improve national legal systems on the combat against laundering, for the adaptation of the legislations, to enhance the role of financial system and to establish a continuous cooperation between the member states and has prepared a bunch of recommendations with this purpose.

The 40 Recommendation, issued in 1990 by FATF, binding member states, have been revised and renewed due to the development of new laundering techniques and methods and amended at years 1996 and 2003. On the other hand it has been envisioned to accept financing of terrorism as a crime by the 8 Special Recommendations issued in year 2001 by FATF. FATF has issued 9th Special Recommendation regulating the money transfer by using couriers matter, on the date October 22, 2004. The Revised 40 Recommendations and the 9 Special Recommendations, includes the measures which have to be taken in combating against both the laundering crime and the financing of terrorism.

Notification of Basel Committee, which is formed by the world’s leading states central banks and Banking audit authorities, with the subject of "Core Principles for Effective Banking Supervision” also takes place in important international instruments. The document contains, principles that will be taken into consideration about banks measures for preventing the laundering and their evaluation and auditing in view of law.

II. CHAPTER BASIC PRINCIPLES AND LEGAL LIABILITIES IN PREVENTING MONEY LAUNDERING CRIME

A. BASIC PRINCIPLES IN PREVENTING MONEY LAUNDERING CRIME

Besides the financial institutions like banks, capital market institutions, insurance companies; non financial professional groups like accountants, notary public offices, real estate offices are also put under important duties in all countries. Especially the institutions operating in the financial sector, where money laundering activities are intense, confront a wide variety of customer types. The basic principles in detecting the customers with the intention of using financial institutions as a mediator in money laundering activities are; customer recognition policies and suspicious transaction reporting systems. Elements like education, internal audit, integration official appointment and functions are of great importance within the scope of these basic policies and systems.

1. THE RULE OF KNOWING THE CUSTOMER AND ITS IMPORTANCE

Knowing the Customer Rule implies for the liable parties to have a sufficient level of information regarding their customers and the activities of their customers; and to develop policies and procedures within their structures, in order to get that information.

Knowing the customer is of vital importance for all liable parties, for forming a basis for the activities to be conveyed in the future, based on the relationships between the liable parties and the customers. The information obtained regarding the customer to be the tool that will be used in assessing the suspicious transaction period, increases the importance of this matter much more.

Besides fighting money laundering; knowing the customer rule also helps the activities, and especially the credit activities, of the liable parties to be carried out in a proper manner.

Knowing the customer lowers and controls the money laundering risk and also enables the transactions related to illegal activities to be detected. Effective use of this rule protects both national and international credit of the liable parties and ensures the integrity of the financial system, by lowering the probability of being used in financial crimes.

Having inefficient standards or no standards for knowing the customer results in lowering the liable parties prestige and being faced with serious customer and credit risks like operational, and legal risks. It should not be overlooked that all these risks are interrelated. As any of these risks may bear considerable losses to the financial institutions like; the account owners drawing their money, ending facilities between the banks, investigation costs for the claims against the bank, actives sales and freezing of actives and credit losses; it may cause the government to use its time and energy for the solutions of these problems.

The liable parties must have policies, practices and procedures at a sufficient level as to form high ethical and professional standards and prevent the institutions to be used in crime activities. The main work to be conveyed in this matter is the liable parties to develop proper get to know your customer programs. Get to know your customer program to be developed by the liable parties must contain the subjects of;

- 1- Customer acceptance policy
- 2- Customer identification and know your customer policy
- 3- Keeping and updating the records
- 4- Sharing AML/CFT regulation and paying attention to international transactions
- 5- Internal audit and risk management systems

a) Customer Acceptance Policy

The liable parties have to develop their customer acceptance policies and procedures including also the customer profile which contains a risk above normal. While forming these types of policies; factors like the background of the customer, country where he or she is residing at, his or her linked accounts, commercial activities and other risk indications must be taken into consideration. For example, the countries and the territories included in “The List of Non-Cooperative Countries and Territories”, the countries or offshore centres, where drug trafficking and smuggling crimes are often committed and terrorist organizations are based, can be taken into consideration in determining risk elements.

For their customers with high risks, the banks must develop graduated customer acceptance policies and procedures that require a more intense inspection. Besides, a pretty comprehensive inspection may be necessary for the individuals with high risk whose source of funds is not known.

According to FATF Recommendations, liable parties should also add the following measures for politically exposed person (PEPS) to get to know your customer principle;

- Developing the appropriate risk management systems in order to detect whether the effective customer, potential customer or beneficial owner is a Politically Exposed Person or not.
- Financial institutions should have senior management approval for establishing business relationships with Politically Exposed Person.
- Where a customer has been accepted and the customer or beneficial owner is subsequently found to be a PEP, financial institutions should take to obtain senior management approval to continue the business relationship.
- Financial institutions should take necessary measures about detecting the sources of the politically exposed person’s properties and funds.
- Financial institutions which has business relations with politically exposed person’s should take necessary measures to monitor continuously on that relationship.

According to FATF Recommendations, liable parties should also do the following in correspondent banking and other similar relations adding to the necessary measures for get to know your customer principle ;

- Gather sufficient information about a respondent institution to understand fully the nature of the respondent’s business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a Money laundering or terrorist financing investigation or regulatory action.

- Assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective.
- Obtain approval from senior management before establishing new correspondent relationships.
- Documenting the respective AML/CFT and get to know your customer principle responsibilities of each institution.

Where a correspondent relationship involves the maintenance of "payable-through accounts"¹ financial institutions should be satisfied that:

(a) their customer (the respondent financial institution) has performed all the normal CDD obligations set out on those of its customers that have direct access to the accounts of the correspondent financial institution; and

(b) the respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution.

b) Customer Identification and Know Your Customer Policy

The liable parties have to develop a systematic get to know your customer procedure in order to detect new customers and whether these act on behalf of themselves or on behalf and account of another persons and must start the business relation after identifying the customer. The liable parties have to identify customers in order to detect whether these act on behalf of themselves or on behalf and account of another persons and develop policies on this matter. Liable parties opening an account in the name of the customer, must maintain a mutual trust with the customer and convey the purposes of combat against laundering by reminding them of their responsibilities. At the same time as a part of official identification they have to obtain the economical and financial situation, the purpose of the business relation, rationales of requesting possible emergent transactions to be carried out from the customer.

According to FATF Recommendations the following measures should be taken for knowing the customer:

Detecting the customer's identity and verifying that identity with using reliable, independent sourced document or information.

Taking necessary measures for identifying beneficial owner and verifying the identity, adding to that for legal person and institutions taking necessary measures for knowing the property and auditing structure of financial institutions customer,

Having information on the type of business relation and reason of establishment,

In business relations and in examining transactions done in the continuation of that relations, institutions carried out transactions; continuously following the customers works and if

¹ "Payable-through accounts" refers to correspondent accounts that are used directly by third parties to transact business on their own behalf.

necessary including the sources of their funds in order to provide information and suitability of them for the risk profile,

Liabe parties according to FATF recommendations, continuously or temporarily, whether customer is a real or legal person should detect customer's identity and verify the identity information with using reliable, valid documents, information or data.

For their customers and institutions as legal person, liabe parties should;

(a) Confirm the one who made the transaction has the authority to do this and detect this person's identity.

(b) Legal status of the institution or legal person should be confirmed and information on customers name, address, legal status, managers and the legal regulations they belong should be ensured.

Financial institutions should take the necessary measures for determining who the beneficial owner is and eliminating any suspicion about whether if the beneficial owner's identity is right.

For all customers, financial organization should determine if customer is acting on behalf of an other person and take necessary measures for enough identity data that will be used in conforming of the person that is act on his behalf.

Financial organization, about institutions and customers which are legal person includes;

(a) Understanding the ownership and auditing structure of customer, and

(b) should take necessary measures for determining the real person entitled or the one who's directing the customer. These measures also includes the people who are responsible for the main auditing of the relation or legal person.

c) Keeping And Updating The Records

The liabe parties must store the records related to the customer and develop standards on which records to be stored related to the transaction carried out. Such a practice will provide the liabe parties to continuously monitor the customer and to compare the job conducted by the customer with the transaction he or she carried out and perhaps will enable a criminal investigation to begin by detecting the suspicious transaction.

Liabe parties must review present records in an orderly manner by considering the necessity of the records to be current. The best time to do that is the time when an important transaction is carried out, customer certification standards started to change or when important changes occur in the transactions. If an liabe parties realizes that they do not have enough information on one of the customers, must take the necessary steps to obtain the information related to the customer as soon as possible.

According to FATF recommendations;

- Liabe parties should keep all the necessary records related with national and international transactions after at least 5 years following the completion of transaction. (or longer period on

the demands of authorities in special circumstances) This condition is carried out regardless of the continuation or ending of the account or business relation.

- Transaction records should be in the quality of reestablishing the individual transactions done and have feature to be used as proof in investigating crime actions.

- The important features of transaction records are made from the customers (or beneficial owners) name, address (or identifying information), the date and content of transaction, amount of transaction and type of money and identifying and writing the calculation related with transaction.

- Liable parties records of data of identification, account files and records related with commercial communication should be kept at least 5 years following the closure of account and business relation. (or longer period on the demands of authorities in special circumstances)

d) Sharing AML/CFT Regulation and Paying Attention to International Transactions

The liable parties must share all relevant AML/CFT regulations with their personnel and may issue complementary guidelines on the subject.

The liable parties have to assess whether the transactions carried out by the customer at international level is compatible with its economical activities or its customer potential, or not. Within this context, special attention must be given to the transactions carried out with non cooperative countries, off-shore regions and regions where terrorist activities are intense.

e) Internal Audit and Risk Management Systems

Effective 'get to know your customer' procedures; must contain internal audit system and controls, division of labor, education and other related policies. Board of directors of the liable parties financial organization has to apply effective 'get to know your customer' programs by preparing pursuant procedures. These procedures and internal audit and control systems enable suspicious transactions to be identified by providing a chance of control especially in identification rules and keeping the records and provide the relations between the liable parties and the customer to be understood better.

The liable parties must establish clearly determined responsibilities; specify in writing and announce to all personnel, the identification and reporting methods for suspicious transactions, in order to ensure the policy and procedures of combat against laundering are applied in an effective manner.

The liable parties financial organizations have to develop appropriate laundering risk management systems in laundering matter. Thus liable parties financial organizations will have the risks that they are going to face due to laundering like legal, consideration, operational, minimized.

According to FATF recommendations;

- Liable parties, in order to prevent money laundering and financing terrorism should be liable parties with establishing and executing internal policies, procedure and audit mechanism and express this to the workers. This policy, procedure and audit mechanisms should be liable parties for get to know your customer principle, recording, investigating extraordinary and suspicious transactions and reporting.
- Liable parties should develop suitable adaptation management arrangements and for example should appoint a highly qualified personnel at least in administrative level as an compliance officer
- Compliance officer and other authorities should have access to customer identification and other customers tracking information, transaction records and related information all the time.
- Liable parties, in order to test the adaptation with procedures and auditing (with including sample test) should have sufficient source and independent auditing mechanism.
- Liable parties should continuously prepare training programs for informing workers about new methods, technical developments and tendencies about money laundering and financing terrorism; especially get to know your customer principle and reporting suspicious transactions and money laundering and financing terrorism laws and liabilities reasons should be expressed and workers should understood the reasons in this subject.
- While employing their workers, liable parties should have necessary tracking procedures for ensuring high standards.

2. REPORTING SYSTEM FOR SUSPICIOUS TRANSACTION AND ITS IMPORTANCE

It is of great importance within the scope of preventive measures in the combat against laundering that the persons and institutions carrying out transactions regarding economical events must report to competent authorities with regard to the transactions they have conducted.

This reporting is generally carried out in two ways. The first one is the reporting of cash transactions above a certain amount determined by considering the privacy of economical events. The second is the suspicious transaction reporting conveyed to competent authorities in cases where it is suspected to be used towards laundering and the indications related to that are present, without being bound by any amount.

In our country now only the suspicious transaction reporting procedure is in effect within the scope of fight against laundering legislation. Suspicious transaction reportings that will be carried out by the liable parties:

- Prevent the flow of illegal funds and protect the esteem of the country and the liable parties in national and international scope.
- Enable the laundering activities to be unraveled.
- Prevent the liable parties to be used as means in laundering money.
- A legal liability shall be fulfilled. Therefore liable parties have their legal risks decreased .
- Enable us to detect the methods and tendencies of laundering.

The liable parties must develop systems in practice in order to detect extraordinary and suspicious activities for all accounts. Certain transaction types, warn liable parties on whether the activity conducted by the customer is extraordinary or suspicious or not. Carrying out the activities with no economical or commercial basis in the appearance or containing a big amount of cash at a level which is not expected from the customer may be shown as example for these types of transactions.

The liable parties must develop analyses containing the degree of anomaly of a transaction according to the statistics of the customers. The economical – financial profile that should have been declared by the customer must be compared with other information regarding the customer held by the liable parties in order to assess the convenience of the transaction. If it is decided that the customer is not performing an activity of economical importance, special attention must be given to the transaction carried out. Both in point of financial profile and in point of the instruments utilized due to the field of activity of the liable parties, situations which are not in accord with personal characteristics and normal transactions of the customer and situations with no rationale requires the suspicious transaction reporting procedure to be operated.

In case the liable parties suspect that the funds of their customers have been acquired from crime or linked to financing terrorism or there is a reason for them to suspect, they have to report this suspicion of theirs to MASAK by the suspicious transaction reports. There is no limit in suspicious transaction and all suspicious transactions including the attempt stage must be reported.

The most important matter in suspicious transaction reporting is the official carrying out the transaction to believe whether the transaction has indications towards laundering or not, without looking at the amount or the transaction or whether it is a cash transaction or not. Therefore the first and most efficient method to define the suspicious transaction is to have enough information about the customer and the business of the customer.

Suspicious transaction is a multifaceted concept and often occurs as altering the normal flow of transactions carried out in an account. All complex and extraordinarily large scale transactions with no economical, commercial or legal reason have to be reported to MASAK for a more detailed analysis.

In case the liable parties do not apply the get to know your customer policies as required and they are not so willing in this matter; liable parties organization will be under legal risk and consideration risk any moment. Therefore continuous monitoring the customer constitutes the main component of the get to know your customer policies. Because the liable parties may control or decrease their risks only if they understand or comprehend the normal and usual flow of the accounts of their customers. In cases where there is not such an information, they would be unsuccessful in detecting the suspicious transactions and in reporting them to competent authorities. The liable parties have to develop systems on a risk-sensitive basis to provide classification of the customers or separation of transactions or accounts into categories, in order to recognize suspicious transactions.

3. ACTIVE COOPERATION OF THE LIABLE PARTIES

Every person has a business relationship with financial institutions or non financial institutions or professional groups. Real and legal persons laundering crime revenues and financing terror also have business relations with these institutions. But there are differences

between the targets of the normal customer and customers laundering crime revenues or financing terror. While the normal customer is willing to buy the service by facilitating the service provided by abovementioned institutions, aim of the other customer is to launder the crime revenue or to finance terror by facilitating the service provided by these institutions besides buying the service.

Matters like the variety of the services provided especially by financial organizations, the speed of their transactions, and their services across the border cause the organizations conveying activities like drugs, arms, organ, human smuggling, etc. to carry out laundering activities by putting the crime revenues they obtained into the financial system and cause the real and legal persons financing terror to provide funds for the terror organizations by this way.

Therefore, it is of utmost importance that the liable parties groups which face various types of customers due to the activities they perform, to cooperate with the law enforcement units in fighting against laundering or financing of terror. The rule of knowing the customer which is a liability brought to these organizations and suspicious transaction reporting are the main instruments used in the combat against laundering and financing of terror by the financial institutions and non financial institutions all over the world.

An institution that knows its customer, reports suspicious transaction to the financial intelligence unit when it detects an abnormal activity by comprehending whether the activities carried by its customer are normal or not, and thus enables a criminal investigation to begin.

During the criminal investigations, a cautionary hold is applied on certain funds determined to be linked with various crimes and abovementioned funds are transferred to the State by being confiscated by the court. Those who launder crime revenues and finance terror are also liable to imprisonment. Thus, the criminals are deprived of the revenue which is the most important reason why they commit crimes.

The active cooperation of liable parties is possible by developing policies and procedures in combating money laundering and financing terrorism within its structure, taking laundering into the scope of internal audit and risk management, and applying these an effective manner and providing education to the personnel

The liable parties must provide continuous education for the personnel to learn the ‘get to know your customer’ procedures at a sufficient level. Regular and updated trainings must remind the personnel of their responsibility and must ensure them to get information on new developments. It is very important for all related personnel to understand that it is necessary for ‘get to know your customer’ policies to be applied continuously. Having a culture in the liable parties supporting this comprehension acts as a basis in a successful practice.

The liable parties must determine the contents of their education programs by taking the matters below into consideration also in the light of the present guidelines:

- Transactions with identification obligation, identification method and keeping the records,
- Identification and reporting method for suspicious transaction,
- Laundering methods, subjective and objective criteria,
- Risky regions and customers, transactions and risky businesses,
- Laundering risk management,

- Internal audit procedures,
- Procedure of submitting the information and documents requested by the authorities,
- Sanctions to apply in case the liabilities are not fulfilled.

4. RISKS TO BE FACED IN CASE OF NONCOMPLIANCE TO BASIC PRINCIPLES

All the policies explained above in detail will be a shield to protect financial institutions against laundering risks. Perhaps the subject which has to be considered the most in our country is to learn the risks that may affect financial system and to take measures. Detecting the risks may be possible by a comprehensive “get to know your customer policy”. These risks are classified in general as follows.

a) LEGAL RISK

Legal risk means; the possibility of a suit filed against financial institution or situation or operations of the financial institution to negatively affected due to the contracts. Banks in the world face serious legal risks because they do not fulfill their duties brought to them within the scope of fighting laundering. In some countries, in case of continuous liability violations, even the cancellation of their banking licenses may be chosen.

In case of conviction from the crimes committed deliberately by the participation of the organs and representatives of corporate bodies operating based on the permission given by a public institution and by the misuse of the authority given by this permission, it is decided for the permission to be cancelled pursuant to the articles 282 and 60 of Turkish Penal law No 5237 with the titles “Laundering of the property values resulted from crime” and “Safety measures concerning legal persons” respectively.

b) CONSIDERATION RISK

Since the financial institutions are institutions that operate on trust principle, the public opinion on the financial institution and the confidence of the customers are of the most valuable actives that a financial institution may have. Consideration risk means the present and possible effects of the negative impressions in public opinion on the activities and revenues of the financial institution. As this risk may prevent financial institutions to enter new business relations, it also will impede the continuation of the present business relations. It is possible for the financial institutions subject to consideration risk to have their customer base lowered and face a financial loss.

Consideration risk is not valid only within the national borders. The Financial Action Task Force (FATF) where Turkey is a member too, evaluates the compliance of member states in an orderly fashion by the Recommendations it issued and applies article 21 of Recommendation 40 to the countries not complying with its Recommendations. 21. In Recommendation 21 there is the phrase “Financial institutions have to pay special attention to the business relations and transactions they will enter with the citizens, including the companies and financial institutions, of the countries that do not or partially comply with FATF Recommendations. The meaning of it for financial system is the dropping prestige of financial institutions of non-complied country in foreign countries and to experience more bureaucracy and therefore delays in the transactions carried out by foreign banks via financial institutions in non-complied.

In case the country continues not to or insufficiently comply with FATF Recommendations, also additional measures like “when the requests of the banks for establishing branches or representatives in a FATF member country are evaluated, considering that said bank is a bank of a non cooperating country, warning non financial sector companies that the transactions carried out with the institutions at foreign countries that do not cooperate may carry a laundering risk, limiting the business relations and financial transactions with persons from this country” are becoming effective too.

At this point numbers of suspicious transaction reports transmitted to the financial intelligence unit of the country are seen as a success criterion in practice. Within this scope, the sensitivity on complying with the liabilities brought is of extreme importance.

c) OPERATIONAL RISK

Operational risk means the direct or indirect risk of the financial institution to loose due to ineffective internal control procedures or external factors. Most of the operational risks, also named as the activity risks, are related to the weaknesses of the financial institution in complying with its liabilities and results especially from the disruptions in the controls within the financial institution and mistakes of the financial institution management. Since the disruptions in the internal controls will cause the mistakes and dishonesties not to be seen, they may result in a loss of the financial institution or not acting appropriate to date and conditions and putting the interests of the financial institution under danger.

According to FATF recommendations; about the risks that financial institutions may face cause of using as mediator for money laundering;

- Should continue to investigation and tracking related with customer during the transaction and business relation for ensuring the accordance of information on transaction made, occupation of customer, risk profile and sources of funds when necessary and other customer information that is within the financial institution.
- Especially for customers and business relations that are in the category of high risk, under the procedure of “get to know your customer” principle with updating and examining current records documents, data and information should be achieved.
- For customers in the category of high risk, the measure required by strengthened get to know your customer principle should be applied.
- The necessities related with get to know your customer principle should be applied to existing customers and business relations with risk situation and importance.

B. LEGAL LIABILITIES

In order to fight against laundering crime more effectively and to prevent the financial system to be used by the criminals; there are important roles of institutions, organizations and persons operating at a national scale and there comes out the obligation to specify the preventive measures the matter by legal regulations.

Within this context, these duties which have been set under certain principles in Law No 4208 and the secondary legislation regarding that are defined as **liabilities**; those who fulfill these liabilities are defined as **liable parties**.

In article 3 of Regulation Regarding the Execution of Law No. 4208 (will be called “Execution Regulation” thereof)², 19 groups of liable parties have been designated as follows;

- 1- Banks,
- 2- Participation Banks,³
- 3- Institutions, which issue credit cards as their primary function, other than banks,
- 4- Money lenders, consumer financing companies and factoring companies operating within the framework of legislation regarding money lending transactions,
- 5- Insurance and reinsurance companies operating within the framework of Insurance Supervision Law No 7397,
- 6- Istanbul Stock Exchange Settlement and Custody Bank Inc.,
- 7- Capital market intermediaries and portfolio management companies,
- 8- Investment funds,
- 9- Investment partnerships,
- 10- Precious metals exchange intermediaries,
- 11- Precious metal, stone and jewelry dealers,
- 12- Authorized institutions operating within the framework exchange legislation,
- 13- Every kind of postal service and cargo companies including General Directorate of Postal,
- 14- Financial leasing companies,
- 15- Real estate agencies or persons intermediating buying and selling of real estate,
- 16- Lottery hall managers,
- 17- Ship, aircraft and vehicle -including construction machines- dealers,
- 18- Collectors of historical arts, antiques and artworks as well as dealers, or auctioneers,
- 19- Sport clubs,

Liabilities developed as preventive measures in anti money laundering may be listed under the titles; identification, suspicious transaction reporting, assignment compliance officer, training, and internal control.

The explanations regarding the regulations concluded on liabilities are included in this section.

1. IDENTIFICATION

The principles regarding identification are determined in the Execution Regulation and in Financial Board General Communiques No 1⁴ and 4⁵ issued within these determinations, statements are made regarding the execution.

² Published in Official Gazette No. 23037 dated 07/02/1997.

³ According to the article 169 of the Banking Law No. 5411, all references made to the private finance houses shall be deemed to have been made to participation banks and according to the article 3, definition of bank is included participation banks. Therefore, the expression of bank in following sections will be included participation banks.

⁴ Published in Official Gazette No. 23217 dated 12/31/1997.

⁵ Published in Official Gazette No. 24932 dated 11/10/2002.

a) Parties Liable To Identification

Beside the groups of liable parties listed in article 3 of Execution Regulation, General Directorate of National Lottery and Turkish Jockey Club are also liable to identification.

b) Transactions Required To Identification

Pursuant to article 4 of the Execution Regulation, titled “Identification Liability”;
Liable parties and their branch, agency, representative and commercial proxies and similar units linked in Turkey;

The total amount which they are parties of or mediated to, exceeding 12.000 YTL (amended by Fighting against Financial Crimes Coordination Board Ruling dated July 02, 2003) or equivalent foreign currency;

- all kinds of purchase and sale,
- remittance,
- payment,
- storage,
- clearance,
- barter,
- borrowing,
- lending,
- debt transfer,
- transfer of claims,
- renting,
- renting out,
- depositing into or withdrawing from current or deposit accounts or participation accounts⁶,
- collection of checks or deeds,
- transactions pertaining to securities,
- transactions alike,

before carrying out these transactions they have to identify their customers and persons acting on behalf of them and keep them for a five years period starting by the beginning of the calendar year following the last transaction date within its procedure.

In addition;

- insuring,
 - financial leasing,
 - safe deposit box services,
 - opening deposit, participation, current and repo account and the accounts alike,
- it is necessary to identification before their transactions are completed, without any monetary threshold.

Although transactions for which identification will be conducted without looking at the limit of 12.000 YTL are listed one by one in article 4 of the Regulations, it has been indicated that the regulation is not limited with these transactions only by making the use of "opening accounts alike" expression. Transactions listed are transactions during which the business relation between the liable parties and the customer shows continuity. If a transaction that has been carried out allows one or more transactions to be carried out later related to that, it is

⁶ “Profit and loss participation account” is defined as “participation account” according to the article 3 of the Banking Law No. 5411.

required to accept that this transaction carries a continuity element and assess it within the scope of “similar account opening processes”.

c) Calculation of the 12.000 YTL Limit in Transactions of Foreign Currency

The foreign exchange buying rates of Central Bank on the transaction date shall apply in determining the Turkish Lira equivalents of transactions carried out using foreign currency.

d) Those Who Have to be Identified Regarding the Transaction to be Carried Out

It makes no difference whether the customers are real or legal persons from the point of identification obligation. Also, although the principle in identification is to designate the identity of the customer, in case the transactions are being carried out by other persons on behalf of the customer, these persons acting on behalf of the customer need to be identified.

In MASAK General Communique No 4, there are examples related to identification. These examples have been included below also by taking into consideration Combating Financial Crimes Coordination Board Ruling dated July 02, 2003 which increases the 2.000 YTL limit for identification to 12.000 YTL.

EXAMPLES

Example 1

Money is being deposited by the commercial debtors into the commercial deposits account opened at Bank (X) by person (A) on July 19, 2004. The money collected in the account is being drawn by person (B) authorized by person (A). Regarding these transactions;

- Since the account opening process has a continuity factor, identification must be conducted for person (A) when the account is opened at Bank (X) for the first time.
- Identities of third persons depositing into the account of person (A) shall be specified in case the amount deposited in the account exceeds 12.000 YTL or equivalent foreign currency.
- Identity of person (B) shall be specified in case the amount he or she is drawing from the account exceeds 12.000 YTL or equivalent foreign currency.

Example 2

Mr. (B) acting on behalf of Mr. (A), has applied the bank to make a money transfer of 15.000 YTL to (X) INC. Regarding this transaction;

- Although this money transfer does not have a continuity factor, identification has to be carried out since it exceeds 12.000 YTL.
- The identities of Mr. (B) who conducts the money transfer transaction and Mr. (A) on behalf of whom the transaction is carried out, shall be identified separately by the Bank.
- At the time of drawing the money transfer amount of 15.000 YTL from the bank the money transfer is made to by (X) INC., both (X) INC. and the person acting on behalf of the company have to be separately identified.

Example 3

Mr. (A) is sending a money transfer of 550 YTL to the account of his child studying in İstanbul, at İstanbul Branch of Bank (X) via the Ankara Branch of the same bank. Regarding this transaction;

- Since the amount transferred by Mr. (A) does not exceed 12.000 YTL, Ankara Branch of Bank (X) does not have an identification obligation.

- Although identification is conducted for Mr. (A)'s child before paying the money transfer amount at İstanbul Branch of Bank (X), there is no identification obligation within the procedures and principles stated in the Execution Regulation.

e) Document Types Subject To Identification

In article 6 of the Execution Regulation, titled “*Identification Procedure*”, the Chairmanship has been authorized to determine the document types subject to identification and based on this authority documents to be used in identification are defined separately for real persons of Turkish nationality, real persons of foreign nationality, legal persons registered at the trade registry, foundations, associations and establishments with no legal personality. Documents to be used in identification according to that;

a- Identification card, driving license or passport for real persons of Turkish nationality,

b- Passports of their own country or residence permit for real persons of foreign nationality,

c- Documents regarding registration (originals or notarized copies of Trade Registry Paper{establishment/amendment}and signature circular) and document regarding the person acting on behalf of legal body being authorized to represent and the signature circular for legal persons registered at trade registry,

d- Documents regarding registry records held at General Directorate of Foundations for the foundations,

e- Documents regarding the record at associations registry held at security directorates of the provinces for the associations,

f- Decision regarding the authorization to manage for the establishments with no legal personality.

However, in the Regulation concerning the Associations⁷ issued under the Law No.5253 on the Associations, it is stated that registers of the associations shall be hold by the province-based public agencies responsible for the associations. Therefore, the documents related to the registers within these units should be based on identification procedure.

f) Problems Faced in Practice With Regard To Identification

(1) Identification of the Citizens of the Country With Which We Entered into Bilateral or Multilateral Agreements

According to some agreements entered into by our country in practice; since citizens of the countries which are parties to abovementioned agreements are allowed to enter into our country within certain limits with the identity documents defined in the agreement instead of a passport, there are hesitations on which documents to be taken as the basis in identification of these persons. The explanations below have been made regarding the matter.

(2) Citizens of Turkish Republic of Northern Cyprus

The approval of the “*Agreement Between T. R. Government and T. R. N. C. Government Concerning Providing Additional Means to the Citizens of Both Countries*” signed on the date July 19, 1999 in Lefkoşa, appropriated to be approved by Law No 4465 dated November 3,

⁷ Published in Official Gazette No. 25772 dated 03/31/2005.

1999; has been regulated by the Cabinet Council on the date December 6, 1999 and entered into effect by being published in Official Gazette No 23928 dated January 6, 2000. Parallel to the provisions of abovementioned Agreement, there has been a protocol prepared between Ministry of Internal Affairs and Ministry of External Affairs and pursuant to the provisions of abovementioned protocol, chances of entering – leaving Turkey without being limited by any time period and using identification card instead of passport. For this reason, in case citizens of T.R.N.C. want to have the transactions requiring identification to be carried out in accordance with Law No 4208 and related legislation, identification process may be conducted by the identification card.

(3) Citizens of the Countries Entered Into the European Agreement Concerning Travels of Persons Between Member States of European Council

In article 1 of “*European Agreement Concerning Personal Travels Between the Member States of the European Council*” signed on the date December 13, 1957 in Paris and published in Official Gazette no 10972 dated December 1, 1961; it has been stated that citizens of the Agreement Parties, without looking at the country they reside, by presenting any one of the documents mentioned in the appendix of this Agreement, may enter and leave the land of other Agreement Parties from all borders, that abovementioned facility covers only the visits not exceeding three months, that in case of visits of more than three months or in case it is for business purposes, valid passport or visa may be required.

Pursuant to abovementioned Agreement; citizens of European Council members Germany, Belgium, France, Holland, Liechtenstein, Spain, Italy, Malta, Switzerland, Luxembourg and Greece; have the chance to enter and exit by their identification cards from land, air, sea and railway border crossings.

According to that, in case the citizens of European Council member states mentioned above who come to visit Turkey for a maximum of three months do not have business purposes want to have the transactions requiring identification to be carried out, identification process shall be conducted by their identification cards. Since the condition to compliance with the provision of visiting our country for a three months period, will be proven by the “Form for Entry – Exit from Border Crossings For Persons Travelling With Identification Card” and by the date on this form, a readable copy of abovementioned form will be taken after being presented.

In case the citizens of the states mentioned above who come to visit Turkey for more than three months do have business purposes want to have the transactions requiring identification to be carried out, passport or residence permit will be asked for identification. Designation of the condition of coming to our country with business purposes is possible only with the declaration of the person having the transaction conducted or in case this is explicitly understood by the nature of the transaction, no document will be required in this matter by liable parties.

(4) Legal Bodies Registered at the Trade Registry Founded at Foreign Countries

In case it is asked to have the transactions requiring identification liability to be carried out on behalf of legal bodies registered at the trade registry founded at foreign countries, there has

been no discrimination whether they are established in our country or not when the documents to be used in the identification of legal bodies registered at the trade registry, have been determined. According to that, documents specified in Execution Regulation or equivalent documents need to be asked for the identification of abovementioned persons. What is intended to be defined by equivalent document is that this document matches the regulations in our country as of the authority that has given the document and the nature of the document.

Whereas among these documents, the signature on those prepared by foreign state competent authorities being real, title of the person signing the document or the seal or stamp on the document being the same with the original are required to be approved by the Turkish Consulate in related country or under "*Lahey Agreement Concerning Ceasing the Approval Obligation for Foreign Official Documents*" signed on the date May 8, 1962 in Lahey and approved by Law no 3028 dated June 20, 1984, need to be specified by means of an approval annotation (Apostil Annotation) by the competent authority of state which is a party to the Agreement. It is customary also to ask for notarized Turkish translations of those prepared in foreign language among abovementioned documents.

(5) The Identification Document Nature of the Signature Circular

In case transaction has been carried out on behalf of legal persons registered at the trade registry before the liable parties, since there is also the detailed presentation of the identification information of the persons in the notarized signature circular presented regarding identification, it is seen that the liable parties are hesitating whether the original of the identification document is to be asked or not in this case from the persons authorized to sign in the name of legal persons.

According to the article 6 of the Regulations; "*In the transactions carried out on behalf of corporate entities, associations, foundations and establishments which are not corporate entities, the real person who carry out the transaction shall also be identified. In the event that the transactions are carried out on behalf of another real person, corporate entity and establishments that are not corporate entities, those on behalf of whom the transactions are carried out shall also be identified.*".

As it can be understood from this phrase, in case a transaction is carried out on behalf of a legal person before the liable parties; the event has two parties as the legal person for whom the transaction is carried out and the real person acting on behalf of abovementioned legal person and the identifications of both parties have to be specified separately through the documents determined in the legislation.

Besides, although there is the detailed presentation of the identification information of the persons authorized to sign in the signature circular, since there are no photos of them, it is not possible to determine whether the person asking to have a transaction, is the person whose name is in the signature circular. According to that, it is required to ask the identification document, details of which has been specified in General Communique No 4, from abovementioned persons.

g) The Customer Identification Procedure

	In The First Transaction	In Subsequent Transaction
In the event that a real person carries out a transaction on behalf of him	<p>Identification of this person shall be specified by taking the originals of identification card, driver's license and passport or readable photocopies of one of the notarized copies of these after being presented or by recording the identification information on the back of the document related to the transaction,</p> <p>(The method envisioned for the identification of real persons, shall be phrased as "taking identification information" in order to avoid repetition)</p>	<p>Identification of this person shall be specified by presenting the originals of identification card, driver's license and passport or of one of the notarized copies of these and by comparing the information in these documents with the information present in the records of the liable parties.</p> <p>(In this section, instead of mentioning the identification documents one by one, the phrase "valid identification documents" shall be used)</p>
In the event that, carry out a transaction by another person on behalf of a real person	<p>Identification of the person on whose behalf the transaction has been carried out shall be specified by taking his or her identification information and the identification of the person having the transaction carried out shall be specified by taking his or her identification information or original or a readable photocopy of the notarized copy of power of attorney regarding authorization to act on behalf of the actual transaction owner after being presented.</p>	<p>Identification of this person shall be specified by presenting the power of attorney document regarding the authority of the person acting on behalf of other and one of the valid identification documents and by comparing the information in these documents with the information present in the records of the liable parties.</p>
In the event that carry out a transaction on behalf of a legal entity registered to Trade Registry	<p>Identification of the person on whose behalf the transaction has been carried out shall be specified by taking readable photocopies of Trade Registry Paper (establishment/renewal) and signature circular after presenting the originals or notarized copies.</p> <p>- If the transaction is being conducted by authorized person or persons mentioned in Trade Registry Paper, by taking the identification information of those,</p> <p>- If the transaction is being conducted by other persons authorized by the persons mentioned in Trade Registry Paper, by taking the identification information of those or by taking a readable photocopy of the power of attorney regarding their authorization to act on behalf of the actual transaction owner after the original or notarized copy of it being presented.</p>	<p>- If the transaction is being conducted by persons mentioned in the Trade registry, the identification of this person shall be specified by presenting one of the valid identification documents of these persons,</p> <p>- If the transaction is being conducted by authorized persons, identification of this person shall be specified by presenting one of the valid identification documents of these persons and the power of attorney document,</p> <p>and by comparing the information in these documents with the information present in the records of the liable parties.</p>

<p>In the event that carry out the transaction on behalf of an association or foundation</p>	<p>Identification of the association or organization on whose behalf the transaction has been carried out shall be specified by taking readable photocopies of Trade Registry Paper (establishment/amendment) and signature circular after presenting the originals or notarized copies.</p> <ul style="list-style-type: none"> - If the transaction is being conducted by persons mentioned in the registry documents, by taking the identification information of those, - If the transaction is being conducted by other persons authorized by the persons mentioned in the registry documents, by taking the identification information of those and by taking a readable photocopy of the power of attorney regarding their authority after the original or notarized copy of it being presented. 	<ul style="list-style-type: none"> - If the transaction is being conducted by persons mentioned in the registry records, identification of this person shall be specified by presenting one of the valid identification documents of these persons, - If the transaction is being conducted by authorized persons, identification of this person shall be specified by presenting one of the valid identification documents of these persons and the power of attorney document, <p>and by comparing the information in these documents with the information present in the records of the liable parties.</p>
<p>In the event that carry out the transaction on behalf of an organization that are not corporate bodies (Ex: apartment management)</p>	<p>Identification of the person on whose behalf the transaction has been carried out shall be specified by taking readable photocopy of the resolution regarding authorization after presenting the original or notarized copy; the identification of the person having the transaction carried out is specified by taking his or her identification information</p>	<ul style="list-style-type: none"> - If it is being conducted by persons mentioned in the resolution regarding authorization, identification of these persons shall be specified by presenting one of the valid identification documents of these persons, - If the transaction is being conducted by authorized persons, identification of this person shall be specified by presenting one of the valid identification documents of these persons and the power of attorney document, <p>and by comparing the information in these documents with the information present in the records of the liable parties.</p>

In confirmation, it is enough to write down the name and surname of the person to the concerning document making the transaction. It is not necessary to take the photocopy of these documents or to write down the identity information to the back of the concerning documents.

EXAMPLE

Mr. (A), the director of (Z) Limited Company has applied to Bank (X) to open a trade deposit account on behalf of the company. As opening an account is readily requiring customer identification, it is necessary to make the identification of Mr. (A) and (Z) Limited company before this transaction. The Bank shall make the identification of (Z) limited company by receiving legible photocopies of original copies or certified copies of the signature circulars

and trade registry gazette (establishment/amendment). The customer identification of Mr. (A) shall be made by receiving legible photocopies of original copies of or certified copies of ID-Card, driving licence or passport or by recording the information on the back of the related transaction document.

If the transaction is to be done by another person authorized by Mr. (A), the identification of this person shall be made by receiving legible photocopies of original copies of or certified copies of the ID-Card, driving licence or passport or by recording the information on the back of the related transaction document and receiving the legible photocopies of the original proxy or notary certified copies.

In the event that Mr. (A) has applied to the bank in order to make a transaction exceeding 2 billion TL, it will be enough to present one of the valid identity documents. The bank shall complete the customer identification by confirming the person that he is the company authority and his identity information and also by writing the name and the surname of Mr. (A) to the document relating the transaction.

Furthermore, in accordance with the amendment made in Regulation, if the person who made the transaction is Mr. (A) then Mr. (A)'s, if the person is another person authorized by Mr. (A) then this authorized person's address they declared should be recorded.

h) Address Statement

Pursuant to article 6 of the Execution Regulation, titled "*Identification Obligation*"; there is the phrase "*...the address declared by the real person carrying out the transaction is also recorded during identification process*". Within this context, as it is explicitly defined in article 6 of the Execution Regulation, the address determination shall be carried out over the declaration of the real person conducting the transaction and no other document shall be required.

i) Exceptions of Identification

Liabe parties are not required to make customer identification regarding transactions carried out with;

- Central and local public administrations,
- State economic enterprises and
- Quasi public institutions established by law.

In the transactions carried out by banks among themselves and on their own behalf, also there is no identification requirement.

2. KEEPING THE RECORDS

Obligation "**... to keep the documents and records concerning identification for a 5 years starting by the beginning of the year following the last transaction date**" has been mandated by article 4 of the Execution Regulation.

Also as known, there is the obligation to keep the books and documents for 5 years starting from the following the year they are related to, pursuant to article 253 of Tax Procedure Law No 213; it is obligatory to keep the books starting from the last record date, other documents

starting from their date of effects for a 10 years period, pursuant to article 68 of Turkish Trade Law No 6762.

3.SUSPICIOUS TRANSACTION REPORTING

Beside the groups of liable parties listed in article 3 of Execution Regulation, General Directorate of National Lottery, Turkish Jockey Club, Notaries and Land Register Offices are also obligated to report suspicious transactions.

a) Suspicious Transaction Definition

In article 12 of the Execution Regulation, suspicious transaction is defined as “a case that there is an information, a suspicion or a suspicious situation in which money or convertible assets used in transactions carried out or attempted to be carried out within the liable parties mentioned above or through them stem from illegal activities”.

Obligation to reporting suspicious transactions shall be carried out by;

- Real persons themselves,
- Legal representatives of legal persons,
- Directors of or persons authorized by the establishments with no legal personality .

Branch, agency, representative and commercial representative and the like of the entities or persons obligated to reporting suspicious transactions shall carry out reporting.

In case the liable parties are the units (like branch, agency) operating in Turkey of foreign persons or organizations, suspicious transactions reporting is carried out by these units.

b) Suspicious Transaction Reporting Form and Types of Suspicious Transactions

20 types of suspicious transaction are included in General Communique No 2⁸ and 3⁹ issued by MASAK, in order to guide liable parties. The Suspicious Transaction Reporting Form is annexed to General Communique No 4.

In addition, transaction which is not consistent to these 20 suspicious transaction types, but it arises a suspicion in compliance with the definition stated above, that transaction shall be evaluated as a suspicious transaction within the context of the option showed as “Other Situations” numbered 21 in The Suspicious Transaction Reporting Form.

The matter of marking the option showed as “Other Situations” related to other specific indicators are considered under the title “Filling up and Signing the The Suspicious Transaction Reporting Form”.

c) Tipping off

Liable parties reporting the suspicious transaction or the persons belonging to the liable parties actually carrying out the transaction and conducting the transaction process or the legal

⁸ Published in Official Gazette No. 23217 dated 12/31/1997.

⁹ Published in Official Gazette No. 24664 dated 02/07/2002.

representatives of the liable parties shall not give any information about the transaction to those involved in transaction.

d) Suspicious Transaction Reporting Procedure

The procedure that has to be followed by liable parties regarding suspicious transaction reporting is included below and also the diagram prepared in order to ensure the subject to be understood easier is at the end of the subject.

(1) Requirements Prior to Reporting Suspicious Transaction

When liable parties confront suspicious transaction; after conducting necessary identifications, they complete the SUSPICIOUS TRANSACTION REPORTING FORM (STRF) by taking the information and documents obtained by conveying investigation regarding the transaction within their authority and possibilities into consideration.

If new information or documents are acquired later regarding the transactions being reported, a new reporting form is filled up and sent to MASAK by indicating that it is an addition to the previous reporting.

(2) Filling up and Signing the the Suspicious Transaction Reporting Form

In the he Suspicious Transaction Reporting Form liable parties report suspicious transactions without considering any monetary limits.

In the Suspicious Transaction Reporting Form;

- Identification information of the liable parties who prepared the form,
- Identification information of the person carrying out the suspicious transaction,
- Identification information of the person the transaction is carried out on behalf of,
- Information regarding the suspicious transaction,

are filled in accordance with the information submitted and verbally given by the person carrying out the transaction. Suspicious transaction detected, is marked by putting an X mark into the box in front of the choice of suspicious transaction types on the back of the form.

If the transaction does not correspond the types listed in the form, the following option showed as “Other Situations” numbered 21 shall be marked and the suspicion shall be described referring to one or more specific (general or sectorial) indicators as listed in part II of the present guidelines

If information other than those required in the form is wanted to be given by liable parties, this information shall be added and sent by writing as instructed without being bound by any style.

After filling the form is completed, the form will be signed by an official authorized to sign in concluding this transaction, together with the official carrying out the transaction. Signed the Suspicious Transaction Reporting Form is first sent to compliance officer, if any. Those who do not have a liability to appoint an compliance officer send the form directly to MASAK.

In case there is a disagreement between the official carrying out the transaction and the official who has the authority to sign at the banks, on whether the transaction is suspicious or

not; the Suspicious Transaction Reporting Form will be sent to the compliance officer by a single signature.

The second signature at the banks shall be entered by the officials at Branch Manager level.

(3) Suspicious Transaction Reporting Term

Suspicious transaction shall be reported to MASAK within a maximum of 10 days after the date it was detected. According to this, Compliance Officers shall be obligated to complete their evaluations in this period and send the forms to the Presidency when deciding it as suspicious. In other words, the period between the determination date of suspicious transaction and conveying date of this transaction is maximum 10 days, including the compliance officer's evaluation.

(4) Place of Reporting

Liabile Parties transmit the Suspicious Transaction Reporting Form to MASAK by

- fax or,
- registered mail or,
- by hand

In case it is transmitted by fax, the original report must be sent to MASAK via registered mail or by hand as well

However, suspicious transactions and the parties to these transactions shall be reported to the authorized and assigned Public Prosecutor immediately, as well as to the MASAK, if such delays may cause inconveniences.

4. ASSIGNMENT, DEFINITION, ATTRIBUTE AND ROLE OF THE COMPLIANCE OFFICER

According to the Article 14/a that added to the Regulation, it is necessary for the liable parties to assign an compliance officer at administrative level for the reports that they are required to give in accordance with the provisions of the Regulation.

The Ministry of Finance has been authorized to determine the liable groups that shall assign compliance officer, beginning dates of implementation and qualifications, duties, powers and responsibilities of compliance officer. The principles and procedures for the appointment of the compliance officer has been determined as stated below in General Communique No 4 in accordance with this authorization.

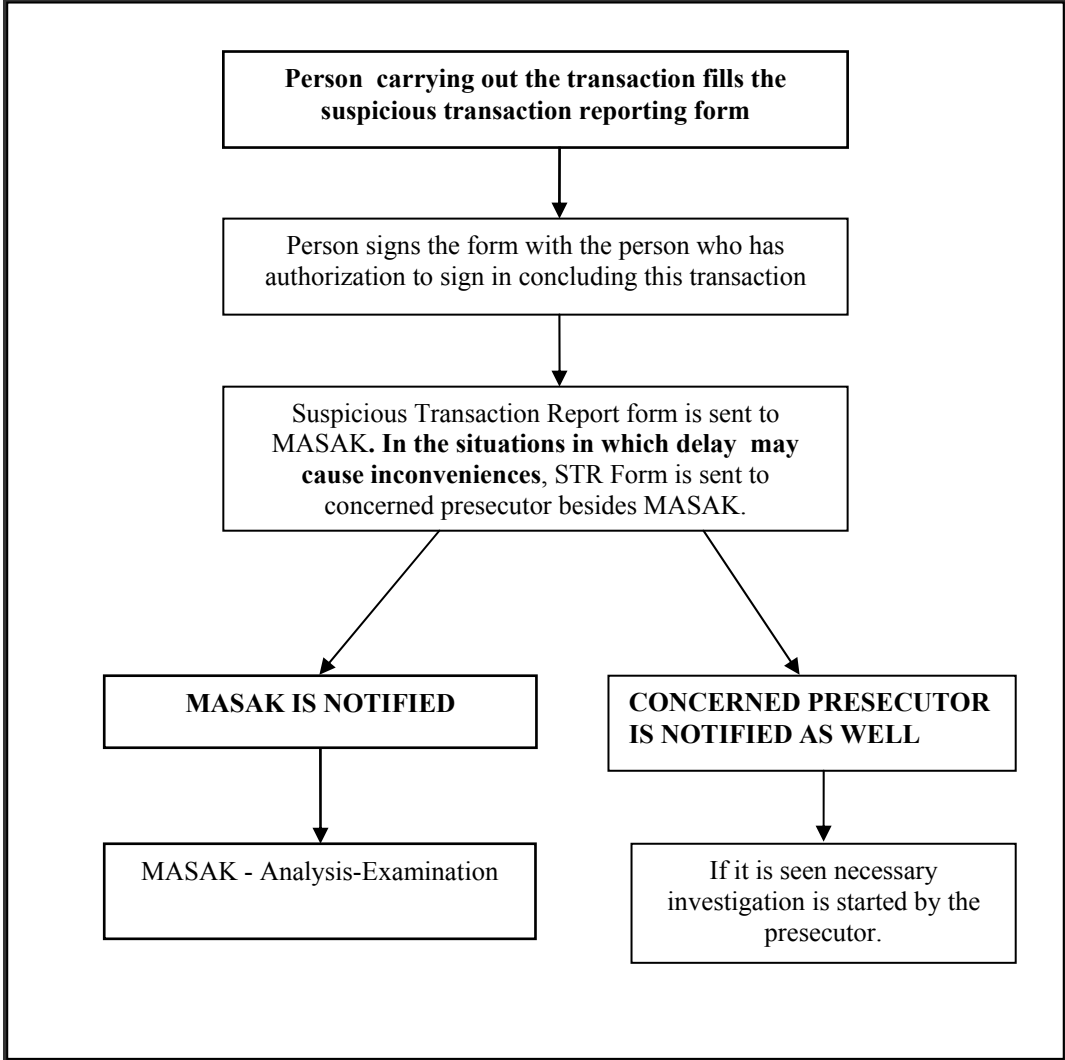
Compliance officer means top-level personnel charged in directly connected to the general director or the deputy general director in the administrative structure of the concerning establishment in fulfilling the necessities of reporting the suspicious transactions required to be done by liable groups in accordance with the regulation. There is no any inconvenience to hold any other duty except investigation and supervision with this duty for compliance officers. In another word the liable parties shall appoint compliance officer upon fulfilling the declared provisions, among their staff that they are employing and performing at present another position this duty also, as well as appointing solely for this duty.

The assigned authority shall be responsible in the capacity of “Compliance Officer” to Financial Crimes Investigation Board. Liable parties shall employ enough personnel with the other ones who will assist him by considering the workload meet.

Liable parties should take precautions for the purpose of performing the duties of compliance officer on time and complete.

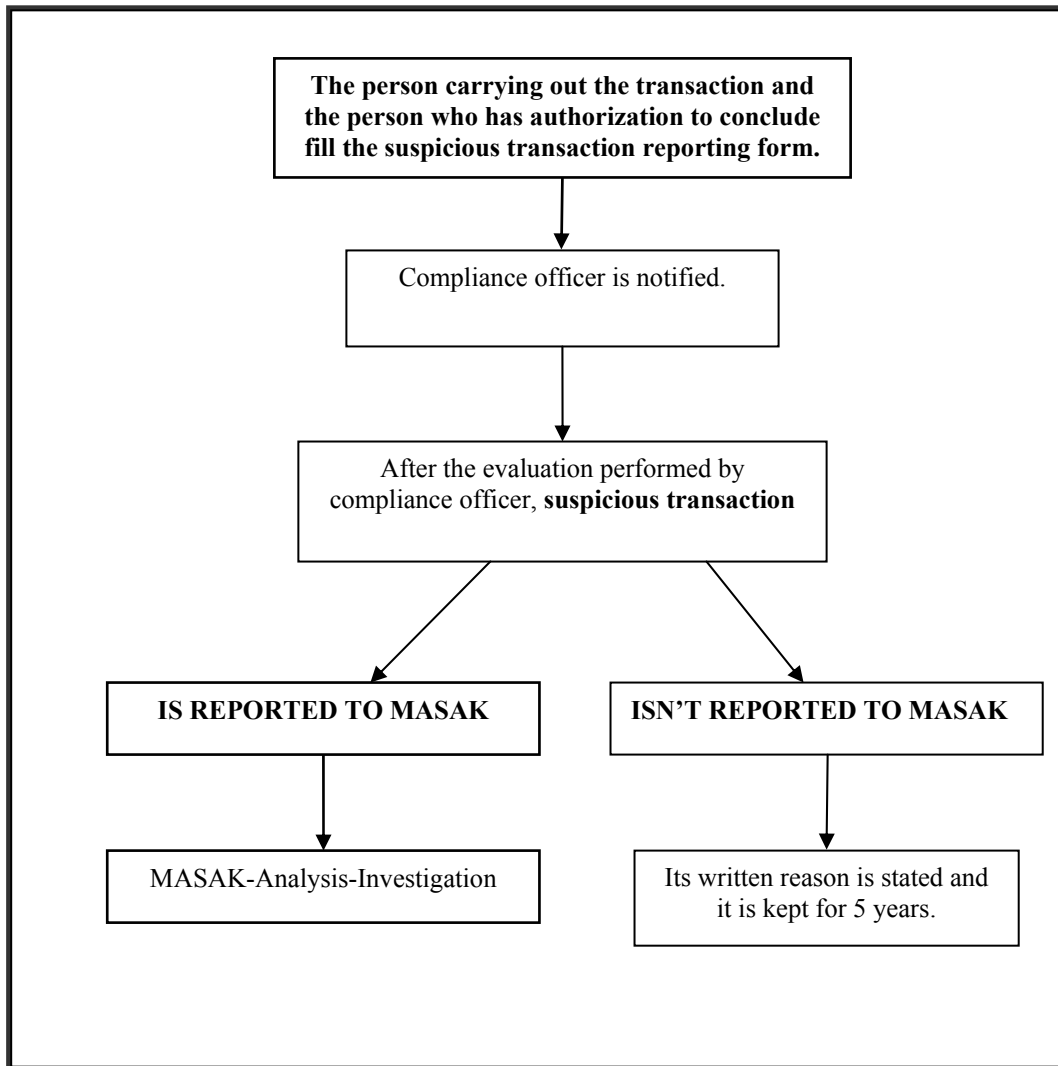
Also pursuant to the General Communiqué No 4; in the first phase, appointing an compliance officer is required from **banks** out of 23 groups of liable parties.

Operation of Suspicious Transaction Report System for Liable Parties with no Obligation to Appoint a Compliance Officer *



* It is obligatory to report the suspicious transaction to MASAK in 10 days after the suspicious transaction is determined.

Operation of Suspicious Transaction Report System in Banks *



5. OTHER OBLIGATIONS

a) Training of Personnel

According to Execution Regulation's amendment article 16/A; it is specified to request from the liable parties to ensure training facilities for their employees that enable them to know the obligations introduced by this Regulation and the Ministry of Finance has been authorized to determine the procedure, scope, subject, liable parties and implementation date of education programs which will be ensured by the liable parties.

The following descriptions are made in General Communique No 4 that is announced based on this authority:

* The period between the determination date of suspicious transaction and conveying date of this transaction is maximum 10 days including the compliance officer's evaluation. In exigent circumstances, it is also necessary to notify the situation to the concerned public prosecutor.

(1) Liable parties that must give training to their employees.

In the first phase, the obligations for giving training to their employees are given to **banks**.

(2) Contents of Training Programs

Liable parties shall determine the content of training programs by taking into account the points stated below;

- The transactions required to be identified, customer identification procedure and keeping the records,
- Recognizing the suspicious transactions and the reporting procedure,
- The procedure of presenting the required information and documents,
- The penalties that shall be implemented in the event of not complying with the obligations.

The training programs shall be continually reviewed according to the necessities and shall be reiterated in regular periods for the purpose of keeping the staff's information updated.

The statistical results of the training programs made during the year (in the way that will show the number of personnel that has joined the training and total education hours), shall be reported to the MASAK up to the end of March in the following year.

b) Supervision

As described in the first paragraph of the article 16 of Execution Regulation, MASAK, through its external experts¹⁰, is authorized to examine the liable parties in order to find out whether they fulfill their obligations..

Pursuant the second paragraph of this article and General Communique No 4, the internal inspectors of the banks, are also obliged to carry out inspections in order to assess the compliance with the rules provided by Law. No. 4208, the Execution Regulation and the Communiques. The statistical results of the banks internal audits made during the year (in the way that will show the number of branches controlled, number of controlled transactions as a matter of customer identification and suspicious transactions.) shall be reported to MASAK up to the end of March in the following year.

c) Obligation to Submit Information and Documents

According to article 5 of Law No 4208, Public institutions and establishments, natural and legal persons are obliged to submit any information and documents that would be requested by the MASAK and the external experts and to provide them with adequate support.

Natural and legal persons from whom information and documents are requested by the MASAK and the external experts shall not refrain from submitting information and documents by invoking secrecy and privacy provisions of any special law, except for the provisions related to the right of defense. Information shall be requested either verbally or in written form. In cases where the persons from whom information is requested verbally, do not

¹⁰ Ministry of Finance Inspectors, Auditors, Revenue Comptrollers, Sworn-in Bank Auditors, Treasury Comptrollers and Capital Market Board Experts to be appointed upon the request of the Presidency

provide the requested information, the request shall be repeated in written form and a term of no less than 7 days shall be granted.

d) Obligation of Secrecy (Protecting Privacy)

In Accordance with the 6th article of Law No: 4208, the persons stated below may not disclose the secrets or other confidential information, which they acquire while exercising their functions, about the personalities, transactions and account statements, businesses, undertakings, properties or professions of the persons and other persons having relation with them and shall not make use of those secrets confidential information for their own or third parties' benefit:

- a) President of the Financial Crimes Investigation Board and his/her deputies, the Investigation Experts and Assistant Experts of Financial Crimes and other officials employed at the Board,
- b) Chairman and Members of the Coordination Board of Combatting Financial Crimes,
- c) Other public officials who are authorized in accordance with this Law,
- d) Natural and legal persons whose information and expertise on money laundering operations are applied,
- e) Persons performing duties as expert witness on money laundering issues,

This obligation continues even after the termination of the assignments of the persons stated above.

6. SANCTIONS

Those who do not fulfill the liabilities determined by the Law and relevant legislation shall be sentenced in accordance with article 12 of Law No 4208. Accordingly; in case of noncompliance to the liabilities of identification, keeping the records, suspicious transaction reporting, appointing compliance officer, training and inspection and in case the information and documents requested by the authorities are not submitted, that shall be liable to imprisonment from six months up to one year and heavy fine from twelve million Liras to one hundred and twenty million Liras. Fine amounts to apply for those acting against the liabilities are listed below according to years. •

Amounts in the Law (1996)	12.000.000	120.000.000
Year 2000	146.016.000	1.460.160.000
Year 2001	227.784.960	2.277.849.600
Year 2002	348.966.559	3.489.665.587
Year 2003	554.856.828	5.548.568.284
Year 2004	712.991.024	7.129.910.244
Year 2005(1.1.2005-31.5.2005)	792.846.019	7.928.460.191
Year 2005(1.6.2005-31.12.2005)	348.000.000	3.480.000.000

• Fine amounts are indicated as TL which has been in circulation in the stated years.

In case the liability of secrecy, regulated in article 6 of Law No 4208, is violated; the sentence shall be from one year to up to three years of imprisonment; in case it is determined that disclosure is made for a pecuniary benefit, the benefit concerned and the returns derived from it are subject to confiscation.

7. FEEDBACK

As known, MASAK is regularly publishes its annual activity reports in www.masak.gov.tr web site. In these activity reports, information regarding the denunciations and other notifications received including the suspicious transaction reports received from the liable parties.

3. CHAPTER INDICATORS FOR SUSPICIOUS TRANSACTION REPORTING

A. OBJECTIVES AND TARGETS

The regulations on anti money laundering create an obligation for the liable parties, to report the transactions suspected to be related to money laundering, as suspicious transactions. As the suspicion may result from the general properties like the amount, characteristics and attributes of the transaction; it may also arise as a result of subjective conditions of the customer like the level of income and wealth, the quality and the capacity of his/her job, and in general as a result of all these conditions together.

It is required for the liable parties to ask themselves the questions below to understand whether the transaction they carried out is suspicious or not:

- Is the customer willing to provide personal information while conducting a transaction?
- Is the transaction that the customer wants to conduct, within the scope of the known activities of the customer?
- Is the transaction conducted, proportional with the business and personal activities of the customer?
- In case the transaction conducted have an international attribute, is the transaction carried out with the financial institution of another country, a part of the customer's job?

The “transaction” expression used in the term “suspicious transaction” is not limited by a single transaction, but for example a series of economically and functionally interconnected transactions also have to be considered as a transaction within this context.

When assessing whether a transaction is suspicious or not; assessment of the transaction in general does not stand alone ensure to understand the transaction is suspicious or not. The criteria like; the total amount of the transaction, those who benefit or suffer from the transaction, geographical region where the transaction was conducted; must be taken into consideration. Whereas the assessment has to be carried out in a customer specific manner. Because characteristics look abnormal for a customer may be quite normal for another customer.

This Guide it is also aimed at underlying that the mechanism of the reporting also protects the integrity and the stability of the financial system, besides preventing laundering of proceeds of crime.

Therefore it is expected from all persons and institutions determined as liable parties to have a similar sensibility in anti money laundering and to provide active co-operation and to fulfill all liabilities and especially the suspicious transaction reporting liability. Because, protecting the financial system beside prevention of crimes is among the main objectives of anti money laundering system.

B. TYPES OF SUSPICIOUS TRANSACTIONS AND INDICATORS CONCERNING SUSPICIOUS TRANSACTIONS

In this section, first of all the suspicious transaction types stated in Financial Crimes Investigation Board General Communiques No 2 and 3 are listed. These types have been stated also in the suspicious transaction reporting form appended to Communique No 4. In accordance with the relevant regulations, the liable parties have to fill up this form when reporting suspicious transaction and mark the type of suspicious transaction corresponding the transaction they are reporting.

Later on, the general suspicious transaction indicators for all liable parties groups are stated.

The next section is about the sector based suspicious transaction indicators constituted by considering the fields of activity of the liable parties groups. The purpose of stating sector based suspicious transaction indicators in detail is to guide for those who work on each liable parties group and to include the transactions which may be encountered as much as possible. Liable parties groups which were not included in sector based suspicious transaction indicators shall benefit from the general indicators.

As it has been stated earlier; the indicators in the lists are not restrictive and they are aimed to provide some basic characteristics to be used in assessing whether the transactions are suspicious or not. The suspicious transaction may occur in a different style or nature. The liable parties have to report the transactions that they suspect to be connected with illegal activities whether they fit to the types listed below or not.

What liable parties must do in the assessment phase is to consider their own experience and the characteristics of their sector, and the general and sector based suspicious transaction indicators in this guide must be assessed together with the suspicious transaction types included in the Communiques. If the suspicious transaction detected falls between the general and sector based indicators, “other cases” option must be chosen in the suspicious transaction reporting form appended to the Communique No.4.

1. SUSPICIOUS TRANSACTION TYPES SPECIFIED IN GENERAL COMMUNIQUE NO. TWO AND THREE

In part II-B of the General Communique No.2, 19 suspicious transactions types were designated and suspicious transaction type no.20 was added to 19 suspicious transaction types by General Communique No 3. The suspicious transaction types are indicated below.

- 1- *In the case that there is an attitude showing unwillingness in giving information that is required for everyone normally while a transaction is carried out; in the case that difficulties to acquire information of identity are met with; in the case that insufficient or false information is given; in the case that documents which are suspected of being counterfeit are given; in the case that misleading information concerning financial situation is declared; in the case that the transaction is not in compliance with the purpose declared.*
- 2- *Transferring large amounts of money from countries or to countries in which there are illegal activities regarding narcotic substances, smuggling or in which there are terrorist organizations and, transferring large amounts of money from or to offshore centres.*
- 3- *Detecting abnormal increases in the accounts of a person in banks and, within the other liable persons and, holding inactive money in large amounts in these accounts.*
- 4- *That the customer transfers large amounts of money causing suspicion, to addresses and to accounts other than addresses which the customer regularly used and to which customer sent money.*
- 5- *Cash movements in large amounts or such cash movement coming from abroad in the name of a person or an account of a person who has bad reputation and has no certain business, no commercial background and no commercial substructure in the country.*
- 6- *Transferring money in large amounts to or from another country without generally using an account, conducting electronic funds transfers without sufficient explanation and demanding that the EFT be paid in cash.*
- 7- *That there is more than one account of unaccustomed nature within the same liable party, reaching large amounts when these accounts are considered together or when holding amounts that might be combined, in different accounts by dividing them into parts, or decreasing the amounts of the transactions to lower amounts in order not to be included in ongoing reporting requirements.*
- 8- *Making payments to the same account by many persons without reasonable explanations or transferring amounts of money to the same account from many different accounts.*
- 9- *Opening a deposit account in order to transfer funds to foreign banks by persons whose trade volumes are so small as to not require to dealing with a bank in their home country or transferring the cash deposited only for the purpose of transferring funds into provisional accounts by keeping it in the account a short period of time without being subject to any transaction.*
- 10- *The existence of accounts disproportional to commercial activities and carrying out transfers between those accounts, carrying out transactions that have not obviously originated from commercial purposes within those accounts, making payments to persons who are not clearly related to the person or to the company in usual ways.*
- 11- *Receiving credit or loans in large amounts and repaying of them in short periods of time in an unexpected ways and without any reasonable explanation.*
- 12- *Obtaining credit in home country by showing an account abroad as a guarantee and then providing the creditor institution with the conditions by enabling it to attach the money deposited abroad to bring to the home country by repaying credit obtained in home country through transferring from off shore banks abroad.*
- 13- *When requesting credit, not giving convincing information about where it will be used and not submitting explicit information about repayment of that credit.*
- 14- *Carrying out money transfers which are similar to each other in terms of amounts and which are close to each other in time to or from another country.*
- 15- *Giving purchasing and selling orders regarding accounts opened in stock markets and in future markets for the purpose of pretending to carry out transactions in matching amounts and in cases where there is no purpose and no extraordinary situation.*

16- Carrying out similar transactions in two or more account in which the transactions result in profit and loss continuously and which were opened at the same time in order to transact on the stock exchange and, suspecting or knowing that the persons who profit from those accounts are the same.

17- Closing a big loss originating from accounts opened by a brokerage house by means of cash sent by different investors in every time or transferring profits from other accounts to the same investor.

18- Opening accounts in very large amounts in cash by brokerage houses and making payments while the accounts are being opened or on the date of barter in cash.

19- Opening numerous accounts in which the same types of transactions are carried out, for purpose of not calling attention to the amount and movements of transactions carried out by the brokerage houses.

20- If suspect or reasonable grounds have available to suspect that funds are linked or related to, or is to be used for terrorism or terrorist acts.

21-Other situations.

2. GENERAL INDICATORS

General indicators are the indicators that have to be considered by all liable parties groups in the assessment on whether a transaction is suspicious or not. Therefore, in general assessment, first of all the general criteria shall be considered, then an assessment according to sector indicators shall be made. As it was indicated before, these indicators listed below set examples of behaviours which can often be seen and are not limitative.

a) INDICATORS REGARDING THE CUSTOMER PROFILE

The indicators presented under this title show suspicious behaviors of customers. These behaviors involve important clues of arouse of suspicion. For these reason, this section is extremely important.

(1) Submitting Insufficient, Inconsistent, Incomplete Information or Documents

The documents which are needed to be presented or entrusted to the liable parties for the applications by the customers or by their legal representatives to involve insufficient information, the presence of inconsistency between these information, for example having contradictions between the information on the power of attorney and the information on the identity card, or incomplete presentation of the documents required for the application should be perceived as behaviors which consist of enough reason for suspicion. Following behaviors are examples of submitting insufficient, inconsistent, incomplete information or documents;

- Customer not willing to give his/her home address for being used in business correspondences.
- Customer to give unclear information related to the transaction, to tend not to give much information and to avoid face to face contact.
- When the customer is called, getting no answer to his/her home or business phone or such a number not to exist.
- Customer to declare his/her name in different forms (For example: Using Ahmet Faruk X as A. Faruk X or Ahmet F. X).

- Customer to try to convince the official not to fill up a document that is obligatory to be filled up.
- Customer to present a document suspected to be fake.

(2) Special Indicators That Will Be Required To Be Suspected

These indicators show a situation which requires a more concrete suspicion. For example,

- Information about the customer taken from the media.
- Customer's name to be listed in the lists published by international organizations.
- Information from the local units of the liable institution in this matter.
- Customer telling that he/she is involved in an illegal activity.
- Customer offering money or various presents for conducting a transaction which may be considered suspicious.

(3) The Inconsistent Behavior Demonstrated In the Relationships With The Personnel of The Liable Institutions

There must be consistency in both economical and other aspects in the behaviors of the customers. It is possible for the persons to assume sometimes very friendly attitudes and sometimes threatening attitudes, in order to prevent suspicious transactions reporting concerning them. However the persons, who do not have such a concern, generally demonstrate consistent behaviors to the liable persons and parties and to their personnel.

In general, the customers are expected to present similar behavior models at the institutions determined as liable parties; however for the customers to behave out of these models is a condition that requires suspicion. Presenting an abnormally distinct or friendly behaviors to the personnel or other customers may be shown as an example for this situation. Other examples about the behaviors which may seem suspicious can be listed as:

- The person to be unwilling to provide his/her personal information also regarding previous activity.
- The person to warn the personnel to rush the transactions and to put pressure on them without a rational cause.
- The person to avoid personal contacts with the liable parties, only to use the communication devices like the fax, mail, etc. or to conduct the transactions continuously by the mediation of a representative.
- The person to be unwilling to receive information regarding his/her transactions by fax, mail, or the other communicational tools.
- The person to try to avoid disclosing the liable parties he/she had business relation before
- The customer to come to the financial institution often with other persons or being followed by others when he/she comes.
- The customer to make improper statements regarding the transaction.
- The customer to be nervous and insistent.
- The customer seems to get into contact with different financial institutions one after another lately.
- The customer to try to establish exaggerated relations with the institution employees.

(4) Inconsistency Between the Financial Profile and the Personal and Economic Situation of the Person

Generally, it is normal to expect a proportion between the economic situations and life standards of persons. However it is sufficient cause for suspecting that a person may be a launderer; not to have a reasonable proportion between the scope of the activities and the financial condition and/or life standards. Following examples may be given regarding this inconsistency:

- The place where the person resides is not adequate with his/her financial profile.
- In Contradiction with the official business activities of the person, he/she and his/her family members to own luxury vehicles or other valuables.
- The person to declare later some earnings which were not in his/her financial profile before.
- Lack of accordance between the sector in which the person is active and the office location that he/she has declared.
- Customer not having any economical activity (eg. unemployed, retired persons, student, housewife, etc.) who conducts transaction and or manages or owns companies of large financial turnover.

(5) Relationships With the Third Persons

Also the person or the institution, which the customer has relationships with, must not be taken into account. These companies to be risky, also the persons to choose risky representatives or partners, or have commercial or financial relationships with shell banks or off shore based banks; require suspicion.

(6) Legal Persons With a Complex or Extraordinary Property Condition or Partnership Structure

These criteria must be considered in case the customer is a legal person. Matters like the legal person to have partners less or more than the usual, or conditions different than the usual applications to occur in determining the management bodies, the assets forming the capital unusual, requires suspicion. The manager of the legal person, to be authorized to conduct all transactions by himself/herself, or to be appointed for management for a very long or indefinite period, may be taken as examples of this situation.

b) INDICATORS CONCERNING THE TRANSACTIONS

The indicators given under these titles are more related to the attributes of the transaction requested to be conducted, rather than the person requesting the transaction to be carried out.

(1) To Be Repeated

If transactions which must be repeated within the scope of common business activities of persons and institutions with common business activities remains as few individual transactions; or just the opposite, if the transactions which are not carried out in the normal commercial life very often are repeated, that situation requires suspicion. For example a middle scale company using large volumes of business credits is not an application that can be observed very often.

(2) Profitability

All activities in commercial life must be based on profitability; otherwise the companies may not ensure continuity. However the companies, operating differently from their usual/official activity, may disregard the principle of profitability. If it can be assessed by comparing the financial movements with the balance sheet of company or with other indicators of a customer that a company is voluntarily not making profit, but looks like continuing his/her activities, this situation must be regarded as suspicious.

(3) Split Transactions

It is necessary to suspect, if a sole transaction is splitted without a rational cause. Because splitting the financial transactions in order to avoid all kinds of anti-money laundering requirements is one of the most favored methods of the launderers.

(4) Transactions Without Economical Reason

It is a suspicious situation to have a transaction that is carried out or requested to be carried out to any economic reason lacking. For example:

For customers;

- To establish financial relationship with liable parties located in geographical areas far from his residence place of work premises lacking any acceptable reason.
- To give false statements regarding his/her financial condition.
- To change the investment instruments continuously.
- To endure high rate commission costs in purchasing and selling real estate or vehicle without distinction of rationality.
- To be eager to pay back the credit amounts within a short period of time and tolerating high interest rates without considering economical profitability.
- Preferring unusual methods in transfer transactions without considering the expenses.
- The person to have accounts in more than one institution in a certain region without a rational cause.

For the transactions;

- inconsistency between the transactions requested to be conducted by the customer and the average business volume and the financial condition of the customer.
- to be unsuitable for the purpose declared.
- to be unusual or inappropriate for the customer when compared with common practices in the customer's activity sector.
- to be unnecessarily complex comparing to the purpose declared.

(5) Using Extraordinary Methods of Payment

For the customer to use payment methods different from the usual ones. For instance:

- making high amount cash payment with small-denomination banknotes.
- using lots of little amount checks issued in favor of different persons but endorsed often after a series of endorsements by the same person.
- requesting the payment with in a foreign currency not frequently used.

3. INDICATORS OF SECTORAL SUSPICIOUS TRANSACTIONS

a) INDICATORS FOR THE BANKING SECTOR

Indicators of Suspicious Customer Behaviors and Giving Insufficient- Misleading- False Information and Documents

- (1) The customer tries to acquire information and asks questions about the customer identification and suspicious transaction reporting obligation, transaction limits, bank's control methods in the fight against money laundering, and official reporting systems.
- (2) Difficulties are experienced during the receipt of the customer's personal information such as his occupation, business activity, identity, address and telephone number, or the customer has difficulty to explain or refrains from giving information about the purpose of the transactions, the source of the funds subject to the transactions and the organizations such funds are received; the customer tries to persuade the bank official for not filling or submitting a document which is legally or administratively required to be filled or submitted to the official authorities.
- (3) The customer requests to open an account by proxy in the name of many persons located inside or outside the country without a reasonable cause or he constantly deposits or draws cash for transactions carried out through the accounts opened in the name of third persons; the owners of such accounts have no sufficient knowledge of the funds deposited or existing in their accounts.
- (4) Customers, seemingly acting separately, who give the same address, phone and similar information, send remittances to the same beneficiaries or receive remittances from the same senders.
- (5) The customer rents safe deposit boxes together with persons who are not members of his family or with whom he has no business partnership; or he gives proxy to such persons in order to allow them use his safe deposit boxes; or there is an intensive traffic on the safe deposit box showing that the safe deposit box is being used jointly by many people.
- (6) Customers, whose financial transactions within the same branch of the bank are not of considerable amounts, use safe deposit boxes intensely and/or a little before or after performing a bank transaction, especially if the safe deposit box is rented in the name of several persons.
- (7) Persons understood to be having no family or business relations with each other open joint deposit accounts; they perform collective transactions on such accounts and it is observed that the domestic or international cash or electronic funds transfer traffic through such accounts is considerably higher than reasonably deemed appropriate for the profile of the saving deposit account in question.
- (8) It is understood that the natural or legal entities shown as the partners and managers of the legal entity customers are indeed not genuine shareholders of such companies; or there is any information or a circumstance entailing any suspicion that the capital or the management of such companies is under control of the third persons who have bad reputation or against whom legal proceedings have been initiated by law enforcement authorities or who are known as being subjects to ongoing investigations by competent authorities.
- (9) There are changes in the partnership structure of the legal entity customers; the new partner evades providing information regarding his personal and business background, and about the sources and the originating centers (particularly offshore financial institutions) of the funds he puts as capital; and the new partner has no previous

interest, educational background and work experience regarding the field of activity of the company.

Indicators of Cash Character Transactions

- (10) The cash brought by the customer is in small denominations and dirty; there are stains on it or it smells; it has been packed precariously and in a hurried way; it often turns out to be less or more than the value stated by the customer once it is counted; there are counterfeit money in it; the customer gives this in pack or covered by an article in a way that can not be deemed appropriate for the customer.
- (11) It is observed in the customer's accounts that cash draw or deposit transactions in many small amounts which total a high amount, or in a single transaction in a high amount which can not be deemed congruent with the living standards, occupation and income level of the customer.
- (12) The cash deposited to the accounts which are understood to be opened for the sole purpose of fund transfers is constantly transferred abroad or to other domestic accounts without being subject to any process and without providing sufficient explanation, or such accounts are left idle for a long time after such transactions are carried out for a period.
- (13) The amounts transferred to the accounts which are understood to have been opened for the sole purpose of collecting the transfers from abroad are constantly drawn in cash without being subject to any transaction, or such accounts are left idle for a long time after such transactions are carried out for a period.
- (14) The customer keeps idle accounts with small balances in several branches in the same bank, and he draws the incoming transfers to such accounts through maximum limit cash drawings from ATMs.
- (15) High amounts of money are deposited/drawn to/from the accounts opened in the name of the company, by persons having no connection with the company and for purposes evidently not related with any business activity.
- (16) The customer often deposits or draws significant amounts of cash in a single transaction without considering the risks of security, theft and abuse that may arise out of transport of cash money, except for the cases of private urgency.
- (17) The persons and institutions not having specific economic reasons to rely upon the bank, and about whom there is not sufficient information, open an account at the bank by a high amount of cash fund.
- (18) Customer's request of issuing monetary instruments such as blocked cheques, letter of guarantee or payment orders by having held cash amounts in a bank frequently which are not related or which can not be associated with his business.

Indicators of Electronic Transfers

- (19) Transfers in high amounts and at a single transaction without any sufficient explanation to/from the countries where crimes such as drug trading and smuggling and terrorist organizations exist, offshore centers, FATF non-cooperative countries or territories, or such transfers in small amounts but many in number during a certain period of time.
- (20) There are no explanations regarding the purpose of the electronic fund transfers at considerably high amounts and frequencies or from high-risk regions; the spaces for the full names and addresses of the payees and payers in transfer messages are not filled; or writing pseudonyms, codes, abbreviations or phrases such as "a client", one of our customers", "instructor", etc. instead of specifying the full names of the genuine payers

- (21) Domestic and international electronic fund transfers of remarkable amounts and frequency which are incongruent with the declared occupation, activities, income sources and level of the customer.
- (22) The incoming funds transferred from abroad to the accounts or the names of the customers with registered addresses inside or outside the country are transferred back to abroad after a brief period, or the customer requests from the bank clerk realizing the transaction that the transfer amounts he expects from abroad and not registered to his accounts yet to be transferred to abroad; similar amounts of funds enter and exit the country at similar dates through such accounts used as transitory accounts.
- (23) The customer opens more than one account, in the same foreign currency, without any specific cause, and he transfers the cash he deposits to these accounts or the cash funds transferred to these accounts to persons or entities located in free trade zones or offshore geographical areas with whom the customer has no apparent business relation.
- (24) Opening of banking account in the sole purpose of transferring money abroad; insufficient, or inadequate or lacking information on the wire transfer performed on the accounts, also with regard to the relations between the payer and the payee.
- (25) Wire transfers performed according to a triangular pattern. E.g. a foreign citizen residing in Turkey who frequently transfers/receives funds to/from countries different from his/her own, unrelated to his/her personal or economic situation.

Indicators of Evading Customer Identification, Record Keeping and Reporting Procedures

- (26) The Customer attempts to open an account or perform a transaction without presenting identity card or without having a valid identity card or under a false-imaginary name, or to perform a transaction in the name of others or let others use his accounts; suggesting, making pressures and threatening the bank officers for carrying out such transactions or for excluding such transactions from reporting procedures.
- (27) The customer attempts to perform transactions below the threshold with the intention to evade the customer identification, record keeping and reporting procedures. The attempts may consist in dividing the overall amount into more than one transaction, account, transfer or cash transaction.
- (28) The customer keeps many accounts in his name or in the name of third persons within the same banks in which similar transactions are performed; or it is understood from the flows and transfers in his accounts that he has similar accounts in other banks.
- (29) Many persons make payments to the same account without a reasonable explanation or funds are transferred from many different accounts to one same account (fund transfers from different payers to the same payee or from the same payer to different payees in amounts divided to levels below the legal reporting limits).

Indicators of Loan and Credit Transactions

- (30) Natural or legal persons and entities about whom there are not much information and in particular those who approach to the bank by themselves, request cash credits or letter of guarantee for commodity purchases, not caring for the commissions, charges or interest rates of the bank.
- (31) The customer guarantees the lending bank with high amounting checks drawn on foreign banks; he gives contradictory information regarding the commercial activity the checks have been issued for; he does not submit any supporting document for the checks; and no commercial relation can be established with endorser and drawer of

the check; and the endorsers may be related risky territories in terms of swindling and smuggling.

- (32) Taking a loan from the banks which are registered in jurisdictions and regions having weak legal systems in combating money laundering or requesting for a loan by basing on letters of guarantee, which are doubted to be authentic, obtained from such banks.
- (33) The customer applies for a loan by showing the assets of third persons or of companies, which are registered in jurisdictions and territories having weak legal systems in combating money laundering, as guarantee without a reasonable ground.
- (34) The customer initiates non-economical loan arrangements on its part by using the significant assets he owns as guarantee or for securitization.
- (35) The customer applies for a loan by showing as guarantee the bearer instruments whose source is unknown.
- (36) A potential borrower is reluctant or refuses to state a purpose for a loan or the source of repayment, or provides a questionable purpose and/or source.
- (37) Collateral put up by third parties that are not known to the bank, that have not a close relationship with the customers and no plausible reason to put up with such security.
- (38) Loan application accompanied by collateral consisting of a certificate of deposit issued by a foreign bank.
- (39) Reimbursement done with third party checks or with checks with multiple endorsements.
- (40) Customers' use of credit cards to withdraw large amounts of cash constantly, and extraordinary using credit cards to purchase gold and/or valuables which can be easily converted into cash.

b) INDICATORS FOR THE INSURANCE SECTOR

- (1) Using a cheque to make a proposed purchase of a policy for a third party which may clearly be understood to be unrelated; or transferring the insurance benefit to the account of a third party or to be requested to be transferred; or requesting to change the beneficiary for the third party which may clearly be understood to be unrelated.
- (2) The customer pays high amounts of pension or life insurance policies premiums by cash.
- (3) Request for a large purchase of a lump sum contract where the policyholder has usually made small, regular payments.
- (4) The customer request for the surrender value of a policy without any acceptable reason, especially in case a substantial loss is encountered, or the payment is made in favour of a beneficiary different from the customer.
- (5) Payment of single premium from an account in a bank located in a jurisdiction at risk or by means of wire transfer or with foreign currency.
- (6) To apply for pension or life insurance contracts that are not consistent with the customer's age and health condition, or for insuring a risk unrelated to the known business of customer.
- (7) The applicant for insurance business appears to have policies with several institutions, in case this is inconsistent with the customer's economic profile.
- (8) Requesting regular payments by contracting of a single premium policy in amounts considered beyond the customer's apparent means and regular income declared.

c) INDICATORS FOR CAPITAL MARKETS

- (1) Although customer has no enough experience or information about capital markets gives orders and makes transactions that seem to be unreasonable or generally resulting in losses.
- (2) The customer seems not to pay any care of the risks of the investments, commissions, credit costs and terms, and the other transactions and their costs.
- (3) Shareholders or establishers of the legal person customer to be prohibited from trading by Capital Markets Board.
- (4) For the customer to use high amount of credit unproportional with the financial situation of the customer, giving guarantee to the used credit by a third person.
- (5) For the customer to open accounts in more than one intermediary institutions without any reason, to transfer securities and/or cash to the accounts opened in the name of the customer at the presence of different intermediary institutions or to the accounts of other persons constantly.
- (6) For the customer to close suddenly the margin account that has been opened.
- (7) For the customer to purchase large amounts of securities or other capital market instruments by cash inconsistently with the normal activity of the customer.
- (8) The amount of the investment and or capital gains are promptly transferred to third parties, apparently unrelated to the customer.

d) INDICATORS FOR EXCHANGE OFFICES

- (1) Repeated requests for the exchange of currency for amounts slightly less than the transaction limit for identification in a short period of time, also through an exchange office and/or several different branches.
- (2) Purchase or sale of large quantity of currencies, or the exchange of foreign currency for a different foreign currency.
- (3) Exchange of unusually large amount of small-denominated notes for those of higher denomination.
- (4) The customer requests for the exchange of stained, dirty or smelling banknotes, also packed superficially or in a hurried way.

e) INDICATORS FOR MONEY LENDERS

- (1) When debtor repays a problem/undue loan unexpectedly.
- (2) When debtor asks to borrow against an asset with unclear origin,
- (3) When debtor enters into loan transactions that does not appear to make economic sense despite his significant assets.
- (4) Payments done with third party checks, bearer checks or checks with multiple endorsements or high amounts of cash.

f) INDICATORS FOR FACTORING COMPANIES

- (1) When the company (seller) which has assigned its receivables to the factoring company, sells goods and services to his legal or natural person customers (buyer) high volume transactions with higher prices compared with the market conditions.
- (2) When the buyer repays his debts which are exceeding his financial power when due or he undertakes that he will pay or the seller guarantees the debt on behalf of the buyer.

- (3) When there are concerns that the buyer company that it is linked to the seller or that both are shell companies, or there are doubts about the authenticity of the invoices to the factoring company.

g) INDICATORS FOR FINANCIAL LEASING COMPANIES

- (1) Large-scale financial leasing of machinery and equipment at prices that are not in line with current market values or their foreseeable value.
- (2) Advance payments of financial leasing rentals that are much larger than normally required for no plausible reason.
- (3) Customers that repay loans unexpectedly, very quickly, with funds from unknown sources.
- (4) Financial leasing transactions which seem to be carried out frequently by a customer in the name of or in favour of third parties.
- (5) Obligations and payments stipulated in financial leasing contract are carried out, in place of the leasee, by third parties or those who supplied the commodity, without a reasonable ground.

h) INDICATORS FOR CONSUMER FINANCING COMPANIES

- (1) Sudden repayment of loan taken by customer without any acceptable reason especially in case of substantial loss is encountered or the payment is made by relevant amounts of cash.
- (2) For customer to engage in credit transactions which are not profitable for himself/herself in consideration of significant property holdings in hand.
- (3) The customer seems not to pay any care of credit costs and periods.

i) INDICATORS FOR POST OFFICES AND CARGO COMPANIES

- (1) The goods sent by mail or cargo are patently different from sender's statement due to false or misleading indications provided by the sender.
- (2) Precious stones, metals and other valuables to be continuously sent to certain addresses, other than dealers or factories involved in the sector.

j) INDICATORS FOR REAL ESTATE SECTOR

- (1) The customer purchases property on behalf of third persons with no business or family relationship, or to try to avoid revealing the name of the actual buyer until the last moment. The customer avoids having his name written on the documents related to himself or the property, or uses different names.
- (2) High value real estate purchases which do not appear coherent with the customer's economic profile. The customer to purchase many properties, often without any investigation, or which are not economical in terms of their locations and conditions, and which require major repair expenses, within a short period of time.
- (3) The customer willing to sell real estate tries to put a higher sales price in the records.
- (4) The customer to make the first payment of a real estate by cash and pay for the rest with the financing of an extraordinary source, or to rent the real estate at its cash value, by using high amounts of cash.

II. BOOK PREVENTING TERRORIST FINANCING

A. FOREWORD

Although the objectives and strategies of terror organizations differ, it is known that they generally spread their activities to a wide area and make various attempts for financing their activities, proportional to the size of the organization and the scope of their activities.

In order to conceal the identities of real owners of the funds used in terrorist financing, and not to catch the attention of the public authorities, techniques similar to those used for money laundering are also relied upon in order to hide the funds acquired by illegal ways from legal pursuit. But the financial transactions conducted for terrorist financing being mostly in small quantities and the possibility of collecting funds acquired by legal ways makes these funds to be searched and detected much more difficultly than in money laundering.

B. NATIONAL LEGISLATION

The “Law No.5532 Regarding Amendment In The Anti-Terror Law” dated 29.06.2006 and put into force by publishing in the Official Gazette on 18 July 2006/ 26232 has expanded the scope of offences committed for the purpose of terror and established the offence of financing terrorism as a separate offence other than terror.

Related articles are as follows:

Financing of terror

Article 8. Whoever knowingly and willfully provides with or collects fund for committing partially or fully terrorist crimes, shall be punished as a member of an organization.

Fund cited in the first paragraph of this Article shall mean money or all types of property, right, credit, revenue and interest, value of which may be presented by money, and benefit and value that was collected as a result of conversion thereof.

Qualified act

Article 8/A. If crimes included in this Law are committed through undue influence in the public service, punishment to be given shall be increased by one half.

Responsibility of legal persons

Article 8/B. If crimes included in this Law are committed in the context of a legal personality, security measures peculiar to those persons as per the Article 60 of the Turkish Penal Law shall be adjudged.

In the article 7 of Anti-Terror Law No: 3713 amended with Law numbered 5532; it has been stated that whoever becomes a member of terrorist organization shall be punished according to the article 314 of TCL. In the article 314 of TCL; it has been stated that whoever becomes a member of such an organization shall be punished by imprisonment for one to five years.

C. INTERNATIONAL ATTEMPTS

It is known that the most important part of preventing terrorism is detecting the financial sources and drying them out. Many attempts have been made in recent years in international field within this scope and recommendations have been made for cooperation between countries at highest level possible.

1. UNITED NATIONS REGULATIONS

a) Agreements

United Nations; which was founded in order to protect the welfare, and the economical and political stability of the countries, and to maintain world peace; and has determined its mission and vision within this scope; has also made various studies since 1960's, in order to combat terrorism threatening the security of people's lives and properties and adopting a global characteristic day by day; prepared agreements on preventing terrorist activities and improving international collaboration, and submitted to the approval of the countries.

In recent years, it has been understood that to obtain good results in combating terrorism and to prevent those to happen again, the financial resources are required to be dried out; and in accordance with this opinion, in 1999 United Nations has prepared "Agreement Concerning Prevention of Financing Terrorism" and submitted to the approval of the countries at the beginning of 2000. Thus, agreement approved; the countries combating terrorism for years and which have made many attempts on this matter; have taken important steps towards preparing the procedures for making necessary arrangements in their domestic legislation towards detection and prevention of financial resources of terrorism.

In the UN Agreement Concerning Prevention of Financing Terrorism signed by Turkey on September 27, 2001 and approved on January 10, 2002 with Law no 4738; for the first time, despite the contracts and protocols prepared until that day; for combating terrorism, besides terrorism, financing terrorism was accepted as an offence and in the domestic legislations of state parties it was stated that it is required to regulate financing terrorism as a punishable offence.

In the Agreement, the offence of financing terrorism is defined as; providing or collecting funds; completely or partially, directly or indirectly, no matter how; illegally and intentionally by any person with the intention of the using it or by knowing that it will be used in committing terrorist offences. Moreover in the Agreement, various provisions on matters like international solidarity, extradition and indemnification of people suffered are included as well.

b) Security Council Resolutions

Besides United Nations Agreement Concerning Prevention of Financing Terrorism, United Nations Security Council also ruled some regulations binding for all member states concerning prevention of financing terrorism. Regulation No 1373 among those regulations, ruled a set of arrangements in general character, in addition to concrete sanctions Therefore it seems beneficial to discuss this Regulation briefly. By the regulation No 1373, United Nations Security Council has ruled that States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

Also by Ruling No 1373; it is required from States to,

- Collaborate each other during criminal investigations and procedural processes,
- To make legal arrangements with a view to; following the activities of terrorists and terrorist groups towards effective inspections, conducting necessary inspections while issuing the identity cards and travel documents to the mentioned individuals and groups, preventing the mentioned individuals and groups to use counterfeit or fraudulent identity cards and travel documents.

Furthermore, by Ruling No.1373 it is also decided that cooperation is needed in order to exchange information pursuant to international and national legislations and to prevent terrorist activities at the administrative and legal basis.

2. FATF REGULATIONS

FATF; that has been established in order to improve national legal systems and the adaptation of legislations on combating laundering profit of crime, to enhance the role of financial system and to establish a sound cooperation between member states; and that has prepared recommendations with this purpose; has broaden its mission, defined only as preparing sanctions towards anti money laundering, to include combating terrorist financing; after the terror attacks committed in USA on September 11, 2001.

FATF has added 8 special recommendations, introduced as a result of the Exceptional General Assembly Meeting organized in October 2001 on financing of terrorism to 40 recommendations on measures for preventing money laundering and asked them to be accepted and applied by all countries; and then issued 9th special recommendation at FATF General Assembly on October 22, 2004. Said special recommendations are briefly as follows:

1. *Ratification and implementation of United Nations Instruments:* Each country should take immediate steps to ratify and to implement fully the United Nations International Convention for Suppression of Financing of Terrorism. Countries should also immediately implement the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, particularly United Nations Security Council Resolution 1373.

2. *Criminalizing Financing of Terrorism and Associated Money Laundering*: Each country should criminalize the financing of terrorism, terrorist acts and terrorist organizations. Countries should ensure that such offences are designated as money laundering predicate offences.
3. *Freezing and Confiscating Terrorist Assets* Each country should implement the measures to freeze the money or other assets used in financing terrorism and terrorist organizations and should adopt and put into practice the measures, including legislative measures, which would enable the competent authorities to seize and confiscate these assets.
4. *Reporting Suspicious Transactions Related to Terrorism*: If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organizations, they should be required to report promptly their suspicions to the competent authorities.
5. *International Cooperation*: Each country should afford another country, the greatest possible measure of assistance in connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings regarding financing of terrorism, terrorist acts and terrorist organizations.
6. *Alternative Remittance Methods*: Each country should take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF Recommendations that apply to banks and non-bank financial institutions.
7. *Wire Transfers*: Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain. Countries should take measures to ensure financial institutions to inspect and monitor suspicious funds transfer activities which do not contain this information.
8. *Non-Profit Organizations*: Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organizations are particularly vulnerable, and countries should ensure that they cannot be misused:
 - by terrorist organizations posing as legitimate entities;
 - by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures,
 - by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organizations,
9. *Cash Couriers*: Countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including a declaration system or other disclosure obligation.

D. FINANCIAL RESOURCES OF TERRORISM

Although the main purpose of terrorists and terrorist organizations is not gaining profit, they need to have financial support in order to finance their activities. Therefore, terrorist organizations continuously try to collect funds and to transmit to persons who need fund in order to commit terrorist activities.

The terrorist activities can be financed through the legal sources as well as illegal sources. The legal and illegal financial resources of terror and their uses are listed below;

1. LEGAL RESOURCES

Material assistance may be given to the terrorist organizations, voluntarily or solely because of fear, although there is no pressure, compulsion or violence. As these donations and assistance may be carried out directly with cash, they may also consist of goods like food, medicine, tools, and supplies.

Also the donations collected by charities may be used for financing terrorist organizations; and mostly donors do not know that the money they have given will be transferred to terrorist organizations; they transfer their money to the said organization, thinking that it will be spent within the scope of the legal purpose declared by the charities. Sometimes these charities actually spend some part of the collected money on legal activities and thus making it more difficult to distinguish legal and illegal funds.

Terrorist organizations may be supported by establishing legal entities run by persons apparently not linked to terrorist financing or persons later discovered as being members of terrorist organizations and transferring of legal trading profit.

Press and broadcasting business are among the most popular methods for financing terrorist. Terrorist organizations may both make their propagandas and collect money with a legal look via publications and broadcasting (books, magazines, newspapers, calendars, video tapes, television, radio, etc.).

Also high amounts of money may be collected by means of social activities like concerts, feasts, exhibitions and shows

2. ILLEGAL RESOURCES

Narcotic materials trafficking is one of the leading illegal financial resources of terrorism and in recent years, "Narco Terrorism" concept is started to be used in defining the close connection between terrorist organizations and narcotics smugglers.

Similarly, also there is a direct relation between arms trafficking and terrorism. Terrorist organizations are using also the profit obtained by arms smuggling in financing their activities as in narcotics trafficking.

The money collection may also be carried out by means of threats or pressure put in place by people directly or indirectly related to terrorism.

Terrorist organizations are also cooperating with human trafficking networks by their members in foreign countries and sharing profits of the crime networks that are professionals of human trafficking in those countries.

Extortion and robbery are a methods often used by small organizations or used for finding the money necessary to start their activities. Kidnapping people for a ransom is a common method used by organizations for financing. When the organization succeeds in these activities, it may continue to earn profit by intimidating or threatening without further kidnapping.

Funds collected from firms, contractors and persons by using force are stated to be among the financing methods that terrorist organizations resort to.

3. DESTINATION OF FINANCIAL RESOURCES

Proceeds obtained by legal and illegal means may be used in purchasing arms, ammunition, bombs and the materials used in making bombs to be used in organizational actions and activities; in paying for the activities of the organization conducted with political, ideological purposes; in paying for all kinds of needs of terrorists cells houses; in organizational propaganda activities (publishing and reproduction of publication instrument like books, periodicals, handouts and video tape cassettes) and in purchasing of materials such as phone machine, fax machine, typewriter, printer, scanner.

Funds acquired may also be used in purchasing security and real estate recorded on the relatives and acquaintances of persons who are members of the organization or on persons who are not members of the organization but is known by organization or who supports the organization or in paying for the needs of the organization members who are in prison and of their families.

E. SIMILARITIES AND DIFFERENCES BETWEEN FINANCING OF TERRORISM AND MONEY LAUNDERING PROCESS

The methods of terror organizations for obtaining profit by illegal means differ a little from the methods used by traditional crime organizations. The main difference between terrorist organizations and criminal organizations regards their objectives. The primary objective of terrorist organizations, is not earning income, as that of traditional criminal organizations, but realizing their ideologies and ensuring the continuity of their activities with the profit they obtained. Within this context, terrorist organizations may also recourse to earn profit by legal means.

Even if terrorist organizations do not need to launder funds since they are obtained through legal ways nevertheless they need to conceal their financial resources and their connections. This necessity requires the terrorist organizations to find and use methods similar to those in “money laundering” in order to *collect and* use the funds without drawing the attention of the competent authorities.

The researches carried out revealed that terrorist organizations conceal the proceeds obtained by legal means too by facilitating “the methods used in money laundering process”. Terrorist organizations try to conceal the relation between the resources and uses of the funds by making high amount of cash transportation with money courier; by carrying out various transactions on bank accounts, purchasing various monetary instruments such as bank and travel checks, using credit cards and conducting electronic transfers. In addition; underground, internet and phone banking methods are among the methods frequently used by terrorist organizations.

From the point of view of competent authorities, the main difference between proceeds obtained by legal and illegal ways reveals itself in not being able to implement the measures on anti money laundering with proceeds earned by legal means. Because money laundering is defined as the activity aimed at disguising the relation between proceeds obtained by illegal means and the crime. While determining the source of the transaction funds are of importance

in money laundering, the use of the funds is more important in financing of terrorism. Because using a legal fund in financing terrorism, in one sense makes that fund illegal.

Also for the financial organizations, the methods developed within the scope of anti money laundering can be used in transferring illegal proceeds to terrorism, but these methods may be insufficient in legal proceeds. Besides that, another difficulty which financial organizations have to deal with is related with the size and nature of the transactions conducted. For instance, funds necessary for committing terrorist activities are frequently collected in very small amounts of money, gathered by non profit organizations and transferred to countries where terrorist organizations are based.

F. ROLE OF FINANCIAL INSTITUTIONS IN PREVENTING TERRORIST FINANCING

No matter whether legally or illegally obtained, entering into business connections with persons and organizations linked with terrorism, reveals serious operational and legal risks, and especially damages the reputations of the financial organizations. These risks effects the financial organization more seriously in case the terrorists and the person or organizations linked to them transfer financial sources to terrorism by taking the advantage of the deficiencies of the liable parties procedures of controlling and monitoring in the financial organization.

In order to avoid the risks, whereby liable parties are misused in financing terrorism, they are required, besides the measures of anti money laundering to develop different operation methods for detecting in recognizing the funds used in terrorist financing.

More specifically it is required from that liable parties be more careful about:

- the financial transactions with the countries that are known to be risky in terms of terrorism;
- the customer accounts linked with those countries;
- non-profit organization and charities;
- wire transfers.

Lastly it is important to underline that the same principles valid also for money laudering, like know your customer, record keeping, suspicious transaction reprting – must be fulfilled also in the fight against terrorist financing.

It is not expected from the liable parties to determine the source of the funds or using the funds for terrorist financing purposes, it is important to report any anomalous behavior wich might arouse a reasonable suspicious of being related to terrorist financing. Therefore, when a transaction or a series of transactions are considered suspicious, it is necessary and sufficient to report this situation to competent authorities via a suspicious transaction report. Competent authorities will be in charge of and authorized to determine whether money laundering offence was committed or not, or whether financing of terrorism took place within the process to be started after the reports are received.

At that point, it is very important to determine some indicators towards the possibility that the transactions carried out may be related to terrorism.

G. SUSPICIOUS TRANSACTION INDICATORS LINKED TO TERRORIST FINANCING

The following indicators, focused on terrorist financing, can also be used for detecting suspicious transactions in general.

1. INDICATORS OF ACCOUNTS

- (1) Normally idle accounts where money is deposited periodically.
- (2) Suddenly depositing large amounts of money into an account that has a low balance and afterwards drawing this money from the account until the account balance is zero.
- (3) Accounts with a lot of persons authorized to sign although there are no relationships (family or job relation) between them by appearance.
- (4) Accounts opened by different legal companies or organizations that having the same address, whose signature authorization is delegated to the same persons.
- (5) Opening of many accounts by the same person and increasing of deposit, by means of repeated small amounts in a way incompatible with the economic profile of the customer.
- (6) Opening of an account on behalf of real and legal persons that are known to be in relation with a terrorist organization.
- (7) Drawing of a big amount of cash from a commercial account on which cash transactions are normally not performed.
- (8) Depositing of money into the account of a person or organization in amounts that are not adequate to the economic profile of the person or organization.
- (9) Mixing up of the cash and monetary instruments with each other, different from the normal use of the account, on transactions that are performed on an account.
- (10) Depositing or drawing of the money separately to or from the account by means of the different branches of the same financial organization or by a group of persons that enter to the same branch at the same time.
- (11) Bond, shares and derivatives which are not listed frequently on stock market to be bought and sold lately collectively or in pieces.
- (12) The customer performing transactions always via ATMs, frequently depositing cash or always drawing cash up to an amount of daily transaction limit via ATMs on following dates at the locations where the branch of bank is located.
- (13) Frequently depositing money into the company accounts by means of third persons with different cash and cash like instruments or paying to the third persons, performing of the commercial transaction, which can normally be performed by means of a check or other payment instrument on behalf of the person or institution, via depositing of a big amount of cash to the account of person or institution.

2. INDICATORS OF WIRE TRANSFERS

- (14) Giving instructions for transactions with lower amounts in order to avoid legal liabilities related to identification.
- (15) Not submitting the identification information of person who performs electronic transfer or on behalf of whom the transaction is performed.
- (16) Use of the accounts of the non-profit organizations or commercial / personal accounts in order to transfer the funds to foreign persons immediately after or after a short time from collection of the funds.

- (17) Performing of transaction with foreign currency on behalf of the customer via electronic transfers by a third person and performing of the transactions with persons or countries that have no commercial relations.
- (18) Performing of many transactions at the same branch of the same liable party, at the same day but by using different persons.

3. INDICATORS OF CHARACTERISTICS OF THE CUSTOMER OR CUSTOMER ACTIVITIES

- (19) Giving the same address information of the cash transaction performing persons, especially mentioning of the address information same as the business address and / or not being compatible with the profession mentioned.
- (20) Not being proportional or compatible of the profession, which is mentioned by the person performing transaction, with the transaction type or volume.
- (21) Use of a safe deposit box on behalf of the organization although the commercial activity does not require the using of a safe deposit box.
- (22) Facing unexplained inconsistencies during the process of identification or confirmation pertaining to the customer. (for example; country being previously or currently lived in, country which the passport is pertaining to, documents to be used for conforming the name, address and date of birth together with the countries that have been visited to according to passport).
- (23) Not having a stable address of the persons and changing of their address information continuously.
- (24) Opening of a deposit account on behalf of a commercial legal person although the activity that the customer performs doesn't justify use of the account opened.

4. INDICATORS OF TRANSACTIONS REGARDING AREAS SUSPECTED TO BE RELATED TO TERRORIST ORGANIZATIONS

- (25) Transferring of the money, which is in amounts that have no commercial explanation or economical purpose, electronically to a commercial account opened in suspicious areas and/or drawing of this money from the account.
- (26) Transferring or receiving of the funds to suspicious areas or from these areas by means of international transactions, opening account at the financial institutions in these regions or using the credit cards issued by the banks based in those regions.
- (27) Transferring of funds on behalf of the customer, by means of foreign currency exchange performed by third persons, to countries in which terrorism and smuggling are seen frequently or tax haven countries, that have no open business relation with the customer
- (28) Deposits for amounts accumulated in a short period of time as a result of the transfer transactions conducted from or through the countries mentioned as supporting terrorism by national or international authorities, or countries declared as "Non-Cooperative Countries and Territories-NCCT" by FATF or performed through them, which are then transferred to third persons.
- (29) Collection of funds especially from or to the risky countries using a high number of personal or commercial accounts and directing those funds to a small number of beneficiaries.
- (30) Use of commercial financial transactions, which are not justified by logical commercial reasons, in order to transfer funds from or to risky areas.

5. INDICATORS OF NON-PROFIT ORGANIZATIONS

- (31) A mismatch between the pattern and size of financial transactions or amount of funds raised or moved on the one hand, and the apparent sources, stated purpose and activities of the NPO (foundations, associations, charities, etc) on the other hand. For example, a cultural association that, after organizing a music festival, deposits disproportionate amounts on its bank account.
- (32) A sudden increase in the frequency and amounts of financial transactions on the account of an NPO or the inverse, that is, the NPO appears to keep funds in its account for a very long period.
- (33) The absence of contributions from donors located within the country of origin of the NPO.
- (34) The existence of foreign directors, particularly in combination with large outgoing transactions to the country of origin of such directors and especially if destination is a high-risk jurisdiction.
- (35) The existence of a large number of NPOs with unexplained links: for example, several NPOs transfer money to each other or share the same address, same managers or personnel.
- (36) NPOs having large financial turnover which appear to have little or no staff, suitable offices or telephone numbers.
- (37) Receiving of the funds by using of many personal and commercial accounts or accounts of non-profit organizations and later transferring these funds to foreign beneficiaries in a short period of time.