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LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

SPAIN

Communicated by the Government of Spain

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

ROYAL DECREE No. 925 OF 9 JUNE 1995 APPROVING THE REGULATIONS FOR IMPLEMENTATION OF LAW No. 19 of 28 DECEMBER 1993 CONCERNING CERTAIN MEASURES FOR PREVENTING MONEY-LAUNDERING

**ROYAL DECREE No. 925 of 9 June 1995 approving the Regulations for
Implementation of Law No. 19 of 28 December 1993¹ concerning
certain measures for preventing money-laundering**

Law No. 19 of 28 December 1993 concerning certain measures to prevent money-laundering empowers the Government to regulate and constitute the Commission for the Prevention of Money-Laundering and Financial Offences, established under article 13 of the Law, together with its administrative support organs: the Secretariat of the Commission and the Executive Service. It should be noted that Law 19/1993 provided for an expansion of the areas of competence of the administrative organs at present carrying out various functions connected with the arrangements governing financial transactions with foreign countries and exchange control, as an alternative to setting up new administrative structures, as a result of which powers in the area of money-laundering prevention are now exercised by these same organs, as the Law itself indicates.

In the light of the above considerations, this Royal Decree has the purpose of defining the organizational and operational aspects of these administrative organs, and in this connection establishes the composition of the Commission and its Permanent Committee, imparts specific form to the administrative unit which will act as the Commission's Secretariat, and describes the areas of competence thereof. Similarly, the attachment of the Executive Service to the Bank of Spain and its operating regime are determined.

While the Preamble to Law 19/1993 states that it will enter into force immediately upon publication, the text of the Law contains significant references to the correspondingplementary measures, such as, for example, the references in articles 2, 3 and 5. For the purpose of meeting this legal requirement, this Royal Decree undertakes to regulate these affairs, and in this connection identifies those activities which are considered particularly likely to be used for money-laundering together with the relevant obligations incumbent upon physical and juridical persons engaging in such activities; details are given of the various operations and procedures to be carried out by the various obligated parties and, in particular, those operations are specified which, since they may be connected with the laundering of money originating from the criminal activities defined in article 1 of Law No. 19/1993, must in all cases be communicated to the Executive Service. Similarly, legal provision is made for exemption from liability relating to the furnishing of information demanded, and the penal procedure applicable for failure to comply with the legal provisions on the subject is laid down.

By virtue of which, at the proposal of the Minister of Economic and Financial Affairs, with the approval of the Minister for Public Authorities, and in agreement with the Council of State, following discussion by the Council of Ministers (Cabinet) at its meeting on 9 June 1995,

I DECREE

Sole article. Approval of the Regulations for Law No. 19 of 28 December 1993 concerning certain measures for the prevention of money-laundering

This Royal Decree approves the Regulations for Law No. 19 of 18 (*sic*) December 1993, concerning certain measures for the prevention of money-laundering, which now follow.

Sole revoking provision. *Regulatory revocation.*

Upon entry into force of the Regulations approved by this Royal Decree, Royal Decree No. 2391 of 10 October 1980, regulating the composition and functions of the Commission for the Monitoring of Exchange Control Offences shall be revoked.

¹E/NL.1994/33.

First final provision. *Regulatory authorization.*

The Minister of Economic and Financial Affairs, subject to fulfilment of the appropriate judicial formalities, shall be authorized to issue whatever provisions may be necessary for the implementation of the Regulations approved by this Royal Decree.

Second final provision. *Entry into force.*

This Royal Decree and the Regulations which it approves shall enter into force on the day following their publication in the "Boletín Oficial del Estado".

Done at Madrid, 9 June 1995.

REGULATIONS FOR IMPLEMENTATION OF LAW No. 19 OF 28 DECEMBER 1993 CONCERNING CERTAIN MEASURES FOR PREVENTING MONEY-LAUNDERING

CHAPTER I

General provisions

Article 1. *Scope of application.*

1. For purposes of implementation of Law No. 19 of 28 December 1993 concerning certain measures for preventing money-laundering, these Regulations govern the requirements, démarches and procedures aimed at forestalling and preventing the use of the financial system and other sectors of the economy for the laundering of money originating from:

- (a) Criminal activities related to toxic drugs, narcotics and psychotropic substances;
- (b) Criminal activities related to armed bands or terrorist organizations or groups;
- (c) Criminal activities carried out by organized groups or gangs.

2. For the purposes of these Regulations, money-laundering shall be understood to mean the acquisition, use, conversion or transfer of property originating from any of the criminal activities enumerated in the preceding section or from participation in such activities, for the purpose of concealing or disguising its origin or helping a person involved in the criminal activity to evade the legal consequences of his acts, as well as the concealment or disguise of its true nature, source, location, disposition or movement, or of its ownership or of rights with respect to it, even if the activities that give rise thereto are carried out in the territory of another State.

3. Compliance with the obligations in these Regulations shall be understood as without prejudice to the obligations laid down in the Law on Criminal Procedure and in any other applicable provisions.

Article 2. *Obligated parties.*

1. The following shall be subject to the obligations established in these Regulations:

- (a) Credit institutions;
- (b) Insurance undertakings authorized to do business in the area of life insurance;
- (c) Securities companies and agencies;
- (d) Institutions for collective investment;
- (e) Management companies for collective investment institutions and pension funds;
- (f) Portfolio management companies;
- (g) Companies issuing credit cards;
- (h) Physical or juridical persons that engage in the exchange of currencies, whether or not as a principal activity, with respect to the transactions connected with such activity.

The foregoing categories shall be understood to include the credit institutions referred to in the first additional provision of Law No. 3 of 14 April 1994, adapting Spanish legislation in matters of credit institutions to the Second Banking Coordination Directive, and further modifications are introduced relating to the finance system, together with foreign individuals or corporate bodies who, through branch offices or the provision of services without possessing permanent establishments, perform in Spain activities of a nature similar to those undertaken by the parties referred to above.

2. Physical or juridical persons exercising the following professional or entrepreneurial activities shall likewise be subject to the obligations laid down in these Regulations, with the features referred to in article 16, in conformity with the provisions of article 2.2 of Law 19/1993:

- (a) Gambling casinos;
- (b) Activities concerning the promotion of real estate transactions or the buying and selling of real estate;
- (c) Activities connected with the trade in jewellery and precious stones and metals;
- (d) Activities connected with the trade in *objets d'art* and antiques;
- (e) Activities connected with investment in postage stamps and coins.

CHAPTER II

Obligations

HEADING 1. GENERAL REGIME

Article 3. *Identification of customers.*

1. Obligated parties shall require submission of documents attesting the identity of their customers, whether regular or not, at the time of establishing business relations or effecting any transactions, except in the circumstances envisaged in article 4 of these Regulations.

2. Where the customer is a physical person he shall submit a national identity document, a residence permit issued by the Ministry of Justice and the Interior, a passport or an identity document valid in the country of origin including a photograph of the holder, all without prejudice to the requirement consisting of communicating his tax identification number or a foreigners' identification number, as appropriate, in accordance with the rules in force. The powers of persons acting as his representatives shall similarly be attested.

3. Juridical persons shall submit an authentic document attesting their corporate style, legal form, domicile and purpose, without prejudice to the requirement consisting of communicating their tax identification number.

The powers of persons acting as their representatives shall similarly be attested.

4. Where there is evidence or certainty that the customers or the persons whose identification is compulsory are not acting on their own account, obligated parties shall demand precise information attesting both the identity of representatives, agents and other authorized parties and of the persons on behalf of whom they are acting, on the conditions laid down in this article.

Article 4. Exemption from the requirement to furnish identification.

1. For the purposes of these Regulations the financial institutions listed in article 2.1, when acting as customers, shall not be obliged to identify themselves as provided in article 3 above, except in a case of physical or juridical persons exercising the activity of money-changing referred to in article 2.1 (h) of these regulations.

2. Similarly, the requirement regarding identification of customers shall be waived in the following cases:

(a) In the case of transactions whose value does not exceed 2,500,000 pesetas or its equivalent in foreign currency. In cases where it is noted that customers subdivide the transaction with the aim of evading the identification requirement, the subdivisions shall be added together and identification shall be demanded.

The identification requirement shall likewise exist in those transactions where, following their examination by obligated parties in conformity with the provisions of article 5.1 of these Regulations, there is evidence or certainty that the transactions in question are connected with the laundering of money originating from the activities listed in article 1, including cases where the amount concerned is less than the threshold stated above.

(b) In cases of contracts concerning pension or retirement plans concluded under an employment relationship or the professional activity of the insured, provided that such contracts do not contain a redemption clause or cannot serve as surety for a loan.

(c) In the case of life insurance and supplementary contracts concluded by duly authorized undertakings, when the amount of the periodical premium or premiums to be paid in the course of one year does not exceed 200,000 pesetas or in the case of payment of a single premium whose amount is less than 500,000 pesetas.

(d) When it has been established that the return on the life and supplementary insurance contracts has to be credited to an account opened in the name of the customer at a credit institution liable to the requirement laid down in article 3.

Article 5. *Special examination of certain transactions.*

1. Obligated parties shall examine with particular attention, following the internal procedure to be established, any operation, irrespective of its value, which by its nature could be connected with the laundering of money originating from the activities indicated in article 1.

2. When establishing the procedures and internal control measures referred to in article 11 of these Regulations, obligated parties shall impart specific form to the way in which this obligation to conduct a special examination will be fulfilled, and which shall include the preparation and dissemination among executives and employees of a list of operations liable to be closely connected with money-laundering, together with a periodical updating of such a list. In all cases, the list shall cover, *inter alia*, the following factors:

(a) When the nature or volume of the active or passive transactions conducted by customers does not harmonize with their business activities or operational record.

(b) When one and the same account, without valid reason, is being credited with cash sums by a large number of persons.

3. In any case, if the examination of the transactions to which this article refers yields evidence or certainty of the existence of money-laundering, notification shall immediately be made to the Executive Service of the Commission for the Prevention of Money-Laundering and Financial Offences (hereinafter referred to as the "Executive Service"), in accordance with the provisions of article 7.

Article 6. *Preservation of documentation.*

1. Obligated parties shall preserve for a period of six years the relevant documents or records which, with probative force, adequately attest the conduct of the transactions and the business relationships of the customers with the institution.

There shall likewise be preserved for a period of six years copies of the documentation required for identification of customers who had effected the transactions or who had established such business relations with the institution, provided that there exists the obligation to inform the Executive Service of the operations pursuant to articles 5, 3 and 7, sections 1 and 2, or of the identity of the customers pursuant to articles 3 and 4.

2. In the case of documents relating to identification, the indicated term shall begin as from the date when relationships with a customer are terminated, and in the case of preservation of documentation or records attesting the transaction, as from the performance of each such transaction.

Article 7. *Communication of transactions to the Executive Service.*

1. Obligated parties shall collaborate with the Executive Service and for this purpose shall immediately communicate to it any event or operation in respect of which there exists either evidence or certainty that it is connected with the laundering of money originating from the activities indicated in article 1, together with any circumstance related to these acts or operations which subsequently occur.

2. In all cases, obligated parties shall communicate to the Executive Service:

(a) Operations entailing the physical movement of coin, banknotes, travellers cheques, cheques or other bearer documents drawn by credit institutions, with the exception of those credited or debited to the account of a customer, to a value of more than 5,000,000 pesetas or its equivalent in foreign currency.

(b) Transactions with or by physical or juridical persons residing in territories or countries having the status of a tax haven, in accordance with Royal Decree No. 1080 of 5 July 1991, where the value thereof is greater than 5,000,000 pesetas or its equivalent in foreign currency.

(c) Any other matters which, on the proposal of the Commission for the Prevention of Money-Laundering and Financial Offences, are classified as coming within the scope of these Regulations.

Wherever any of the operations covered by this section present evidence or certainty of being connected with money-laundering the procedure laid down in section 1 above shall be followed.

3. The requirement to effect the communication referred to in the preceding section shall not be applicable when, in the case of transactions concerning regular customers and customers in respect of whom obligated parties are adequately aware of the legality of their activities, the circumstances envisaged in section 1 above are not present.

4. The communications referred to in section 1 of this article shall be performed through the internal control organs and following the procedures to be established pursuant to article 13, and shall in all cases contain the following information:

(a) A list and identification of the physical or juridical persons participating in the transaction and an assessment of the basis of such participation.

(b) A list of the operations and dates referred to with an indication of their nature, the currency in which they were carried out, the amount involved, the place or places where they were transacted, their purpose and the means of payment or collection used.

(c) A statement of the circumstances of any kind from which it may be inferred or may be concluded with certainty that there exists a connection with money-laundering.

(d) Any other data which the Executive Service may demand in carrying out its functions.

5. The communication referred to in section 1 of this article shall be understood to be effected when action has been taken pursuant to the provisions of article 262 of the Law on Criminal Procedure.

Article 8. *Provision of the information required by the Executive Service.*

1. Obligated parties shall collaborate with the Executive Service and shall furnish, pursuant to the provisions of the article 3.4. (b) of Law 19/1993, the information required by the Service in carrying out its functions; this information may concern any item of data or knowledge obtained by the obligated parties concerning the operations which they are carrying out and the persons involved therein.

2. The demands for information made by the Executive Service shall clearly set forth the matters regarding which information is required and the term within which it has to be supplied. When the term for the furnishing of the required information has passed without the latter having been supplied, or when it is supplied in an incomplete form through omission of basic data preventing the Executive Service from properly examining the situation, the obligation referred to in this article shall be regarded as not having been fulfilled. However, if the items of data omitted do not invalidate the information requested, the Executive Service shall call upon the obligated party to complete the information in question and shall indicate the term allowed for fulfilment of this second demand, non-compliance with which shall be classified as failure to meet the obligation to furnish information.

3. The information shall be communicated through the internal control organs and using the procedures established pursuant to article 13 and shall contain in a detailed, clear and complete form all the items of data required. In cases where all the information demanded is not available, this shall be expressly stated.

Article 9. *Abstention from effecting transactions.*

1. Obligated parties shall refrain from carrying out any transaction among those indicated in article 7, section 1, without having previously effected notification pursuant to the article in question.

2. Nevertheless, when such abstention is not possible, or may impede the prosecution of parties benefitting from the transaction, obligated parties may perform it, effecting communication to the Executive Service immediately thereafter.

Article 10. *Duty to preserve confidentiality.*

Obligated parties shall not reveal to the customer or to third parties the action which they are taking in connection with their obligations pursuant to Law 19/1993, in the form governed by these Regulations.

Article 11. *Internal control measures*

1. Obligated parties who are either juridical persons or establishments or individual entrepreneurs the number of whose employees exceeds 25 shall introduce adequate internal control and communications procedures and organs, with a view to discovering, forestalling and preventing the conduct of operations connected with money-laundering. These procedures shall, as appropriate, make provision for clear lines of communication for this purpose with subsidiary establishments, including those located abroad, or institutions in the same group.

The above-mentioned procedures and organs shall be regarded as adequate when their organization meets the requirements of speed, security, efficiency and coordination both as regards internal transmission and the analysis and communication to the Executive Service of information relevant to the legislation concerning prevention of money-laundering.

2. In cases where the obligated parties are establishments or individual entrepreneurs the number of whose employees is less than 25, the principal in charge of the operation shall carry out the functions of internal control and communication organ referred to in the preceding section.

3. Obligated parties shall take appropriate measures to ensure that their employees and executives immediately communicate to the control and communications organs facts relevant to the prevention of money-laundering. As a minimum, the communications shall contain data adequate to permit identification of the party or parties concerned, the acts and transactions involved, the value thereof, and the relevant place and dates.

Both the communicator and the communications organ shall hold a record of these notifications.

When communication to the control and communications organ has been carried out, the executive or employee shall be exempt from further liability.

4. The control and communications organs shall take appropriate steps to preserve confidentiality regarding the identity of the employees and executive having effected a notification.

5. When the control and communications organs have received a communication, they shall proceed to its immediate analysis or verification in order to determine the connection of the facts or transactions communicated with money-laundering. Where there emerges evidence or certainty of money-laundering, action shall be taken pursuant to the provisions of articles 7 to 10 above.

Whatever the judgement adopted, the communicating employee or executive shall be informed of the action taken on his communication.

6. Obligated parties shall transmit to the Executive Service complete information on the structure and operation of the control and communications organ and of the procedures referred to in the preceding sections for the supervision thereof. The Executive Service shall assess the suitability of these organs and procedures, and may propose suitable corrective measures, and likewise address instructions to obligated parties aimed at improving and adapting the procedures and organs.

Any change in the structure and operation of these organs or of the procedures indicated shall likewise be examined by the Executive Service pursuant to the provisions of this section.

Article 12. *Internal control and communications organs.*

1. The internal control and communications organs envisaged in the preceding article shall have the function of analysing, verifying and communicating to the Executive Service all information relating to transactions or acts likely to be connected with money-laundering, using the procedures laid down in accordance with articles 11 and 13.

For this purpose, obligated parties shall take the necessary steps to ensure that the organ or organs in question dispose of the staffing, material, technical and organizational facilities adequate for carrying out their duties.

2. Each of these organs shall be headed by a representative of the obligated party with the Executive Service, who shall be responsible for communicating to the latter the information referred to in articles 7 and 8 and receiving requests and requirements from it.

3. The representatives referred to in the preceding section must comply with at least the following requirements:

(a) Be designated by the management in cases where the obligated party is a juridical person, establishment or an individual entrepreneur with more than 25 employees.

(b) Exhibit a professional conduct which qualifies them as persons suitable for carrying out the assignment.

(c) Possess the knowledge and experience necessary to exercise the functions referred to in section 1 above.

4. In the case envisaged in article 11.2 the representative shall be the principal in charge of the operation or, as appropriate, the employee designated by him.

5. Proposals for designation of representatives shall be communicated to the Executive Service which, giving reasons, may raise objections or offer observations when it considers that the proposed representatives do not meet the requirements referred to in section 3 above.

If within fifteen days following notification to the Executive Service the latter has pronounced no decision on the proposal regarding designation of representatives, the proposal shall be understood as accepted.

When the representatives have been designated, documents shall be forwarded to the Executive Service duly attesting the signature of the persons designated, such recognition of signature being valid as from the day following reception of the communication by the Executive Service.

Notification of the relinquishment of duties on the part of the representatives must be accompanied by a new proposal for designation.

Article 13. Communications procedure.

1. Communications by obligated parties shall be effected directly and in writing through the representatives referred to in article 12.

2. Nevertheless, in circumstances of justified urgency, the Executive Service, for the purpose of achieving maximum security, speed and control in the transmission of information, may indicate ways and means by which communications may be transmitted, provided that evidence exists of the delivery and receipt of the communication, and that the corresponding written document is received within a maximum term of fifteen working days as from the time when the initial communication was made.

3. Executives or employees of obligated parties may communicate directly to the Executive Service operations which have come to their knowledge during the performance of their duties, and in respect of which there exists evidence or certainty that they are connected with money-laundering, in cases where, although the facts have been brought to the knowledge of the internal control organs of the obligated party, the latter have not informed the communicating executive or employee pursuant to the provisions of article 11.5 to these Regulations.

Article 14. Training of obligated parties and their staff.

1. Obligated parties shall take the necessary steps to ensure that the staff in their service is informed of the requirements deriving from the legislation concerning prevention of money-laundering. The measures to be taken shall include the organization, with participation by workforce representatives, of training plans and special training courses intended for the employees in general and specifically for the staff occupying posts which, by their nature, are of particular sensitivity for detecting acts and operations possibly connected with money-laundering, thus training these employees in carrying out this work of detection and in learning the mode of procedure in such cases.

2. The Commission may organize information and guidance courses or activities on prevention of money-laundering, intended for the members of the internal control and communications organs of obligated parties.

The Commission in carrying out its functions shall draft and transmit recommendations which shall be taken into account by obligated parties.

Article 15. Exemption from liability.

Pursuant to article 4 of Law 19/1993, the bona fide communication of the information envisaged in articles 7 and 8 above by the obligated party or, exceptionally, by his executives or employees shall not constitute a breach of the restrictions on disclosure of information imposed by contract or by any legislative or

regulatory provision, and shall not involve the obligated parties, its executives or its employees in liability of any kind.

HEADING 2. SPECIAL REGIME

Article 16. *Scope and content.*

Persons carrying out the activities referred to in article 2.2 shall be subject to the following obligations:

(a) They shall demand the documents referred to in article 3 of these Regulations, attesting the identity of customers performing transactions for sums greater than 1,000,000 pesetas or its equivalent in foreign currency.

In cases where it is noted that customers subdivide the transaction with the aim of evading the identification requirement, the subdivisions shall be added together and identification shall be demanded.

In the case of gambling casinos the requirement regarding identification referred to in this section shall apply to the following operations:

1. The issue to customers of cheques as a result of chip exchange operations.
2. Transfers of funds performed by casinos at the request of customers.
3. The issue by casinos of certificates attesting winnings obtained by players.

(b) They shall examine with particular care any operation, irrespective of its value, which may be closely connected with the laundering of money originating from the activities indicated in article 1, and shall communicate to the Executive Service those operations in respect of which, in the light of the examination in question, there exists evidence or certainty that they are connected with money-laundering.

Without prejudice to the foregoing, gambling casinos shall in all cases notify the Executive Service of those operations which present evidence or certainty of a connection with money-laundering and take one of the forms described in paragraph (a) above.

The communications referred to in this section shall comply with the requirements laid down in articles 7.4.

(c) The documentation attesting operations which exceed 5,000,000 pesetas or its equivalent in foreign currency shall be preserved for a period of six years, as shall copies of the identity documents relating to persons referred to in paragraph (a) above.

The term indicated shall be reckoned as from the carrying out of the relevant transaction.

(d) In all other cases the provisions of articles 8 to 15 inclusive shall be applicable to them.

CHAPTER III

Penal proceedings

Article 17. Penal proceedings.

1. The procedure for exercise of punitive power derived from the provisions in chapter II of Law No. 19/1993 shall be regulated by Royal Decree No. 2119 of 3 December 1993, on penal proceedings applicable to parties operating on the financial market.

2. For determining the mode of instituting proceedings, the Secretariat of the Commission, as the body competent for this operation, may authorize the taking of preliminary measures pursuant to article 12 of the Regulations concerning the exercise of punitive power approved by Royal Decree No. 1398 of 4 August 1993.

3. When the offending party is a financial institution or requires administrative authorization to operate, the imposition of the relevant penalty shall require the report of the institution or administrative body responsible for its supervision. These proceedings shall be adapted to the provisions of articles 82 and 83 of Law No. 30 of 26 November 1992 on the Legal Regime governing Public Authorities and Common Administrative Proceedings.

Article 18. Carrying out and publishing of penalties.

1. The carrying out of executory sentences shall be the responsibility of the Secretariat of the Commission.

2. Nevertheless, when having regard to the penalty imposed and is the offending party, the specific rules for imposition provide for special features deriving from the relevant penalties, the Secretariat of the Commission shall notify the supervisory institution or administrative organ of the sentence passed, for the purposes indicated.

CHAPTER IV

Commission for the Prevention of Money-Laundering and Financial Offences

Article 19. Functions.

The Commission for the Prevention of Money-Laundering and Financial Offences established under article 13 of Law 19/1993 shall carry out the functions assigned to it in the article in question.

Article 20. Composition and operation.

1. The Commission, which shall be attached to the Secretariat of State for Economic Affairs, shall be under the chairmanship of the head of the latter body and shall further be composed of:

- (a) A representative of the Department of Public Prosecution.
- (b) A representative of the Special Drug Trafficking Prevention and Control Office.

- (c) A representative of the Government Commission for the National Drug Plan, with the rank of at least Head of Department.
- (d) The Head of the Police Department.
- (e) The Head of the Civil Guard Department.
- (f) The Head of the Department of Customs and Special Levies.
- (g) The Head of the Department of Financial and Tax Inspection.
- (h) The Head of the Insurance Department.
- (i) The Head of the Treasury and Financial Policy Department.
- (j) A Director of the National Securities Market Commission.
- (k) A Director of the Bank of Spain.
- (l) The Director of the Executive Service of the Commission.
- (m) The Head of the International Economic Affairs and Foreign Transactions Department.
- (n) The Head of the Legislation and Inspection Division of the International Economic Affairs and Foreign Transactions Department, who shall act as Secretary of the Commission.
- (ñ) One representative of each of the Autonomous Regions having its own police force for the protection of persons and property and for the maintenance of public safety.

2. Without prejudice to the special features envisaged in these Regulations, the Commission shall be governed by the provisions of chapter II, title II of Act No. 30 of 26 November 1992 on the Legal Regime governing Public Authorities and Common Administrative Procedure.

Article 21. *Permanent committee.*

The Commission may operate in plenary session and through a Permanent Committee, whose functions, apart from those laid down by the Commission itself, shall include that proposed to the plenary session for the adoption of appropriate decisions regarding the operation of the Commission. The composition of the Permanent Committee shall be as follows:

- (a) The Chairman, who shall be the Head of the International Economic Affairs and Foreign Transactions Department.
- (b) A representative of the Department of Public Prosecution.
- (c) A representative of the Government Commission for the National Drug Plan, with the rank of at least of Head of Department.
- (d) The Head of the Civil Guard Department.

- (e) The Head of the Department of Customs and Special Levies.
- (f) The Head of the Treasury and Financial Policy Department.
- (g) The Director of the Bank of Spain who is a member of the Commission.
- (h) The Head of the Police Department.
- (i) The Head of the Executive Service of the Commission.
- (j) The Head of the Legislation and Inspection Division, who shall act as Secretary of the Permanent Committee.

Article 22. *Support organs.*

Pursuant to article 15 of Law 19/1993 the Commission shall have the following support organs: the Secretariat of the Commission and the Executive Service of the Commission.

Article 23. *Secretariat of the Commission.*

The Legislation and Inspection Division of the International Economic Affairs and Foreign Transactions Department shall, in addition to the responsibilities assigned to it as regards financial transactions with foreign countries and exchange control, act as the Secretariat of the Commission referred to in article 15.1 of Law 19/1993. Specifically, it shall be responsible for:

- (a) The preparation of draft rules for the handling of violations of the provisions of Law 19/1993, for submission in all cases to the Commission for information purposes or for the Commission's approval, as appropriate.
- (b) The institution of penal proceedings for the commission of the offences described in Law 19/1993 and the appointment of examining judges in such proceedings, who shall draft the appropriate proposal for decision, for submission to the Commission in order that the latter may proceed in accordance with the provisions of article 12.1 of Law 19/1993, in conjunction with the body competent to impose penalties.

Article 24. *Executive Service.*

1. The Executive Service of the Commission, referred to in article 15.2 of Law 19/1993 shall be attached to the Bank of Spain, who shall appoint its Head.
2. The Executive Service shall carry out the tasks of investigating and preventing financial offences and administrative exchange control violations, together with measures for the forestalling and prevention of the use of the financial system or of other institutions for money-laundering, in this connection exercising the functions referred to in article 17.2 and 18 of Law 40/1979 and article 15.2 of Law 19/1993.
3. On the proposal of the Commission, the Ministry of Economic and Financial Affairs and the Bank of Spain shall designate those members of their staffs who will work for the Executive Service.

Similarly, the Commission may request the above authorities to furnish collaboration with the Executive Service in the form of the experts considered necessary for carrying out the Service's functions.

Staff serving in the Executive Service, irrespective of their origin, shall be subject to strict conflict of interest rules as regards operations in other professional activities, public or private.

Article 25. *Financial Offences Investigation Unit.*

1. The present National Police Unit for the Investigation of Financial Offences, a subordinate body of the Police Department, shall be attached to the Executive Service.

2. Without prejudice to its functions and powers as a Criminal Investigation Police Force, the specific functions of this Unit, possessing for this purpose the powers laid down by law, shall concern the investigation and clarification of any events which may represent an offence within the sphere of the legal regime governing exchange control, and collaboration, as a police unit attached to the Executive Service, in the exercise by the latter of the functions assigned to it in accordance with article 15.2 of Law 19/1993, either by complaint or accusation, official warrant, or decision by the Commission or the Executive Service.

3. At the proposal of the Commission, the Ministry of Justice and the Interior may assign to the Unit those officials of the National Police Force who are considered necessary for carrying out the functions assigned to the Unit.

Article 26. *Duty to observe professional secrecy by authorities and staff in the service of the Commission.*

1. All persons who are carrying out or who have carried out an operation on behalf of the Commission and have obtained knowledge of its activities or of data of a confidential nature are obliged to preserve due professional secrecy. Failure to comply with this requirement shall involve liability as provided by law. Such persons may not publish, communicate or exhibit confidential data or documentation, even after they have left the service, unless express authorization has been granted by the Commission.

2. The following items are exempted from the requirements laid down in the preceding paragraph:

(a) The dissemination, publication or communication of data in cases where the party involved gives his express consent thereto.

(b) The publication of consolidated data for statistical purposes, or communications in summary or consolidated form, so that individual parties cannot be identified, even indirectly.

(c) The supply of information at the request of parliamentary investigating committees and judicial or administrative authorities which, under the Spanish legal system, are authorized to demand it.

3. The authorities, persons or public bodies receiving information of a confidential nature originating from the Commission shall likewise be bound to the professional secrecy governed by this article and may not use such information except within the context of fulfilling their legally established duties.

CHAPTER V

Collaboration system

HEADING 1. INTERNAL COLLABORATION

Article 27. *Duties of authorities and officials.*

1. Authorities discovering facts which may represent evidence or proof of laundering of money originating from the activities described in article 1 of these Regulations shall inform the Executive Service thereof in writing.

2. Similarly, public officials and other personnel in the service of the public authorities gaining knowledge of the facts referred to in the preceding section shall bring them to the notice of the head of the body in which they are serving for the purposes laid down in section 1 above.

3. Officials especially bound by this duty of collaboration shall include registrars of title to property, commercial property registrars, notaries and licensed business agents, who shall inform the Executive Service in writing of transactions and contracts which come to their knowledge in the course of their business of registration or incorporation, for the purposes of the provisions of section 1 above.

Article 28. *Collaboration by certain supervisory bodies.*

Pursuant to article 16.2 of Law 19/1993, when the Executive Service is carrying out duties which are connected with the financial institutions subject to special legislation, the Bank of Spain, the National Securities Market Commission, the Insurance Department or other supervisory body, and likewise the corresponding autonomous body, as appropriate, shall offer all the information and collaboration necessary for carrying out these duties.

HEADING 2. INTERNATIONAL COLLABORATION

Article 29. *Exchange of information.*

1. In accordance with the guidelines to be laid down by the Commission, the Executive Service and, as appropriate, the Secretariat of the Commission shall collaborate with and exchange information directly or through international organizations with the authorities of other States operating in similar areas of competence, both within the framework of international conventions and agreements concluded on the subject and on the basis of community rules.

2. Collaboration and exchange of information with member States of the European Union shall be governed by the provisions of the relevant international treaties and conventions and, where appropriate, the general principle of reciprocity and the imposition by the authorities of such States of the same obligations regarding professional secrecy as apply in the case of the Spanish authorities.

Article 30. *Scope of requests for information.*

1. The Commission and, where appropriate, the Secretariat of the Commission and the Executive Service may request from the competent authorities of the other member States of the European Union—and each of the latter may submit reciprocal requests—the provision of data, reports or records

relating to the forestalling and prevention of the use of the financial system and other sectors of the economy for money-laundering.

2. Both the Commission and its Secretariat or the Executive Service shall meet those requests for information which are addressed to them provided that they are necessary and supplement the investigations which may have been conducted in the requesting State with a view to obtaining data, reports or relevant records.

Article 31. Processing of requests for information.

1. When the Commission, its Secretariat or the Executive Service receives a request for information on a priority basis in connection with the combating of money-laundering and issued by the competent authority or organ of the requesting State, the Executive Service or the Secretariat, within their respective areas of competence, shall expedite its processing, where necessary instructing the relevant managing centres to proceed with the necessary measures or démarches for dealing with the request in the shortest possible time.

2. Where there are serious difficulties obstructing the obtaining of the information requested, or when the circumstances envisaged in the following article arise, the Minister of Economic and Financial Affairs shall be informed thereof for communication to the competent authority or organ of the requesting State, with an indication of the nature of the difficulties or of the circumstances in question.

Article 32. Restrictions on the exchange of information.

In complying with the request for information from other States account shall be taken of the existence of factors relating to sovereignty, security, national policy and other vital national interests.

Single additional provision. Term for furnishing information on control and communications organs.

The forwarding to the Executive Service of information on the structure and operation of the control and communications organ belonging to obligated parties referred to in article 11.6 of these Regulations shall be performed within a term of three months from the date of entry into force of these Regulations, or from the beginning of the operations of the said obligated parties, as appropriate.

Single transitory provision. Content and periodicity of notifications regarding certain operations.

Until rules for the application of these Regulations are issued, communications to the Executive Service which have to be effected in all cases by obligated parties pursuant to article 7.2 shall be returned on a monthly basis and shall contain the following information:

- (a) List and identification of physical or juridical persons participating in the operation.
- (b) List of the operations and dates in question, with an indication of their nature, the currency in which they are transacted, the amount, the place or places where the transaction takes place and the instruments of payment or collection used.
- (c) Any other data which the Executive Service may order in the course of carrying out its duties.

The above information shall be forwarded to the Executive Service between the first and the fifteenth day of each month, and the documentation shall include a list of the operations carried out during the immediately preceding month.