

## **CERTIFICATE**

I, the undersigned, **Sandro Carvalho Santos**, Sworn Translator duly admitted by The **Judicial Court** of Maputo City in Mozambique, residing in **Maputo**, in **Maputo Province**, do hereby certify and attest, unto all it may concern, that the attached (which I have initialed), is to the best of my knowledge and belief, a true and correct translation of the document annexed hereunto in the Portuguese Language, for which translation I hereby assume full responsibility.

In **FAITH and TESTIMONY** whereof, I the Sworn Translator, hereto subscribed my name at **Maputo Province**, Republic of Mozambique, on the *13<sup>th</sup>* day of *September*, 2006.



  
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THE SWORN TRANSLATOR

**DECREE NO. 37/2004**

**OF 8TH SEPTEMBER**

Law nr. 7/2002, of the 5<sup>th</sup> of February, establishes the legal system for the prevention and combat of the use of the financial system to practice acts of money laundering, goods, products or rights originating from criminal activities defined in the terms of the referred Law.

Being necessary to regulate the practical aspects for its implementation, the Council of Ministers, in use of its competences conferred by Article 41 of the same Law, decrees:

Article 1- Regulation of the Law no. 7/2002, of the 5<sup>th</sup> February, that establishes the legal regime for the prevention and combat of the use of the financial system for the practice of acts of money laundering, goods, products or rights originating from criminal activities, defined in the terms of the referred Law, attached to the present Decree, is approved.

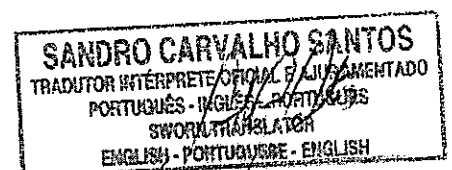
Article 2. All other provisions contrary to the present Decree are revoked.

Article 3. The present Decree enters into force thirty days after publication.

Approved by the Council of Ministers on the 10th of August, 2004.

To be published.

The Prime-Minister, *Luisa Dias Diogo*



## REGULATION OF THE LAW NR 7/2002, OF 5<sup>TH</sup> FEBRUARY

### CHAPTER 1

#### General Provisions

##### Article 1

###### Object

The object of the present Regulation is to establish the rules through which the entities foreseen in the Law nr. 7/2002, of the 5<sup>th</sup> of February, shall govern themselves, in compliance of the duties therein, in the scope of the prevention and combat of money laundering.

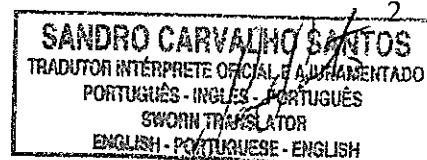
##### Article 2

###### Scope

1. The entities which, in the terms of Law nr. 7/2002 of the 5<sup>th</sup> of February, shall comply with any duties within the framework of the prevention and combat of money laundering are subject to the provisions of the present Regulation.

2. The entities especially covered by the obligations imposed to financial entities within the terms of the above referred law are as follows:

- a) Banks and Micro Banks;
- b) Financial and Leasing Companies;
- c) Credit Cooperatives;
- d) Factoring Companies
- e) Investment Companies;
- f) Stock Exchange;
- g) Electronic Money Institutions;
- h) Issuance and Management of Payment Means Services;
- i) Issuer or Manager of Credit Card Companies;
- j) Broker Companies or Financial Broker Companies;
- k) Investment Funds Management Companies;
- l) Assets Management Companies;
- m) Equity Companies;
- n) Buying in Group Management Companies;
- o) Bureaux de Change;
- p) Discount Houses;
- q) Singular or Collective Persons Operating with Credit Functions;
- r) Entities Exploring Post Office Public Services, as long as they provide financial services;



- s) Entities Authorized to Operate in the Insurance Activity .
- t) Insurance Brokers;
- u) Casinos;
- v) Other Entities Operating in Gambling Games or Social Entertainment Activities;
- w) Branches, Subsidiaries, Affiliates or any other kind of representation of the Mozambican Financial Entities abroad;
- x) Other Entities which by legal diploma will be subject to the supervision of Banco de Moçambique, General Insurance Inspection or the General Games Inspection.

## **CHARTER II**

### **Financial Entities and Supervision Authorities**

#### **Article 3**

##### **Supervision System**

The supervision of financial Entities within the framework of the prevention and combat of money laundering, shall comply with the foreseen in the present Regulation and the remainder applicable legislation.

#### **Article 4**

##### **The Scope of Financial Entities within Supervision Authorities**

The supervision of the financial entities within the scope of the prevention and combat of money laundering is implemented by the following supervision authorities:

- a) Banco de Moçambique, in respect to the entities referred to in the paragraph *a)* to *q)* and *z)*, in the relevant part of number 2 of Article 2, of the present Regulation;
- b) General Insurance Supervision, in respect to the entities referred to in paragraph *s)*, *t)* and *z)*, in the relevant part of number 2 of Article 2 of the present Regulation;
- c) General Games Inspection, in respect to the entities referred to in the paragraph *u)*, *v)* and *z)*, in the relevant part of number 2 of Article 2 of the present Regulation;
- d) The supervision of the entities mentioned in the paragraph *r)* of number 2 of Article 2 is implemented by the authorities indicated in the present Regulation, depending on the type of activity relating to each supervision entity.



## Article 5

### Supervision of the Representations of Mozambican Entities Based Abroad

The supervision of Branches, Subsidiaries, Affiliates or any other forms of representation of Mozambican financial entities based abroad is implemented by the authorities indicated in Articles 4 and 6 of the present Regulation, depending upon the legal type relating to the main institution.

## Article 6

### Supervision of Remainder Entities

The supervision of remainder financial entities not foreseen in the previous articles within the framework of the prevention and combat of money laundering shall be implemented by an entity to be defined by the Minister supervising the area of finance.

## Article 7

### Internal Organization of Financial Entities

In order to improve the efficiency in the implementation of the measures for the prevention and combat of money laundering through the financial system each financial entity must adopt organizational measures that guarantee the internal co-ordination and external articulation in regard to all issues related to the money laundering.

## CHAPTER III

### The Duty of Identification and Diligence

## Article 8

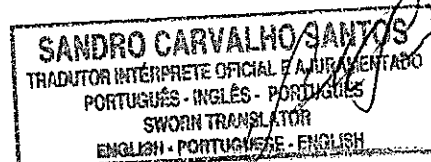
### Confirmation of Documents

1. For the effects provided for in nr. 1 of Article 10 of Law nr. 7/2002, of the 5<sup>th</sup> of February, a valid confirming document for the identification of singular persons or representatives of collective persons, is a document that brings together cumulatively the following requirements:

- a) issuance by a competent entity;
- b) holder's photo therein;
- c) updated validity date therein.

2. For purposes of identification and of the provided in the nr. 7 of Article 10 of Law nr. 7/2002, of the 5<sup>th</sup> of February, the documents considered as official are as follows:

- a) Identification Card or in its absence, the respective receipt proofing that the document has been requested, as long as for the latter it is duly presented



- together with a Complete Personal Schedule or Complete Narrative Birth Registration Certificate, for the national citizens;
- b) Passport, for national and foreign citizens non-resident;
  - c) Resident Permit (DIRE) for resident foreign citizens.

3. Without prejudice of the provided for in the previous number, valid documents for effects of verification of domicile of singular persons or representatives of collective persons are the certificates issued by the administrative authorities of the area of residence.

4. The identification of clients considered as collective persons and the verification of their respective addresses are done against:

- a) Presentation of the original or authenticated photocopies of their statutes;
- b) Presentation of the original or authenticated photocopy of the valid license of their activity issued by a competent authority;
- c) Identification of the holders' governing bodies or company management ;
- d) Personal identification of their legal representatives:

## **Article 9**

### **Acts subject to the Duty of Identification**

Without prejudice to the exceptions established in Article 11 of Law nr. 7/2002, of the 5<sup>th</sup> of February, the establishment of any business relation or transactions with financial entities in general is subjected to the duty of identification as per the referred Law and in a specific manner, in the following cases:

- a) opening and operation of bank accounts;
- b) provision of custody services;
- c) provision of investment in movables services;
- d) insurance and insurance brokerage activity;
- e) management of pensions plans;
- f) holding of occasional transactions of an equal or superior amount equivalent to four hundred and forty one minimum salaries;
- g) holding of any casino transaction or inherent to gambling games or social entertainment of an equal or superior amount equivalent to four hundred and forty one minimum salaries;
- h) holding of any foreign exchange operation.

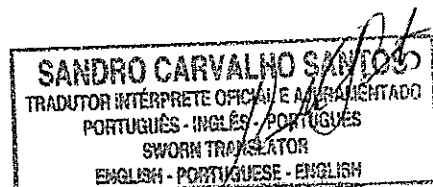
## **Article 10**

### **Identification File**

For the purposes provided for in the previous article, whenever a business relation is established for the first time, the financial entity must open an identification file of the client or of his/her legal representatives, that can be annually updated or whenever any changes occur, whereby the following elements are in evidence:

1. Singular persons:

- a) Full name, as per the identification document;



- b) Parents;
- c) Place of Birth and nationality;
- d) Date of birth;
- e) Sex;
- f) Civil Status and wedding regime;
- g) Full address (Province, District, City, Avenue or Street and respective number, telephone and telefax), if applicable;
- h) Profession and employer entity, if applicable;
- i) Type, number, local and issuance date of the identification document;
- j) Single Number of Tax Identification (NUIT);
- k) Indication that the elements referred to in the paragraphs *a), b), c), d), e), f)* and *I)* were checked against the exhibition of the respective document.

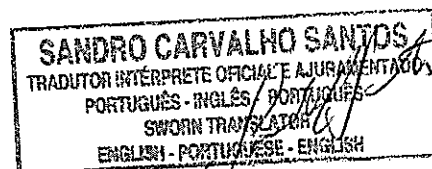
2. Collective Persons:

- a) Company or denomination, according to the registration or constitution registration;
- b) Head Office (Province; District; City; Avenue or Street and respective number, telephone and telefax);
- c) Single Number of Tax Identification (NUIT);
- d) Code of Economic Activities Classifier and the economic group, if applicable;
- e) Main object;
- f) Names of the persons who enjoy powers of representation, if applicable to these persons, the requirements of nr. 1 of this Article;
- g) Specification of powers of representation which the previous paragraph refers to and the documents must be duly confirmed through authentic or authenticated documents which unequivocally mention them or, in cases where such documents cannot be legally obtained, through specific documents of equivalent meaning and legally binding;

3. Companies and other collective persons in constitution:

- a) Full identification of founder shareholders and remainder persons responsible for the company or other person to constitute, and if applicable, the requirements of the nr 1 of the present Article;
- b) Declaration of commitment to deliver the deed of registration pertaining to the constitution and the confirming document of registration to the competent body, within the period of 60 days;

4. Projects and Special Commissions: full identification of the persons responsible for the Project, the requirements being those of nr. 1 of the present Article, applicable to these persons.



## **Article 11**

### **Duty of Verification and Diligence**

1. Financial entities are entrusted with the verification aimed at confirming the elements of identification and the address provided by the clients and their legal representatives, whenever there is suspicion based on the occurrence of crime of money laundering leading to doubt as for the authenticity of the presented documents or veracity of the declaration provided by the client.

2. The verification referred to in the previous number includes, among other, the following diligences:

- a) Confirmation of the domicile in the provided address; confirmation can also be made through a visit to the place of domicile or through a declaration issued by the employer's entity, in case of an employee who works for another person or by any other competent entity;
- b) Confirmation of the authenticity of the exhibited documents at the issuing entity, in case of doubt;
- c) Confirmation of the legitimacy of ownership of the presented funds, as well as their income sources;
- d) Confirmation of the final beneficiaries of the operations made.

## **Article 12**

### **Absence or Inaccuracy of Identification**

Lack of presentation of the required identification within the terms of the present Chapter on the part of the clients or their legal representatives, as well as the non-conformity between the provided data and the real one, are a real basis for refusal of the holding of the acts foreseen in Article 9 of the present Regulation.

## **Article 13**

### **Duty to Constitute the Client Profile**

1. The financial entities must, in relation to the usual clients, constitute their file and follow up the developments of their operations.

2. For the effects provided for in the previous number, the financial entities must collect data about the client's background, the course of their income activities, as well as to comply with the duty to preserve documents as per Article 15 of Law nr. 7/2002, of the 5<sup>th</sup> of February.



## CHAPTER IV

### Suspicious Operations

#### Article 14

##### Reasons for Suspicion

For the effects provided for in nr.1 of Article 13 of Law nr. 7/2002, of the 5<sup>th</sup> of February, the suspicion of use of a financial entity for money laundering is reason enough for, among others, the following:

1. In relation to cash operations:

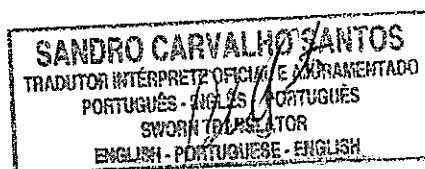
- a) Use of a cash amount equal or superior to four hundred and forty one minimum salaries, in detriment of other means of payment.
- b) High number of deposits or withdrawals in cash of small amounts the daily sum of which is an amount equal or superior to four hundred and forty one minimum salaries;
- c) Substantial increase of account balances without apparent cause, as a result of cash deposits, in particular if they are, within a period of thirty days, subsequently transferred to one account and, or geographic location not associated normally to the client's operations;
- d) Change of notes of small denomination by notes of high denomination in the some currency or in a different currency;
- e) Liquidation of financial applications in cash.

2. In relation to bank deposits:

- a) Deposit of false notes;
- b) Opening of a company account with incomplete documents, by making credits followed by pretension to make debits;
- c) Accounts of employees of the financial entity that receive funds transferred or deposits considered unusual either for its frequency or for its high values or origin;
- d) Account operations characterized by a large number of deposits of small amounts and a small number of withdrawals of high amounts;
- e) Maintenance of a number of accounts, inconsistent with the client's activity;
- f) Accounts of singular or collective persons, operations involving large amounts with no relation to the activity of the holder;
- g) Debits of an amount equal or superior to four hundred and forty one minimum salaries in until there dormant accounts or in accounts recently funded by funds transfer from abroad.
- h) Large number of entities crediting the same account without apparent reason;

3. Other operations:

- a) Asset management where the origin of funds is not clear;
- b) Increased utilization of vaults;
- c) Utilization of Letters of Credit and other similar instruments to transfer funds between countries with which the client has no business relations;



- d) Frequent payments through third party cheques endorsed in favour of the client;
- e) Over or under invoicing in the import and export operations;
- f) Smuggling of goods or embezzlement of customs duties;
- g) Systematic use of the Simplified Single Document (DUS)

## **Article 15**

### **Criteria of Appraisal of Suspicion Motives**

In the gauging of the level of suspicion the concrete circumstances of the operation must be taken into consideration bearing always in mind a standard criteria used by one "man of medium diligence" in the analysis of an identical situation.

## **Article 16**

### **Clarification Requests**

1. There being a suspicion based in the terms of Law nr. 7/2002, of the 5<sup>th</sup> of February and the present Regulation; the pretension or the effective use of a financial entity for acts of money laundering, the financial entity must request the client for clarification related to the operation in question, seeking to obtain namely, information about the origin and destination of the funds under suspicion, the reasons for the transaction and the identity of the beneficiary.
2. In case of a financial entity as per paragraph f) of nr. 2 of Article 2 of the present Regulation, the same entity must inform the financial entity that carried out the operations on behalf of the client, for the effects of the previous number.

## **Article 17**

### **Information to the Department of Justice**

1. The financial entities must inform the Department of Justice, on basis of good will, of any operation strongly suspicious of being a money laundering operation based in the terms provided for in Law Nr 7/2002, of the 5<sup>th</sup> of February.
2. The lodging of a case at the Department of Justice is carried out by the supervision authority whenever the knowledge of facts indicting the undertaking of acts of money laundering results from its normal supervision activity.
3. The provided for in nr 1 and nr 2 of this Article does not affect the duty of criminal notification by any entity in the general terms of the Penal Law, when there is a strong suspicion of money laundering acts.
4. The notification referred to by the previous numbers must be done in writing, following the rules provided for in the Law of Penal Procedure.
5. Without prejudice of the provided for in Articles 18 and 19 of the present Regulation, the simultaneous and subsequent procedures to lodge a case at the Department of Justice are referred to in Article 19 and remainder applicable provisions of Law nr. 7/2002, of the 5<sup>th</sup> of February.

