



Middle East and North Africa  
Financial Action Task Force

# Mutual Evaluation Report 6<sup>th</sup> Follow-Up Report for Tunisia

## Anti-Money Laundering and Combating the Financing of Terrorism

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The Tunisian Republic

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*This report provides an overview of the measures that Jordan has taken to address the major deficiencies relating to Recommendations rated NC or PC since its last mutual evaluation. The progress shown indicates that sufficient action has been taken to address those major deficiencies, and in particular those related to R5, R13, R23, R26, R35, R40, SRI, SRIII, and SRIV. It should be noted that the original rating does not take into account the subsequent progress made by the country.*

## **Sixth Follow Up Report for the Tunisian Republic Application to Move from Follow-Up to Biennial Update**

### **A. Introduction**

1. The 5<sup>th</sup> Plenary Meeting adopted the mutual evaluation report (MER) of the Tunisian Republic (Tunisia) on 3 April 2007. At the same time, Tunisia was placed in a regular follow-up process according to the paper on mutual evaluation process procedures. Tunisia submitted its 1<sup>st</sup> follow-up report in November 2009, 2<sup>nd</sup> follow-up report in November 2011, 3<sup>rd</sup> follow-up report in November 2012, 4<sup>th</sup> follow-up report in May 2013 and 5<sup>th</sup> follow-up report in November 2013. Tunisia is looking forward that the 19<sup>th</sup> Plenary Meeting would consider its application to be moved from regular follow up to biennial updates.

2. This paper is based on the procedure for removal from the regular follow-up, as agreed by the 12<sup>th</sup> Plenary Meeting (November 2010) and the amendments on procedures adopted in the e-Plenary Meeting (August-September 2013). The paper contains a detailed description and analysis of the measures taken by Tunisia in respect of the core<sup>1</sup> and key<sup>2</sup> Recommendations rated Non Compliant (NC) and Partially Compliant (PC) in the mutual evaluation. It also contains a description and analysis of the other Recommendations rated PC or NC; and, for information, a set of laws and other materials relevant to Tunisia AML/CFT regime (Annex 1).

3. The procedure requires that the Plenary Meeting considers the removal of the country from the regular follow-up if it has, in the opinion of the Plenary Meeting, an effective AML/CFT system in force, under which the country has implemented the core and key recommendations at the level essentially equivalent to a C (Compliant) or LC (Largely Compliant) taking into consideration that there would be no re-rating.

4. Tunisia was rated PC and NC on a total of 26 recommendations:

Core Recommendations rated PC or NC
R5, R13, SR.IV
Key Recommendations rated PC or NC
R23, R26, R35, R40, SRI, SRIII
Other Recommendations rated PC
R7, R8, R9, R11, R12, R18, R19, R21, R24, R31, R38
Other Recommendations rated NC
R6, R15, R16, R25, R32, SR.VII

5. As prescribed by the procedures of exiting the regular follow-up, Tunisia provided the Secretariat with a full report on its progress as of adopting the MER. Accordingly, the Secretariat drafted a detailed analysis of the progress made for the core and key recommendations rated NC or PC, as well as an analysis of the other Recommendations rated NC or PC. A draft analysis was provided to Tunisia (with a list of additional questions) for its review, and comments from Tunisia have been taken into account into the final draft. During the process, Tunisia has provided the Secretariat with all documents and information requested.

<sup>1</sup> The Core Recommendations according to FATF classification are: R1, R5, R10, R13, SRII, and SRIV.

<sup>2</sup> The Key Recommendations according to FATF classification are: R3, R4, R23, R26, R35, R36, R40, SRI, SRIII and SRV.

6. As a general note on all applications for removal from regular follow-up: the procedure is described as *a paper based desk review*, and by its nature is less detailed and thorough than a mutual evaluation report. The analysis focuses on the Recommendations that were rated NC or PC, which means that only a part of the AML/CFT system is reviewed. Such analysis essentially consists of looking into the main laws, regulations and other material to verify the technical compliance of domestic legislation with the FATF standards. In assessing whether sufficient progress had been made, effectiveness is taken into account to the extent possible in a paper based desk review and primarily through a consideration of data provided by the country. It is also important to note that these conclusions do not prejudge the results of the future assessments, as they are based on information which was not verified through an on-site process and was not, in every case, as comprehensive as would exist during a mutual evaluation.

## **B. Main conclusion and recommendations to the Plenary**

### **Core Recommendations**

7. **R5 (Customer Due Diligence):** Tunisia addressed deficiencies related to this recommendation by amending law no 75; Tunisia expanded the concept of verifying beneficial owner in any transaction, looking for individuals who have ultimate ownership over the legal person or legal entity, requiring all FIs to adopt ongoing due diligence towards customers, examining the transactions throughout the relationship to be consistent with their knowledge on the FIs, requiring FIs to examine the purpose and nature of the business relationship, prohibiting FIs to open an account or enter into a business relationship when failing to undertake due diligence, consider submitting a report to the Tunisian Commission for Financial Analysis (CTAF), as well as imposing enhanced due diligence on high risk customers in FIs, except insurance companies, cancel products that assist in concealing customer identity, and start to reinforce supervision for a good implementation of the requirements of law 75/2003.

8. **R13 & SR.IV (Reporting Suspicious Transactions):** Tunisia addressed the deficiencies related to this recommendation by amending law no 75 to remove ambiguity existing previously on reporting unusual transactions, requiring the subjected to report attempts of carrying out suspicious transactions, complying with the reporting obligation even after executing the transaction, and start implementing effectively the reporting system.

9. Overall, Tunisia has brought the level of compliance with these recommendations up to a level which is equivalent to “LC”.

### **Key Recommendations**

10. **R23 (Regulation, Supervision and Monitoring):** Tunisia addressed the deficiencies related to this recommendation by identifying the supervisors to the persons covered by law and promoting the control of the supervisory authorities. Such authorities issued instructions and circulars that assist FIs in understanding the law requirements. Tunisia has also corrected the deficiencies on the supervision of foreign exchange sub-agents, confusion and ambiguity in the role of supervisors, reinforced supervision in the insurance sector as well as deficiencies related to “fit and proper” criteria and those related to integrity and experience required in the Board of directors’ members, shareholders and managers of the FIs.

11. **R26 (Financial Intelligence Unit):** Tunisia addressed the deficiencies related to this recommendation by providing for the autonomy of CTAF members, to practice their work independently from other departments and recruit experts on permanent basis. Tunisia took many steps towards improving the security of the premises, protecting the information maintained as well as issuing the by-laws and manual on the work procedures to all the departments; also, the FIU receives and analyzes STRs and carries out the work properly.

12. **R35 (Conventions):** Tunisia rectified the deficiencies related to this recommendation by implementing Palermo Convention, undertaking CDD measures, reporting suspicious transactions; as well, Non Financial Businesses and Professions (NFBPs) undertaking due diligence measures and bringing them under the reporting obligation.

13. **R40 (Other Forms of Co-operation):** Tunisia addressed the deficiencies related to this recommendation by granting the supervisors of financial sector the powers to exchange information on the international level, signing many agreements with counterparts as well as joining international organizations to improve the level of information exchange on a wider scope.

14. **SR.I (Implementing UN Instruments):** Tunisia corrected the deficiencies related to this recommendation by implementing UNSCR 1267 when it has amended law no. 75 and established new rules to implement the resolution, and by issuing the Minister of Finance a decision on the executive measures for implementation purposes.

15. **SR.III (Freezing and Confiscating Terrorist Funds):** Tunisia corrected the deficiencies related to this recommendation on implementing UNSCR 1267 through the legal amendment, issuing executive procedures to implement the decision, including the funds that are subject to freezing in accordance with the legal amendment to the funds definition; yet, on the other part, Tunisia has to identify the legal basis related to implementing UNSCR 1373 which allows the Tunisian authorities to freeze funds of terrorists and terrorist organizations by virtue of S/RES/1373 and to study the measures taken when receiving requests from other countries on freezing funds of terrorists and terrorist organizations.

### *Other Recommendations*

16. Tunisia rectified a large part of the deficiencies relating to other recommendations, except deficiencies related to R.38. It is important to note that making the decision to remove Tunisia from the follow-up process is primarily based on the core and key recommendations. This report does not provide a detailed analysis on other recommendations.

### *Conclusion*

17. The follow-up procedures indicate that, for a country to have taken sufficient action to be considered for removal from the process, it must have an effective AML/CFT system in force, under which it has implemented the core and key recommendations at a level essentially equivalent to C or LC, taking into account that there would be no re-rating. The Plenary does, however, retain some flexibility with regard to the key recommendations if substantial progress has also been made on the overall set of Recommendations that have been rated PC or NC.

18. With regard to core Recommendations, the level of Tunisia compliance on these recommendations can be rated at a level equivalent, at a minimum, to “LC”.

19. With regard to key Recommendations, the level of Tunisia compliance on these recommendations can be rated at a level equivalent to, at a minimum, “LC”, except SR.III.

20. With regard to other recommendations where Tunisia was rated NC or PC, it can be said that the level of compliance of Tunisia on these recommendations in general is equivalent to, at a minimum, “LC”, except R.38.

21. With regard to effectiveness, the steps taken by Tunisia on amending the law, the imposed requirements and issuing instructions to DNFBPs as well as strengthening the capacity of the supervisory authorities and law enforcement agencies would raise the level of effectiveness of its combating system. It is to note that Tunisia did not provide any statistics on the number of convictions issued in ML/TF, which makes it difficult to assess in general the effectiveness of the fighting regime. As to the STRs, Tunisia has reinforced the reporting system on suspicious transactions, but it should strengthen the resources available to the CTAF and the relevant authorities in order to provide the required information in a timely manner regarding the processing of received STRs.

22. With regard to the effectiveness of FIs and DNFBPs supervisors, Tunisia has taken noticeable steps in strengthening the capacities of such entities in terms of the required powers, improving the skills of the officials via training and increasing the number of competent employees; however, Tunisia still needs to improve the capacities of entities supervising FIs and DNFBPs in conducting more inspection rounds to detect violations and impose sanctions against the violating entities, which would improve the compliance of such institutions with their obligations imposed by virtue of law. It is worth to indicate that Tunisia has taken many other actions in order to improve the mechanisms adopted for the statistics on AML/CFT regimes; yet, the authorities should review such statistics on an ongoing basis to identify the extent of effectiveness and adequacy of AML/CFT regimes.

23. As a result, since the level of Tunisia compliance on the core recommendations is rated at a level equal to “LC” at a minimum and the level of compliance on key recommendations is rated at a level equal to “LC” at a minimum; It can be concluded that Tunisia compliance with SR.III can be rated as “PC”; and whereas there are positive indicators to improve the effectiveness of the fighting regime; and whereas the ME procedures provide for granting the plenary some flexibility towards the key recommendations if substantial progress was made in all the recommendations where the country was rated “PC” or “NC”; the plenary meeting may decide to be flexible with Tunisia as it is regarded as an appropriate case for such flexibility and approve its request to move from regular follow up to biennial updates.

### **C. Overview of Tunisia’s Progress**

#### ***Overview of the Main Changes since the adoption of the MER***

24. Since the adoption of the MER, Tunisia has focused on amending Law No. (75) for 2003 issued on 10 December 2003 and its amendments in Law No. (65) for 2009 issued on 12 August 2009 on supporting AML/CFT international efforts (referred to as Law No. (75) in this report).

### ***The Legal and Regulatory Framework***

25. The AML/CFT legal framework in Tunisia is based on Law No. (75) for 2003 issued on 10 December 2003 and its amendments through Law No. 65 of year 2009 dated 12 August 2009 regarding supporting the AML/CFT international efforts. In addition, there are circulars and regulations issued by the supervisors such as Circular no. 15 of year 2003 issued by the Central Bank regarding the rules of internal control in ML/TF risk management for credit and non-resident institutions. There is also regulation No. (1) for 2012 issued by the General Committee on Insurance (CGA) regarding the CCD measures related to ML/TF in companies subject to the Insurance Code issued by virtue of Law No. (24) for 1992 and its revised and complementary laws. The Financial Market Board (CMF) also has issued the guide on AML/CFT inspection on 2 June 2009. Tunisia has also issued many decisions regarding application of Law No. (75). The Minister of Finance issued the following decisions: Decision on regulating the application the provisions of chapters (72 bis), (72/3) and (72/4) of Law No. (75) regarding the implementation of UNSCR 1267 and the decision on identifying the amounts stipulated in chapters (70), (74) and (76) of Law No. (75).

#### **D. Review of the measures taken in relation to the Core Recommendations**

##### **R5 - Rating (NC)**

***Deficiency 1: Obligation to verify the identity of beneficial owner in any transaction is too narrow.***

26. Tunisia expanded the concept of beneficial owner: Chapter 74 bis of Law No. (75) requires all banking and non-banking financial institutions to verify the identity of beneficial owner of the transaction based on official documents and other documents issued by reliable and independent sources. They are also required to verify the identity of any person purporting to act on behalf of the customer, verify the creation of a company, its legal form, headquarters, distribution of capital, the directors and provisions regulating the power to bind the legal person; as well as taking reasonable measures to determine the natural persons who have ultimate control over the legal person.

27. Central Bank of Tunisia (BCT) issued Circular No. 15/ 2012 regarding establishing an internal AML/CFT system at credit institutions and non-resident banks. The Circular includes the measures and procedures that credit institutions and non-resident banks should adopt in AML/CFT field and the CDD measures set out in Decision No. (2) for 2006 issued on 20 April 2006 regarding the guidelines addressed to credit institutions and non-resident banks and the National Post Office on the detection and reporting of suspicious or unusual transactions. Chapter 4 of this Circular requires credit institutions and non-resident banks to verify the identity of partners, key shareholders and the beneficial owner, if the customer is a legal person. The Circular includes a definition of key shareholder or partner as an individual who owns 10% or more of the customer's capital. It also includes a definition of the beneficial owner as the natural person who ultimately owns or controls the customer or the person for whom the transaction is carried out. The Circular requires credit institutions and non-resident banks to identify the beneficial owner and take reasonable measures to verify the identity through information or input provided by independent and reliable source such that they are satisfied that they know who the beneficial owner is.

28. The Circular also includes that credit institutions and non-resident banks should verify the identity of all customers detecting if the client works for the benefit of another person. They should take reasonable measures to obtain enough information to verify the identity of such other person and to understand the ownership and control structure of the legal customer or the legal entity. They should also determine the natural persons who ultimately owns or controls the customer and verify that the customer is not a fictitious person or a shell company.

29. The General Committee on Insurance (CGA) issued regulation No. (1/2012) on the measures that should be taken by the insurance companies to implement Law No. (75); Chapter 2 thereof includes CDD measures imposed on the insurance institutions. All insurance companies are required to verify the identity of beneficial owners and their relationship with the underwriter, verifying that the interest for the benefit of others exists in the contract. The regulation issued by CGA includes a definition of the beneficial owner as being every natural person who has the ultimate ownership or control over the underwriter to the insurance contract or the person on behalf of whom the insurance contract is written or both. It also includes the persons who exercise ultimate effective control over a legal person.

30. CTAF issued Decision No. (3) of year 2007 and issued on 22 March 2007 the guidelines for the detection and reporting of suspicious or unusual financial transactions with regard to the capital market. These include the organizational and regulatory measures to be taken, by securities brokers and business corporations whose purpose is to manage portfolio of securities on behalf of third parties, with a view to implement Law No. (75). These guidelines include the verification of the beneficial owner's identity, his/her activity and address as well as the identity and capacity of his representative. These guidelines covered a definition of the beneficial owner, being a natural person who owns or controls the customer or the person for whom the transaction is carried out, even if there is no written authorization between the customer and the beneficial owner, in addition to the natural person who has ultimate ownership or control over the customer or the person on whose behalf the transaction is made or both. The definition also covers the persons who exercise ultimate effective control over a legal person.

***Deficiency 2: Absence of implementation measures for Law No. (75) for 2003, which does not include in some of them except too general obligations; ongoing due diligence and collecting information on the purpose and nature of each business relationship, updating information or procedures to be taken towards customers that were already present (existing customers) when the law became in force were not mentioned in particular.***

31. Tunisia has enforced a number of CDD measures by virtue of the amendments made to Law No. (75). Chapter 74/3 thereof includes obligations against banking and non-banking financial institutions to update the data related to customer identity and apply ongoing due diligence throughout the business relationship. They should also accurately inspect all transactions made by their employees to verify if they are consistent with the institution's knowledge of the customer, their business and risk profile, and, when necessary, the source of funds. Chapter 74 bis requires also banking and non banking financial institutions to obtain information on the purpose and nature of the business relationship. FIs are required to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records (prior to issuing the law), which guarantee their compliance with the law requirements within three years as from the date when the law comes into effect.



32. Chapter 74 bis of Law No. (75) requires banking and non-banking financial institutions to undertake CDD measures and verify customers' identity based on official and other documents issued by reliable and independent sources when establishing the relationship, conducting occasional financial transactions whose value is equal to or more than the amount determined by the Minister of Finance or include wire transfers, or when there is a suspicion of money laundering or terrorist financing, or when there are doubts about the validity or adequacy of previously obtained customer data identification. The article requires banking and non-banking financial institutions, when failing to verify the required data or if the data is insufficient or seems to be shell information, to refrain from opening the bank account, establishing or continuing the business relationship, or executing the transaction and consider making a suspicious transaction report.

33. The Minister of Finance amended the decision dated 10 December 2004 on the amount stipulated in Chapters 70, 74 and 76 in Law No. (75) and issued instead a decision dated 2 December 2009. Chapter 2 thereof sets out the amounts stipulated in Chapter (74 bis) of Law No. (75) when conducting occasional transactions at an amount equal to or exceeding 10,000 TND, which is lower than the threshold defined by the assessment methodology (15,000 USD or Euro). It also included reducing the threshold required for verifying the identity of the persons who paid off the life insurance installments. The decision included the application of CDD measures on the financial transactions equal to or more than 3,000 TND regarding the unified installment of life insurance, and 1000 TND for the periodic installments of life insurance.

***Deficiency 3: Absence of provisions that impose ongoing due diligence on higher risks categories in the non-banking financial institutions***

34. The chapters set out under law no 75 require all FIs to take enhanced due diligence measures towards designated types of customers or business relationships; Chapters (74/4, 74/5, 74/6) require subjected persons to take specific measures when dealing with some types of customers or business relationships; however, those provisions do not impose the enhanced due diligence on high risk categories in general. However, BCT circular no 15 issued in 2013 require Credit institutions to take enhanced due diligence measures towards high risks customers. Moreover, Chapter 11 of the circular no (01/2012) issued by General Insurance Committee (CGA) requires the insurance companies to take necessary measures to comply with the provisions related to verifying customer identify connected with a contractual relation before issuing this circular, on risk basis, including conducting important insurance operations, and a substantial change in the rules that govern identity documents, absence of sufficient information on the customer; yet, they require enhance due diligence on categories of customers or high risk business relationships in general. In parallel, Chapter 5 of the manual of the Financial Market Board (CMF) requires the competent individuals and institutions to establish appropriate systems and procedures to the activities they undertake to enable them contribute effectively in fighting ML/TF, by identifying the particulars of the new customers and their transactions and review the related ML/TF risks. Such policies aim at subjecting the decision of accepting high risk customers to a special examination; while taking the decision to an appropriate administrative level of the institution (General management, Board of Directors, Members of the Collective Management). The guide includes the criteria of general risks for each institution. Accordingly, Tunisia has rectified this deficiency with regard to FIs subject to the supervision of the CMF; yet, it still has to address the above deficiency with respect to insurance companies.

***Deficiency 4: Existence of some products that help conceal the customer identity***

35. Tunisia has taken measures regarding canceling the bearer bonds. It deleted the reference to (bearer shares) that used to exist under Chapter 318 of the Commercial Companies Code. By virtue of Law No. (16) of 2009 dated 16 March 2009, Tunisia deleted the reference to the effect that the shares remain nominal until fully paid. Consequently, all shares became nominal according to the Companies Law. BCT addressed credit institutions in order to verify that they do not own any bearer shares and that all the shares they own are nominal.

***Deficiency 5: Absence of supervision over the proper implementation of Law No. 75 of 2003***

36. Tunisia has taken many steps towards improving the supervision of FIs; chapter 77 of law no 75 requires the supervisors of subjected individuals to establish AML/CFT programs and measures and follow up their implementation. Chapter 77 bis included the powers of the supervisors to impose sanctions against whoever breaches the provisions of chapters (74 bis, 74/3, 74/4, 74/5 and 74/6) on the requirements of CDD measures; sanctions vary and may include: warning, reprimand, suspending activity of individuals or suspending the license for a period not exceeding 2 years, terminating the business or barring individuals from employment within that sector or withdrawing the license. The powers to impose sanctions extend to FIs managers and directors as well as members of supervisory board, if it was established that they are responsible for failing to observe CDD measures.

37. On the other part, BCT issued in 2013 a circular addressed to Credit institutions (both resident and nonresident) on the new scope of AML/CFT internal control; the scope represents a continuation to the previous scope established in 2007 within the framework of implementing law 75 as reviewed and modified in 2009. AML/CFT internal control system was reinforced by the Central Bank: Credit institutions should provide the Central Bank with an annual report on the measures undertaken to control internally ML/TF risks, auditors should evaluate internal risk management system in credit institutions, including the general policy, how adequate the system is with the risk profile and refer the findings to the Central Bank, provide statistics on the STRs submitted by the institution to the CTAF, submit the results of the examination undertaken to the unusual transactions to the Central Bank when conducting an onsite inspection. The Central Bank addressed in May 2014 a methodical questionnaire to all institutions under its supervision to verify the compliance of the internal control systems with the banking circulars and their capacity to face ML/TF risks. As well, the Central Bank conducts onsite and offsite inspection to the subjected institutions undertaken by the General Directorate for banking supervision. It has conducted 24 inspection visits over the 5 past years to monitor the compliance of credit institutions with the requirements of the circulars. The authorities stated that they are planning to support the frequency of such visits based on the initial findings of the ongoing questionnaire.

38. As to the Financial Market Board (CMF), the authorities stated that it is monitoring and overseeing the activity of the market dealers through onsite visits conducted to securities brokers and trust companies managing portfolios on behalf of third parties as well as the documents provided to such institutions in order to verify they have human and technical resources required, observe the rules and procedures of the profession and internal regulation and control. On the other part, 23 brokerage companies operate in the financial market: 7 out of them are affiliated to banks, 26 are licensed to operate in trust companies managing

portfolio on behalf of third parties. Within the scope of onsite visits conducted by CMF, some violations were detected for brokerage companies, such as: not respecting the account opening procedures: the companies did not establish required procedures to verify the customer identify before opening securities accounts and updating them according to the guidance on customers on regular basis; a warning was made to such company. The CMF is currently conducting a study on 2 topics within the scope of ML violations: 1) related to sale and purchase of securities by the broker to verify such transactions, particularly if they are related to large amounts of money, and the parties carrying out this operation have incurred losses due to such operations; 2) related to auditing and reviewing accounts of brokers, including financial operations without having any interference in the financial market.

39. General Committee on Insurance (CGA): The regulation issued in 2012 requires the insurance companies to provide the GCA with internal AML/CFT procedures and the amendments related thereto, statistics on the number of STRs provided by the companies to the CTAF as well as statistics on the type of transactions detected as unusual or suspicious, total amounts of the transactions regarding which STRs were submitted. The GCA circulated the mentioned circular to all insurance companies and held in 2012, 2013 and beginning of 2014 a series of seminars in order to introduce and explain the circular requirements, enable the operating institutions to establish AML/CFT internal procedures, lay the foundations for an internal control system to verify the sound implementation of such procedures. The authorities stated that they will verify in the upcoming period the sound implementation of institutions to AML/CFT measures in all their onsite and offsite rounds of inspection.

***Deficiency 6: Absence of implementation of the provisions included in the Guidelines No. 2/2006 of the Tunisian Committee for Financial Analysis***

40. The amendments made to law no 75/2009 require the supervisors to establish AML/CFT programs and measures and monitor their implementation. Within this framework, the supervisory authorities met his requirement through the circulars issued with the aim to introduce FIs with AML/CFT requirements, such as CDD measures in accordance with the legislative and circular requirements in effect. The authorities stated that the supervisors perform their role to support and reinforce the compliance with CDD (general and enhanced), adopt the technical requirements to the IT systems for early risk notification, adopt risk based approach, reinforce supervision of records by updating and reviewing the compulsory reports submitted by FIs to supervisors, as well as update the techniques of onsite inspection. The Central Bank is currently resorting to an IMF expert in order to draft the methodological guide of onsite inspection on AML/CFT supervision.

**R.13 and SR. IV: Rating: (PC)**

***Deficiency 1: The threshold for disclosure is ambiguous.***

41. Tunisia has amended Chapter (85) of Law No. (75) to remove the previous ambiguity regarding reporting unusual and suspicious transactions. The Law obligated the subject persons to report to the CTAF all the suspicious transactions that are suspected to be connected, directly or indirectly, to funds derived from illicit actions that are considered by law, as misdemeanor or felony. They are also required to report any transactions that are related to financing terrorist persons or terrorist organizations. The law also clarified the obligations imposed on the subjected persons with regard to the unusual activities with unclear economic or legitimate purpose. The authorities also removed the automatic suspension of

transactions and made it limited to the temporary freezing mechanism given to the Tunisian Committee for Financial Analysis according to Chapter (87) of the Law. According to the mechanism defined in the Law, CTAF may permit to temporarily freeze funds and order to place them in a suspense account. The Committee conducts its investigations, and if such investigations do not confirm the suspicion regarding the transaction subject of the STR, it permits to cancel the freezing. If the investigations confirm the suspicion, it forwards the documents under its custody to the Tunisian attorney general to make a decision and inform the reporting entity. The attorney general decides on the subject within 5 working days and informs the reporting entity and the Committee for Financial Analysis with the results.

***Deficiency 2: Absence of the obligation to report attempts of suspicious transactions***

42. Tunisia has amended Chapter (85) of Law No. (75) to include an obligation on the subject persons to report any attempts to perform suspicious transactions that are suspected to be connected, directly or indirectly, to funds derived from illicit actions which are considered, by law, as misdemeanor or felony or related to financing persons or organizations or activities related to terrorist crimes.

***Deficiency 3: Absence of the requirement to report transactions after executing them, if the collected information were interpreted later as suspicions***

43. Tunisia has amended Chapter (85) of Law No. (75) to include an obligation on the subjected persons to report any suspicious transactions to the CTAF, even after the transactions are completed, if new information was available and which establishes that they are suspected to be, directly or indirectly, linked to funds derived from illicit actions that are considered, by law, as misdemeanor or felony, or related to financing terrorist persons or terrorist organizations or activities.

***Deficiency 4: Absence of effective implementation of the system following more than two years since the law was issued***

44. The authorities provided statistics on the STRs received by the CTAF over the past years, which reveal that Tunisia has implemented the reporting system; however, such STRs are incoming mainly from credit institutions while there are no STRs from NFBPs. Table 3 reveals that STRs which were examined, analyzed and finalized accounts for around 40% of the total number received at that time, which justifies that other reports remain under study. This would be due to the shortage of human resources and to lack of effectiveness of the reporting entities in providing the requested information in due time on the STRs submitted. The statistics include the following tables:

**Table 1: Statistics on the number of STRs**

<b>Year</b>	<b>Number</b>
2011	566
2012	216
2013	303

**Table 2:** Statistics on the reporting entities

	2011	2012	2013
<b>Credit Institutions</b>	547	210	300
<b>Securities brokers</b>	10	1	1
<b>National Post Office</b>	5	1	-
<b>Insurance Companies</b>	-	1	-
<b>Auditors</b>	1	-	-
<b>Lawyers</b>	-	1	1
<b>Customs</b>	2	2	1
<b>Ministries</b>	1	-	-

**Table 3:** Statistics on the status of the STRs

Measure Taken	2011	2012	2013
Referred to the President Attorney General	24	60	92
Freezing with Referral to the President Attorney General	9	8	58
Place the account reported under control and monitoring	6	5	2
Custody	24	124	8

## E. Review of the measures taken in relation to the Key Recommendations

### **R23: Rating (PC)**

*Deficiency 1: Absence of reinforcing the supervision over the subject entities, until now, to generally honor the AML/CFT obligations*

45. Law No. (75) stipulates that the supervisory entities shall supervise the persons subject to the law through establishing and maintaining applicable AML/CFT programs and measures, provided that these programs and measures include the establishment of a system for the detection and reporting of suspicious transactions, including assigning personnel to undertake the reporting task, setting rules for internal supervision to make sure that the adopted system is effective and hold ongoing training programs. In this regard, the Central Bank issued Circular No. 15 of 2012 that included AML/CFT measures and procedures to be taken by credit institutions and off-shore banks in addition to the CDD measures listed in Decision No. 2 for 2006 taken by the Tunisian Committee for Financial Analysis and addressed to credit institutions, off-shore banks and the National Post Office (ONP). The Circular also provides for the establishment of internal rules on ML/TF risks management. It also stipulated that the internal AML/CFT measures applied are an integral part of the internal supervision system defined in BCT Circular No. 3 with regard to internal supervision. The Circular also requires the institutions to verify that the internal procedures on ML/TF risk management are effective.

46. The General Committee on Insurance also issued regulation No. 1/2012 on the CDD measures related to AML/CFT. CTAF also issued Decision No. 3/2007 which includes the guidelines for regulatory and organizational measures to be taken for applying the requirements of Law No. (75) regarding securities brokers and trust companies managing portfolios on behalf of third parties. The CMF also issued on 2 June 2009 a guide on AML/CFT measures addressed to securities brokers and trust companies managing portfolios on behalf of third parties.

47. Tunisia also expanded the scope of the powers of imposing fines when failing to observe the internal supervision obligations and supervise compliance with the obligations imposed on the financial sector through the amendment introduced to Law No (75). This law enables the supervisory authorities to impose disciplinary sanctions in accordance to what is stipulated in Chapter (77 bis). Chapter (77/3) also stipulated that the supervisory authorities shall impose one of the following sanctions: 1) warning, 2) reprimand, 3) Depriving from practicing the activity or suspending the license for a period not exceeding two years, 4) Termination of tasks, 5) Complete deprivation of practicing the activity or withdrawing the license

48. Tunisia also added Chapter (50 bis) to Order No. (2478) of year 1999 dated 1<sup>st</sup> November 1999 by virtue of Order No. (1678) dated 5 July 2007 regarding the articles of association for securities brokers. The said chapter requires securities brokers to observe the obligations provided for in the legislative and regulatory provisions related to preventing ML. Tunisia also issued a decision dated 29 April 2010 by the Minister of Finance regarding CMF approval to the decision on the collective employment institutions in securities and trust companies managing portfolios on behalf of third parties. This regulation requires the administrator to follow the laws and regulations on ML prevention. The CMF also issued Decision No. (14) dated 14 January 2009 which states that the report prepared by the supervisor of securities brokers, stipulated in Chapter (86 bis) of Order No. (2478) of year 1999 should include a report on his comments with respect to the compliance of securities broker, his managers and his subordinates in respecting the laws and regulations in force; particularly those related to the internal regulation of securities broker and the procedures in force on reporting provided for under the legislative and regulatory provisions for preventing ML. The authorities have stated that the CMF practically receives, every 6 months, a report from the supervisor with a special section on the broker's compliance with the duties stipulated in the law. In parallel, the CMF departments conduct annual onsite visits to the securities brokers to verify that the required human and technical resources are available and that the rules of the profession, regulation and internal supervision are observed; particularly "Know Your Customer" rules.

49. On the other part, the Central Bank has restructured the General Department of Banking Supervision, which now comprises: 1) Department of ongoing monitoring, which comprises two sub-departments that include five divisions for supervision 2) Department of general surveillance and banking legislation, which comprises a section for risk analysis (including ML/TF risks and early warning; 3) Development of supervision methods, which comprises a division on banking database.

50. With the view to improve the human resources at such entities, the authorities stated that they have delegated all staff operating in the offsite inspection over the credit institutions to oversee AML/CFT legal and regulatory obligations; such tasks were added to the list of tasks undertaken by the onsite inspectors. The establishment of a competent group is underway. The authorities stated also that they have provided many training workshops for the staff in 2012

and 2013. On the other part, the detailed and comprehensive statistics still lack the number of staff supervising FIs and the inspection rounds.

***Deficiency 2: Weak control of foreign exchange subagents in particular, and ambiguity in sharing roles among supervisors (banking supervisors and department of banking in the Central Bank) in this regard***

51. The authorities have stated that General Department of Foreign Exchange Operations has been restructured to comprise a team of competent inspectors to monitor foreign exchange operations, by virtue of Circular No. 723 /2011 dated 8 December 2011 regarding the organizational structure of the Central Bank. The General department of Foreign Exchange Operations now comprises a unit on information systems and monitoring of foreign exchange operations, in addition to 4 other departments. In addition, the foreign exchange sub agents are subject to the supervision of the General Department for Banking Supervision. Although such department has inspected the subjected entities, however the extent of effectiveness of such inspection is not clear at the current time.

***Deficiency 3: Absence of effective monitoring over insurance agents***

52. The Tunisian authorities have reinforced the powers of the supervisor over insurance agents, through amendments made to Law No. (75), particularly under Chapter (77 bis) which stipulates that the violations to the measures set out under the law require disciplinary measures in accordance with the procedures in force depending on the disciplinary system for each. The supervisory authorities adopt the disciplinary measures and may impose one of the sanctions provided for under Chapter (77/3) of the law. The General Committee on Insurance, as previously mentioned, also issued a regulation on insurance companies.

53. Within the scope of improving the supervision over the insurance companies, the authorities stated that the General Committee on Insurance (CGA) has addressed all the operating insurance companies (24) via circular 01/2012 to meet the requirements set out therein and provide it with AML/CFT internal procedures as well as statistics required from such companies; CGA has addressed a questionnaire to identify how well do the insurance companies comply with the requirements of the circular and the areas of weakness to correct; within the same framework, CGA contacted auditors of insurance companies to urge them verify AML/CFT procedures and include their comments in the report submitted to the CGA. It is worth to mention that the Committee will implement inspection programs to insurance companies on AML/CFT procedures in 2014.

***Deficiency 4: Absence of detailed AML/CFT guidelines issued by each supervisor of financial sector***

54. As previously mentioned, FIs supervisory authorities have issued detailed guidelines in the AML/CFT field. The Central Bank issued Circular No. (15) for 2013 on 7 November 2013 addressed to credit institutions and providers of financial services for non-residents on the establishment of internal control rules in ML/TF risk management. The General Committee on Insurance also issued regulation No. 1/2012 on the CDD measures with respect to AML/CFT. CTAF also issued Decision No. 3/2007 which includes the guidelines for regulatory and organizational measures that should be undertaken to apply the requirements of Law No. (75) regarding securities brokers and trust companies managing portfolios on behalf of third parties.

The CMF also issued in June 2009 a guide on AML/CFT measures which is addressed to securities brokers and trust companies managing portfolios on behalf of third parties.

***Deficiency 5: Weakness and absence of consistency in the legal rule concerning the honor of capital providers, shareholders, managers and directors in financial institutions***

55. Tunisia has enhanced the regulatory rules regarding the reinforcement of fit and proper criteria, including those related to experience and integrity. The CMF amended the articles of association for securities brokers by virtue of Chapter (6) to prevent any natural person or any person who runs, by any means, a company operating in securities from practicing, securities brokerage activities if was partly convicted of committing forgery, theft, breach of trust, fraud, seizure of funds or values, embezzlement by public trustees, or issuing bad checks; or hiding items obtained by these violations, the violations pertaining to the regulations of foreign exchange operations, or violations of ML legislative and regulatory provisions. CMF also revised Order No. 1292 of year 2006 dated 8 May 2006 by virtue of Order No. 1502/2009 dated 18 May 2009 on regulating the activity of trust companies managing portfolios on behalf of third parties. It prohibits any person to establish or manage or be a board member or a collective management member or monitoring board member of such trust company, if he was convicted of breaching the legislative and regulatory provisions on ML.

56. Tunisia has also issued Law No. (64) of year 2009 issued on 12 August 2009 on issuing a code for providing financial services to non-residents. Chapter (70) thereof prohibits convicted persons with forgery, theft, breach of trust, fraud, embezzlement by public trustees or persons in similar positions, or issuing bad checks; or participating in any of these crimes, violating the regulation of foreign exchange or AML/CFT legislation, from managing, running or supervising the financial service providers for non-residents or agencies or branches of off-shore credit institutions, or make any commitments on their behalf. The Central Bank issued a Circular dated 20 May 2011 on the good governance within credit institutions; Chapter (15) requires board members to meet the conditions of integrity, neutrality and credibility.

**R26: Rating (PC)**

***Deficiency 1: Lack of clarity on the relations between the external agents of the Tunisian Committee for Financial Analysis and their original department, which may cause additional ambiguity on the practical autonomy of the Tunisian Committee for Financial Analysis***

57. Tunisia has taken a number of measures to increase CTAF practical autonomy. Chapter (79 new) of Law No.(75) stipulates that members of the Committee for Financial Analysis shall be independent and shall perform their jobs within the Committee independently from their original departments. Tunisia also amended Order No.1865 of year 2004 dated 11 August 2004 on amending CTAF regulation and operational procedures by virtue of Order No.(162) for 2011 dated 3 February 2011 to confirm and reiterate the concept of operational autonomy of Committee members. The authorities stated that new experts have permanently joined the Committee. In accordance with the order pertaining to amending CTAF regulation and its operational procedures, Tunisia amended the legal quorum required for the validity of the Committee's deliberations by requiring the majority of two thirds for decision making instead of giving priority to the President vote.



***Deficiency 2: Lack of security in the current locations of the Tunisian Committee for Financial Analysis, which causes risks in protecting information stored at the Unit***

58. Tunisia has taken a number of steps to provide CTAF with the suitable offices, equipment and material necessary for self-operation and increasing security. The authorities stated that they centralized all the offices in a separate section at the Central Bank. Access to CTAF premises/offices is granted via smart cards held by the staff. In addition, Tunisia has also provided an information network independent from the Central Bank, secure saves to store documents and media material for all employees; internet networks isolated from the financial analysts devices; established a dispatch office for the Tunisian Committee for Financial Analysis independent from that of the Central Bank, by virtue of Memorandum No. (14) for 2008 dated 12 August 2008; and provided information programs and database for analyzing suspicion transactions reports and storing the information.

59. The authorities stated that they prepared a special hall for financial analysts that is equipped with all the devices and material necessary for their work. The financial analysts working in the practical unit has the right to access the database of the Central Commercial Register, customs database on currency import reports, BCT database and other databases. As well, Egmont Group has welcomed the Tunisian Committee for Financial Analysis as a new member during its plenary meeting held in July 2012 in Saint Petersburg.

***Deficiency 3: Absence of the effective operational employment in the Unit***

60. The Unit issued its by-laws which sets out the description and secrecy rules of each job and a detailed procedural manual on the workflow of all departments. The FIU signed 14 MOU to exchange AML/CFT information with foreign counterparts. On the other part and in addition to the statistics previously referred to in tables (1, 2 and 3), the Tunisian authorities provided the following statistics on the international cooperation with foreign counterparts.

**Table 4: Statistics on the requests of international cooperation with foreign counterparts**

Years	Incoming requests	Outgoing requests
2011	14	43
2012	41	50
2013	25	48

61. In general, as indicated in the statistics provided by the authorities, Tunisia has taken significant steps towards improving CTAF work and its operational autonomy, the security of information stored and reinforces the international cooperation; However, Tunisia still has to increase and improve the FIU operational effectiveness as required by law.

**R35: Rating (PC):*****Deficiency 1: Absence of Compliance to the scope of international cooperation defined in R5, R12, R13, and R16***

62. Tunisia has corrected the deficiencies pertaining to the implementation of Palermo Convention: the application of CDD measures, reporting suspicious transactions; as well, non-

financial businesses and professions to apply CDD measures and the reporting requirements; which enhances the implementation level of Palermo Convention.

#### **R40: Rating (PC)**

##### ***Deficiency 1: Inability of the supervising bodies in the financial sector to participate in international cooperation***

63. Tunisia has taken many steps to grant licenses to the supervisory bodies in the international cooperation with the foreign entities to directly exchange information. To this effect, it has amended Law No. (90) for 1958 dated 19 September 1958 regarding the establishment and regulation of the Tunisian Central Bank by virtue of Law No. (26) for 2006 dated May 15, 2006 which stipulates in Chapter (61/3) that the Central Bank may sign bilateral cooperation agreements with supervisory authorities in foreign countries, which provide for information exchange, especially when there are agencies or branches of credit institutions in both countries, provided that the bilateral agreements define the supervisory methods. Tunisia also amended Law No. (24) of year 1992 dated 9 March 1992 by virtue of Law No. (8) for 2008 dated February 13, 2008 on revising and completing the Insurance Code. Chapter (180) provides for CGA powers to cooperate with all counterpart foreign institutions and bodies or those which have similar powers and may also sign agreements with such bodies after the approval of the competent authorities. This cooperation includes exchange of information and experience, organizing training programs and conducting joint supervising operations.

64. As well, Tunisia amended Law No.(117) for 1994 dated 14 November 1994 by virtue of Law No.(64) for 2009 dated 12 August 2009 on reorganizing the Financial Market. Chapter (46 new) stipulated that the CMF has the powers to cooperate with counterpart foreign entities or bodies with similar powers in accordance with the laws and regulations in force. The CMF may sign cooperation agreements that provide for the exchange of information and cooperation in the research area within the frame of task performance. It is noteworthy that the mentioned chapter included conditions on the exchange of information: the exchanged information has to be necessary to the mission of the requesting body and should be used for the mentioned purpose. The professional secrecy becomes insignificant to CMF with respect to the exchange of information. The requesting FIU should maintain the confidentiality of the information and provide necessary safeguards applicable at CMF, as a minimum, to maintain it. The CMF may reject the request of information exchange if: the information may affect public security or vital interests of Tunisia, or if judicial consequences have started before Tunisian courts with regard to the same facts or the same persons involved in the information, or the request conflicts with local laws and regulations, or if the request is made by a body that does not cooperate with CMF. In general, these conditions are not disproportionate or unduly restrictive.

65. On the other hand, the Central Bank signed 4 MOUs with counterparts on information exchange and bilateral cooperation; the Financial Market Board signed IOSCO agreement on Consultation, Cooperation and the Exchange of Information. It has signed as well a series of agreements on cooperation and exchange of information with counterparts and joined in 2014 the Union of Arab Securities Authorities. The General Committee on Insurance signed an agreement of cooperation with one country.

**SRI: Rating (NC)**

***Deficiency 1: Non implementation of Resolutions 1267 and 1373***

66. When addressing SR.III, we will discuss in details how Tunisia has addressed the deficiencies pertaining to UNSCR 1267 and UNSCR 1373.

**SRIII: Rating (NC)**

***Deficiency 1: There is no legal rule allowing freezing the assets of the persons designated by the UN within the framework of UNSCR 1267 and the subsequent resolutions.***

67. Tunisia amended Law No. (75) by stating in Chapter (72 bis) that the Minister of Finance has the authority, after consulting the Governor of the Central Bank, to decide freezing the funds of persons or organizations which are found by the competent UN bodies to be related to terrorist acts. The Minister of Finance issued Decision dated 24 January 2014 on amending the measures to implement the provisions of Chapters (72 bis, 72/3, 72/4) of Law No.(75). This decision aims at amending those measures related to freezing the funds of individuals and organizations listed in the unified list of the Sanctions Committee updated by UNSCR 1267 (1999).

68. According to the Decision of the Minister of Finance, Chapter (72 bis) of Law No. (75) is related to Tunisia implementation of UNSCR 1267: Individuals and institutions designated in Chapter (74) of the Law (banking and non-banking financial institutions and designated professions) freeze the funds defined in Chapter (72 bis) for the individuals and entities designated in the sanctions list issued by the Sanctions Committee and unfreeze the funds of de-listed individuals and entities. For the purposes of freezing and de-listing, entities delegated to freeze funds should peruse the unified list of the Sanctions Committee on the official website of the Committee or the official website of the Ministry of Finance.

69. The issued decision included procedures on using a part of the frozen funds to cover basic expenses, pay certain types of fees, expenses and service charges related to usual storage and maintenance of frozen funds with the approval of the Finance Minister, 48 hours after informing the Sanctions Committee in this regard. The decision included the procedures on the requests submitted to unfreeze funds, if the decision was found to be taken by mistake.

70. Chapter (72 bis) requires the competent authorities to implement the freezing decision by taking the necessary measures as soon as the decision is published in the Official Gazette of the Tunisian Republic. They are also required to report the freezing actions initiated to the Minister of Finance and provide him with all information useful to the implementation.

71. It is worth to indicate that clear guidance for financial institutions and the persons and entities that may hold the targeted funds concerning their obligations regarding the freezing mechanism are not available.

***Deficiency 2: The definition of funds subject to freezing is too limited.***

72. Law No.(75) included a definition of the funds subject to freezing in Chapter (72 bis). It stipulated that the funds subject to freezing include all tangible and non-tangible funds and real estate, regardless of how they were acquired, the resulting incomes, revenues and deeds,

whether tangible or electronic, and proving ownership or acquired rights without prejudice to the rights of others. Thus, the definition set out includes funds that are derived or incoming from other funds or assets and a fund owned fully or jointly, but does not include the funds that can be indirectly controlled by the designated persons.

***Deficiency 3: Absence of clear, official and prompt measures for implementing the freezing decisions***

73. Though Tunisia approved special measures to implement UNSCR 1267 through the legislative amendment to Law No. (75), however issuing the decision of the Minister of Finance in a late time (January 2014) may not enable measuring the effectiveness of implementing the freezing decisions. However, the Central Bank issued circulars to resident and nonresident banks on UN standard lists pertaining to S/RES/1267, requiring them to verify if there are any matching names, to immediately freeze their funds and inform the Central Bank accordingly; however, the banks did not report any individuals designated in those lists.

***Deficiency 4: Non-clarity of the legal rule for implementing UNSCR 1373***

74. The authorities stated that the Ministry of Justice has a strategic plan to improve the full penal system, which includes the following, among several other topics: The matters related to the implementation of UNSCR 1373. It is noteworthy that the deficiencies related to the implementation of UNSCR 1373 require that Tunisia explains the legal rule on which it relies to implement the Resolution according to Chapter 94 of law no. (75), although Tunisia amended the mentioned chapter to grant powers to the attorney general at the Tunisian Court of Appeal. Even if there is no suspicion reported, the attorney general has the authority to request the head of the Court of First Instance to give permission to freeze funds of natural or legal persons suspected to be connected to persons or organizations that are related to the crimes listed in the Law, even if the crimes were not committed inside Tunisia. Such amendment did not cover the deficiencies set out in the MER.

**F. Review of the measures taken in relation to the other Recommendations rated PC or NC.**

**R6: Rating (NC)**

75. Tunisia added explicit provisions in Law No. (75) that provide for the obligations of banking and non-banking financial institutions regarding the individuals or their family members or close associates who have been or are entrusted with prominent public positions in foreign countries. These obligations included providing appropriate risk management systems when dealing with those clients, obtaining a license from the director of the legal person before establishing or continuing the business relationship, applying enhanced and ongoing monitoring over this relationship and taking reasonable measures to identify the source of their funds. Circular No.(15) issued by BCT in 7 November 2013 on setting internal rules for ML/TF risk management stipulated that credit institutions shall implement the measures provided for under Chapter (13) of the Circular as well as the CDD measures against the individuals or their family members or close associates who are holding public positions in Tunisia or foreign countries.

### **R7: Rating (PC)**

76. Tunisia added obligations for banking and non-banking financial institutions when establishing correspondent relationships or similar relationships by virtue of Chapter (74/5) of Law No. (75). FIs should gather sufficient data about the foreign respondent to understand the nature of his activity, determine his reputation and the quality of supervision based on available information, and verify whether he has been subject to AML/CFT investigative or regulatory action, obtain approval from senior management before establishing new correspondent relationships, document AML/CFT respective responsibilities of each institution, refrain from establishing or continuing the relationship with a shell foreign banking correspondent or establishing relationships with foreign institutions that give licenses to shell banks through payable-through accounts. Circular No. (15) issued by BCT included an obligation on credit institutions by virtue of Chapter (11) to take the necessary measures in their correspondent bank relationships. They should monitor such relationships through a survey form, attached to the Circular, and which is approved by the institutions and sent to the foreign respondent institution to assess internal AML/CFT controls.

### **R8: Rating (PC)**

77. Tunisia adopted special policies and procedures related to non face to face business relationships conducted by banking and non-banking financial institutions and to using modern technology. Chapter (74/6) of Law No.(75) stipulated that such FIs should pay special attention to ML/TF risks in using modern technology and take additional measures, as may be needed, to prevent the misuse of technological developments in ML/TF schemes. The Chapter also obligates banking and non-banking financial institutions to establish appropriate risk management systems related to non face to face business relationships.

### **R9: Rating (PC)**

78. By amending Law No. (75) (Chapter 74 bis), Tunisia enforced obligations on banking and non-banking financial institutions when relying on others. FIs should obtain customer data identification, verify that third party is subject to AML/CFT regulation and supervision and take the measures required in this regard. They should also obtain immediately, copies of customer identification data and other related documents. The ultimate responsibility for customer identification and verification should remain with the banking and non banking financial institutions.

### **R11: Rating (PC)**

79. By amending Law No. (75), Tunisia distinguished between the unusual transaction and the suspicious transaction. Chapter (86) requires banking and non-banking financial institutions to pay special attention to all transactions of divergent nature or related to an unusually large amount of money and all unusual transactions that have no apparent or visible economic or lawful purpose. Banking and non-banking financial institutions should examine the background and purpose of such transactions, set forth their findings in writing and submit them to competent authorities and auditors. Tunisia cancelled the obligation of reporting unusual transactions, and limited it only to reporting transactions suspected to be related to ML/TF as stipulated in Chapter (85) of the Law.

**R12: Rating (PC):**

80. Tunisia amended the definition of DNFBPs included in the CDD measures. According to Chapter (74) of Law No.(75), independent professionals are required to comply with the Recommendation when they prepare or carry out transactions, for a client, in relation to buying or selling of real estate or managing of client money, securities or other assets; management of bank, savings and securities accounts; organization of contributions for the creation, operation or management of companies and other legal entities They were require to take CDD measures. The Chapter requires as well dealers in precious metals and precious stones and casinos to implement the CDD measures when their customers engage in transactions that are equal to or above the amount defined by the Minister of Finance. The Minister of Finance decision was issued to set the amount at15,000 TND for the dealers in precious metals and precious stones and at 3000 TND for casinos. Tunisia enforced the obligation related to PEPs and set measures related to special attention to non face o face transactions, and measures for preventing the use of modern technology in ML/TF operations. When resorting to third parties, these entities should verify the elements of CDD measures, obtain the required data to identify the client, verify that such other parties are subject to ongoing monitoring and legislation related to AML/CFT, maintain the transaction records for at least 10 years following the execution of the transaction or closure of the account and pay special attention to large and unusual transactions.

**R15: Rating (NC):**

81. Tunisia added an obligation on the banking and non-banking financial institutions through Chapter (77) of Law No. (75): such as FIs should establish and maintain AML/CFT procedures, policies and controls; These procedures, policies and controls should cover the detection of unusual and suspicious transactions, the reporting obligation and should designate an AML/CFT compliance officer as well as establish ongoing training programs.

82. Financial sector supervisory bodies issued regulatory provisions that require banking and non-banking financial institutions to establish AML/CFT internal rules, which cover all the obligations required. The Tunisian Central Bank issued Circular No. (15) of year 2013 on the establishment of AML/CFT internal rules. The General Committee on Insurance also issued regulation No. (1) for 2012 on AML/CFT obligations with respect to insurance companies.

**R16: Rating (NC)**

83. Tunisia required non-financial businesses and professions (NFBPs) to report suspicious transactions to the CTAF based on Chapter (85) of Law No. (75). NFBPs are prevented from informing the person involved with the reporting content or the subsequent measures according to Chapter (87) of Law No. (75). The competent authorities defined in paragraph (74) of Law No.(75) undertake to establish and maintain AML/CFT applicable programs and measures. The programs should include a system for the detection of suspicious transactions, assigning a reporting officer, internal control rules and employee training programs.

**R18: Rating (PC):**

84. According to Chapter 74/5 of Law No.75, banking and non-banking financial institutions are prohibited from establishing or continuing in a banking correspondent relationship with a foreign bank or establish business relationships with foreign institutions that issue licenses to

shell banks to use their accounts. Circular No. (15) issued by the Central Bank also requires credit institutions to take the necessary measures in their correspondent banking relationship and continue these relationships through the survey attached to the Circular. The institutions shall approve and send such circular to the foreign correspondent banking in order to evaluate the effectiveness of the internal AML/CFT systems.

**R19: Rating (PC):**

85. Chapter (76) of Law No. (75) requires the authorized brokers and the secondary authorized foreign exchange dealers to verify the identity of each person who performs transactions in foreign currency equal to or above 5,000 TND and inform the Central Bank accordingly. The Tunisian Central Bank established a database at the General Department for Banking Supervision to receive reported suspicious transactions. The Tunisian Central Bank also issued Circular No.(11) dated 8 August 2012 on regulating the procedures of STRs.

**R21: Rating (PC):**

86. Chapter 74/6 of Law (75) requires banking and non-banking financial institutions to pay special attention to business relationship with persons residing in other countries that do not apply or insufficiently apply AML/CFT international standards. Chapter (15) of Circular No.(15) issued by the Central Bank requires credit institutions to take the necessary measures when dealing with customers residing in countries identified by the FATF as countries that do not apply or insufficiently apply the international standards. These measures include, among others, obtaining approved documents proving the customer's identity and obtaining a document to verify the customer identity from a credit institution in the customer home country. The Tunisian Committee for Financial Analysis in cooperation with the Tunisian Central Bank has circulated a questionnaire to all banks to identify their compliance with such measures. The authorities stated that most of the banks provide, under their bylaws, for the application of enhanced CDD measures when dealing with those customers.

**R24: Rating (PC):**

87. The Tunisian authorities stated that they held many courses to increase awareness among the professions and business owners during the past periods. All DNFBPs were subjected to AML/CFT regulations; however, the authorities should exert more efforts to increase DNFBPs awareness and respect the obligations imposed by law.

**R25: Rating (NC)**

88. The Tunisian authorities stated that the CTAF provides the reporting entities with the results of the reported transactions, implementing Chapter (88) of Law No. (75). The attorney general also informs the reporting entities and CTAF with the results of the file forwarded by the Committee for Financial Analysis, as provided for under Chapter (89) of the law. The annual reports prepared by the Committee include statistics of STRs received by CTAF.

**R31: Rating (PC):**

89. Tunisia has taken many legislative and regulatory steps to enhance the local cooperation among the competent authorities. Chapter (61) of the Central Bank Law stipulates that the Central Bank has the powers to cooperate with the entities regulating the financial and

insurance sectors, conclude agreements on the exchange of information, expertise and training and perform joint supervision operations. The General Committee on Insurance has the powers to cooperate with all financial sector supervisory bodies, conclude agreements with these authorities to exchange information and expertise, organize joint training programs and conduct joint supervision operations according to Chapter (108) of the Insurance Code. Chapter (46) of the Law on regulating the capital market stipulates that the CMF has the powers to cooperate with the entities regulating the banking and insurance sectors, conclude agreements in this regard to exchange information and expertise, hold joint training programs and conduct joint supervision operations.

**R32: Rating (PC):**

90. The authorities stated that the General Inspectorate at the Ministry of Justice and Human Rights added a new chapter to the official statistic system of the Ministry titled "Statistics on ML/TF Crimes". They requested the courts to prepare a statistic system on ML/TF, update these statistics on a monthly basis and send them to the General Inspectorate of the Ministry of Justice. The General Inspectorate also approved a new statistical form on the balances and amounts related to ML/TF crimes. It requested the courts to adopt it in their new statistic system, submit monthly and annually statistics to the Ministry of Justice and create a new statistic system for the cases closed with confiscation and liquidation orders. The Ministry of Justice publishes the annual statistics in the annual report of the Ministry which is presented to the Higher Authority and kept within the official documents of the State. Through the Center of Legal and Judicial Studies, Tunisia prepared a study on theft, drugs, juvenile delinquency and reintegration of children. The Center also prepared a national study on the analysis of crime, its trends and its impact on ML/TF risks based on the crimes statistics of the Ministry of Justice. The Center submitted the study to the CTAF for use in the establishment of national strategies in this regard. The Tunisian Committee for Financial Analysis issues its annual reports including statistics on the number of STRs received by the subject authorities and their results.

91. The authorities stated that the Ministry of Justice has initiated 75 investigative cases; 1 was maintained under custody; 1 was ignored; 1 referred to the Court's Indictment Division, while the others remain under investigation. In general, more regulation and organization is required to obtain comprehensive statistics and provide them on regular basis to help review the effectiveness of AML/CFT regime.

**R38: Rating (PC):**

92. The Tunisian authorities stated that the Ministry of Justice is revising the codes and laws in force, especially the Code of Criminal Procedures to improve it and make sure it is consistent with the international standards. In this regard, a five-year strategic plan (2012-2016) was prepared in cooperation with the UNDP. The plan includes a number of aspects including: revising and improving the legislative framework, coordination in seizure and confiscation actions with foreign authorities, establishment of a forfeiture fund into which the confiscated property will be deposited and sharing of confiscated assets with the foreign authorities when confiscation is the result of coordinated law enforcement actions. The authorities also confirmed that the Ministry of Justice is keen on establishing a more accurate and comprehensive system when dealing with confiscation based on a foreign judgment when implementing the strategic plan. A competent committee made of judges, university professors



and lawyers was established to review and improve the provisions of the Code of penal procedures; the issues and areas mentioned above are the areas of focus for the committee.

**SRVII: Rating (PC):**

93. Tunisia listed the obligations on wire transfers made by financial institutions. The CDD measures were implemented to all wire transfers. Special care was given to transactions done by occasional customers and unusual transactions made by large groups. The institutions sending and receiving the transfers were required to list all information related to the transaction and the information on the beneficiary and the originator. The transferring institutions should keep the transaction documents for 10 years following the execution of the transaction and refuse to complete the transaction if the information provided by the originator is invalid or incomplete. In addition, the receiving institutions should take the necessary measures to identify the wire transfers accompanied with invalid or incomplete information, assess the related risks and take an action in this regard.

**Law n° 2003-75 of December 10, 2003, concerning the support of international efforts to combat terrorism and repress money laundering as modified and completed by law n°2009-65 of August 12, 2009**

## **PRELIMINARY PROVISIONS**

*Article one* : The current law ensures the right of the society to live in security and peace far from whatever affects its stability, to reject any kind of deviance, violence, fanaticism, racial segregation and terrorism which threaten societies peace and stability. Moreover, it contributes to the support of international efforts to combat all forms of terrorism, to face up to the related financing sources, as well as to the repression of money laundering within the framework of international, regional and bilateral conventions ratified by the Tunisian Republic, while having regard for constitutional guarantees.

## **GENERAL PROVISIONS**

*Article 2 (as modified by law n°2009-65 of August 12, 2009)* : The current law applies to infringements termed terrorist as well as to money laundering infringements resulting from offences

*Article 3* : Provisions of the penal code, the code of penal proceedings, the code of military justice, as well as special texts concerning some infringements and related proceedings are applicable to infringements governed by the current law, without prejudice to provisions that are against it.  
Children are subject to the code of child welfare

## **CHAPTER ONE COMBATTING AND REPRESSING TERRORISM**

### **Section one terrorist infringements and incurred sentences**

*Article 4* : Is termed terrorist, any infringement, whatever its motives, in relation to an individual or a collective undertaking likely to terrorize a person or a group of persons, sow terror among the population, with the intention of influencing the state's policy to carry out what it is not entitled to, or refrain from carrying out what it is required to, disturb public order, international peace or security, affect people or properties, cause damage to the buildings

accommodating diplomatic, consular missions or international organizations, give rise to serious prejudice to environment likely to endanger the inhabitants lives or their health, or to be prejudicial to vital resources, infrastructure, means of transport and communication, data processing systems or public services.

**Article 5:** (abrogated by law n°2009-65 of August 12, 2009).

**Article 6:** (abrogated by law n°2009-65 of August 12, 2009)

**Article 7 :** The minimum of the imprisonment sentence incurred for a terrorist infringement is set as follows :

- Should the incurred sentence be life imprisonment, the minimum is thirty years imprisonment.
- Should the incurred sentence be an imprisonment for a determined period, the minimum is half the maximum provided for by the law for the initial infringement.

**Article 8 :** Terrorist infringements are fined ten times the amount of the fine provided for by the law for the initial infringement.

**Article 9 :** The minimum of the incurred fine for terrorist infringements is the maximum of the fine provided for by the law for the initial infringement.

**Article 10 :** Provisions provided for in articles 7 and 8 of the current law are applicable to infringements and related sentences governed by the penal code, as well as to any other special text into force as regards penal matters. Infringements and related sentences provided for by the current law, are excluded from the application of the aforesaid provisions.

## **Section II**

### **Punishable persons**

**Article 11 :** Guilty of terrorist infringements is anyone who :

- incited or devised together to commit it.
- made up his mind to commit it if the decision is accompanied by any preparatory act to execute it.

**Article 12 :** Anyone who, by any means, calls to commit terrorist infringements or to join an organisation or an agreement in relation to terrorist infringements, or makes use of a name, a term, a symbol, or any other sign,

aiming at defending a terrorist organisation, one of its members or activities, is sentenced twelve years imprisonment and fined five thousand to twenty thousand dinars.

**Article 13 :** Anyone who joins, whatever the matter, an organization or an agreement, on the Republic's territory, whatever the shape or number of its members, who has, by chance or ad hoc, used terrorism as a means to achieve his goals, or is on a military training on the Tunisian territory in order to commit a terrorist infringement on or outside the Republic's territory, is sentenced five to twelve years imprisonment and fined five thousand to fifty thousand dinars.

Any Tunisian who joins, whatever the matter, such an organization or agreement outside the Republic's territory, or is on military training outside the Republic's territory in order to commit a terrorist infringement on or outside the Republic's territory.

**Article 14 :** Anyone who uses the Republic's territory to recruit or train a person or a group of persons in order to commit a terrorist act on or outside the Republic's territory, is sentenced five to twenty years imprisonment and fined five thousand to fifty thousand dinars.

**Article 15 :** Anyone who uses the Republic's territory to commit one of the terrorist infringements against another state, or against its citizens or to carry out preparatory acts on it, is sentenced five to twenty years imprisonment and fined five thousand to fifty thousand dinars.

**Article 16 :** Anyone who provides weapons, explosives, an munitions or other materials or equipments of the same nature to an organization, agreement or persons in relation to terrorist infringements, is sentenced five to twenty years imprisonment and fined five thousand to fifty thousand dinars.

**Article 17 :** Anyone who provides an organization, an agreement or persons in relation to terrorist infringements with competence and expertise, discloses or provides them, whether directly or indirectly with information in order to help them to commit terrorist infringements, is sentenced five to twenty years imprisonment and fined five thousand to fifty thousand dinars.

**Article 18 :** Anyone who provides members of an organization, agreement or people in relation to terrorist infringements with a meeting place, helps to accommodate or hide them or favour their escape, or shelter them, or ensure

their impunity or benefit from the proceed of their misdemeanor, is sentenced five to twelve years imprisonment and fined five thousand to twenty thousand dinars.

**Article 19** : Anyone who provides or collects, by any means, whether directly or indirectly, funds he knows they are intended to finance people, organizations or activities in relation to terrorist infringements, regardless of the licit or illicit origin of the provided or collected funds, is sentenced five to twelve years imprisonment and fined five thousand to fifty thousand dinars.

**Article 20** : Anyone who, by any means, whether directly or indirectly, hides or facilitates the concealment of the real origin of movable property as real estates, incomes or profits of individuals or businesses whatever their kind, in relation to terrorist organizations, activities or terrorists, or accepts to deposit them under a nominee company or to integrate them, regardless of the licit or illicit origin of the aforesaid properties, is sentenced five to twelve years imprisonment and fined five thousand to fifty thousand dinars.

The fine's amount can be increased five times the value of the properties matter of the infringement.

**Article 21** : The sentences provided for by the law in the previous two articles are, according to the case, extended to leaders and representatives of businesses whose personal liability is proved, without prejudice to proceedings against the aforesaid businesses which incur a fine equal to five times the amount of the fine provided for by the law for the initial infringement if their involvement in these infringements is proved.

**Article 22** : Anyone who has not immediately conveyed to competent authorities facts or information concerning terrorist infringements he is aware of, even if he is bound by professional secrecy, is sentenced one to five years imprisonment and fined one thousand to five thousand dinars.

Ancestry and descendents, brothers and sisters and the spouse, are excluded from the provisions of the previous paragraph.

No damage or penal liability action can be taken against someone who would have, in a good faith, accomplished the duty of notification.

**Article 23** : Any witness guilty of failure to fulfill the requirements of the testimony concerning a terrorist infringement is sentenced three to six months imprisonment and fined one hundred to one thousand two hundred dinars,

without prejudice of the enforcement of more severe sentences provided for in articles 241 of the penal code.

**Article 24 :** When it is proved that the infringements provided for in articles 12, 13, 14, 16, 17, 18, 19, 20 and 22 of the current law are linked to a specific terrorist act, the most severe sentences provided for by the law for complicity in pursuance of article 32 of the penal code and the special texts governing this matter are enforced, even if the targeted terrorist infringement would not have been carried out or had not any real carrying out start.

**Article 25 :** Perpetrators of terrorist infringements must be kept under administrative surveillance for a minimum period of five years, yet without exceeding a ten year duration, without prejudice of the enforcement of one or all other additional sentences provide for by the law.

### **Section III**

#### **Exemption and mitigation of sentences**

**Article 26 :** Any member of a terrorist agreement or organization, any perpetrator of a individual terrorist undertaking who conveys to competent authorities information allowing to find out the infringement and to avoid its execution, is exempted from the incurred sentences. The court can, however, keep the accused under administrative surveillance, or prohibit him from staying in specific places for a period which can not however, exceed five years.

**Article 27 :** Sentences provided for by the law for the initial infringement are reduced to the half when information conveyed to competent authorities by people targeted in article 26 of the current law allowed to stop terrorist acts or avoid that death results from the crime, or identify the whole or some of the perpetrators, or arrest them.

- The incurred sentence is twenty years imprisonment if the initial sentence is life imprisonment or a more severe sentence.

**Article 28:** The minimum sentence provided for by the law for the initial infringement is incurred if perpetrators of terrorist infringements prove that they had been led under the influence of a hoax, request or abuse of their state or condition.

## **Section IV**

### **Sentence increase**

**Article 29 :** In case of repeat offence, the sentence provided for by the law to the infringement is doubled.

The court can not reduce it by more than the half after considering sentence doubling.

**Article 30 :** The maximum sentence is pronounced :

- Should the infringement be committed by those entrusted by the law to investigate and repress it, whether they are main perpetrators or accomplices.
- Should the infringement be committed by national security officers, armed military forces officers or customs brokers, whether they are main perpetrators or accomplices.
- Should the infringement be committed by people entrusted with the management or surveillance of premises, targeted places or departments and those who work there whether they are main perpetrators or accomplices.
- Should the infringement be committed by associating a child.
- Should death result or a permanent physical disability the rate of which is higher than twenty per cent.

**Article 31:** Should the accused be guilty of many distinct infringements, he is sentenced for each of them. In all cases, sentences can not be merged.

## **Section V**

### **Judicial police officers**

**Article 32 :** Judicial police officers within the competence of the court of first instance of Tunis, and entitled to investigate terrorist infringements carry out their duties all over the Republic's territory, territorial competence rules apart.

**Article 33 :** Judicial police officers who are answerable to the Public Prosecutor are required to advise him immediately of terrorist infringements they are aware of.

Public Prosecutors to courts of first instance are required to immediately convey the above mentioned notifications to the Public Prosecutor of Tunis to assess the reply to convey.

## **Section VI**

### **The Director of Public Prosecutors**

**Article 34 :** The Public Prosecutor to the court of first instance of Tunis is sole competent to start and enforce Public action regarding terrorist infringements.

**Article 35 :** Public Prosecutors to the courts of first instance other than Tunis are entitled to initiate urgent acts of preliminary enquiry in order to investigate the infringement, collect its proofs and look for its perpetrators. Moreover, they receive voluntary denunciations, complaints, minutes and related reports. Also, they cross-examine the accused summarily from their first appearance before the court and decide, if need be, to extend the period of their close watch and to put them immediately at the disposal of the Public Prosecutor of Tunis with reports, minutes and exhibits.

**Article 36 :** The Public Prosecutor to the court of first instance of Tunis must immediately advise the General Attorney to the court of Appeal of Tunis of any investigated terrorist infringement and requests immediately the examining magistrate within his jurisdiction to inquire.

**Article 37 :** Public trial concerning a terrorist infringement is sentenced twenty full years if it results from a crime, and ten full years if it arises from an offence starting from the day when the infringement has been committed if, in the meantime, no preliminary investigation or legal action has been undertaken.

## **Section VII**

### **Preliminary investigation**

**Article 38 :** Preliminary investigation is compulsory as far as terrorist infringement is concerned.

**Article 39 :** The examining magistrate is required to confiscate weapons, ammunitions, explosives and other materials, tools and equipments of the same nature and documents used to carry out the infringement or to facilitate its carrying out. Moreover, he must confiscate the objects whose manufacturing, detention, use or trading constitutes an infringement. He draws up an inventory as far as possible in the presence of the accused or the one possessing the seized objects. The examining magistrate draws up a minute containing the



seized objects, their characteristics and any useful data indicating the date of the seizure and the case number.

**Article 40 :** The examining magistrate can, throughout the procedure's stages, order, either automatically or upon a request from the Director of the Public Prosecutors, the seizure of movables or real estate of the accused, as well as his financial assets, and set the modes of their administration throughout the case or, if need be, order to sequester them.

He can also order, throughout the procedure's stages, even automatically, the lifting of the above-mentioned measures.

**Article 41 :** Witnesses are heard separately in the absence of the accused. They give evidence without resort to a written document after stating their identity and denying the existence of any grounds of impugnement. The examining magistrate can not confront them with the accused or any other witness without their consent.

**Article 42 :** Should the witness fail to the requirements of the testimony, the examining magistrate can draw up an independent minute which will be conveyed to the Public Prosecutor, in order to assess the opportunity of indicting the witness before the competent court according to the proceeding of direct subpoena and without the need to request an inquiry.

### **Section VIII Trial jurisdictions**

**Article 43 :** The court of first instance of Tunis is the sole competent to take cognizance of terrorist infringement.

**Article 44 :** Provisions of articles 40 and 41 of the current law apply to trial jurisdictions.

**Article 45 :** The court must order the liquidation of the proceed resulting from the infringement, whether directly or indirectly, even if it is transferred to ancestry, descendants, brothers and sisters, spouse or parents in law of the perpetrator of the infringement, whether it remained the same or converted into other properties, unless they prove that this proceed does not result from the infringement.

If the real seizure was not made possible, a fine worth liquidation is ordered without being less than the value of the properties matter of the infringement.

The court must also, order the liquidation of weapons, ammunitions, explosives and other materials, tools and equipments that were used to carry out or facilitate the carrying out of the infringement, as well as any object the manufacturing, possession, use or trading of which constitutes an infringement.

**Article 46 :** The court can, in addition, order the seizure of the whole or part of movables or real estates and financial assets of the prisoner, should serious indictment exist as for their use to financing needs of people, organizations or activities in relation to terrorist infringements.

**Article 47 :** The imprisonment sentence is enforceable as for terrorist infringement notwithstanding stay of execution.

### **Section VIII Mechanism of protection.**

**Article 48 :** Measures needed for the protection of people entrusted by the law to investigate and repress terrorist infringement notably magistrates, judiciary police officers and public authority officials have been taken.

Protection measures are also enforceable to representatives of the law, victims, witnesses and any person who would be responsible, on any ground, for advising competent authorities.

The aforesaid measures are extended, if need be, to family members of the persons specified in the previous two paragraphs and to all those who may be targeted among their relatives.

**Article 49 :** In case of matter of great urgency, the examining magistrate or the president of the court can, according to the case, and if need be, order to conduct an inquiry or the sitting of the audience, in a place other than its usual one, without prejudice of the right of defence acknowledged to the accused.

They can conduct the questioning of the accused and the hearing of any person whose testimony is estimated to be useful, by resorting to adequate visual or auditive means, with no need for their personal appearance before the court.

Appropriate measures are taken in order not to reveal the identity of the heard persons (*as modified by law n°2009-65 of August 12, 2009*)

**Article 50 :** The persons mentioned in the third paragraph of the previous article can, if they are called to make a statement to judiciary police officers, the examining magistrate or any other judiciary authority, take up residence to the Republic's Prosecutor of Tunis.

Their identity and the address of their real residence are mentioned on a confidential, quoted and signed register kept in this regard by the Republic's Prosecutor of Tunis.

**Article 51 (as modified by law n°2009-65 of August 12, 2009) :** In case of a great urgency, and if necessary, all data liable to identify victims, witnesses and any person, who would, on any ground be responsible for advising competent authorities, may be mentioned in independent minutes written down in a file kept separately from the initial file.

The identity of the persons enumerated in the previous paragraph and any other indication liable to identify them, including their signature are written down on a confidential, quoted and signed register by the Public Prosecutor of Tunis and kept in this regard by the latter.

**Article 52 :** The accused or his legal consultant can within a maximum delay of ten days, starting from the date when they were informed of the content of the declarations of the persons enumerated in the first paragraph of the previous article, request the judiciary authority to which the matter refers to convey to him their identities (as modified by law n°2009-65 of August 12, 2009).

The judicial authority responsible for at the matter can order the lifting of the above-mentioned measures and reveal the identity of the concerned person, if it estimates that the request is justified and that there is no worry about life or properties of the

aforsaid person or the one of the members of his family. The decision of dismissing or conveying a reply to the request is not liable to appeal.

**Article 53 :** Protection measures can by no means affect the right of the accused or his legal consultant to get access to minutes and other file documents subject to provisions of article 194 of the penal procedure code.

**Article 54 :** Anyone who endangers the life or the properties of the persons targeted by measures of protection or those of their family members by deliberate disclosure of data liable to identify them in order to harm them or

infringe upon their properties, is sentenced five to twenty years imprisonment and fined five thousand to fifty thousand dinars.

## **Section X**

### **Terrorist infringements committed abroad**

**Article 55 :** Tunisian jurisdictions are competent to deal with terrorist infringements committed outside the Republic' s territory in the following cases :

- Should they be committed by a Tunisian citizen.
- Should the victim be of Tunisian nationality or should they be committed against Tunisian interests.
- Should they be committed by a foreigner or a stateless person residing regularly on the Tunisian territory against foreigners or foreign interests, or by a foreigner or a stateless person who is on the Tunisian territory and whose extradition has not been requested by the foreign competent authority before a final judgment has been passed against him by Tunisian competent jurisdictions.

**Article 56:** In the case provided for in article 55 of the current law, public action does not depend on facts indictment matter of proceedings in pursuance of state legislation where they have been committed.

**Article 57:** The Director of Public Prosecutors is the sole entitled to start and carry out public trial resulting from terrorist infringements committed abroad.

**Article 58:** Public trial can not be conducted against terrorist infringements' perpetrators if they prove that they have been definitively tried and in case of sentence that they have served all their sentence, or that it is barred or it was a matter of reprieve measures.

## **Section XI**

### **Infringement perpetrators extradition**

**Article 59:** Terrorist infringements are in any case considered as political infringements.

**Article 60:** Terrorist infringements give rise to extradition in pursuance of provisions of article 308 and the following articles if they are committed outside the Republic's territory by a non-Tunisian individual against a

foreigner, or foreign interests or a stateless person if their perpetrator is on the Tunisian territory.

Extradition is only granted if a regular request emanating from a competent state in pursuance of its internal legislation is conveyed to competent Tunisian authorities, and providing that Tunisian jurisdictions have not already given a ruling on the case in pursuance of the rules governing their competence.

## **Section XII**

### **Sentence discharge**

**Article 61 :** Sentences passed for terrorist infringements are barred by thirty full years if facts constitute a crime. However the prisoner remains subject to exclusion order within the area of the governorate where the infringement has been committed, except for an authorization by competent authorities.

Any violation of this measure is liable to sentences provided for by the law for exclusion order. Sentences passed for offences are barred by full ten years.

The statute of limitations runs starting from the date when the sentence has become final. It runs from the notification of the judgment by default if this notification has not been made to anyone and unless it does not result from judgment execution that the prisoner is aware of.

## **CHAPTER II**

### **COMBATING MONEY LAUNDERING AND ITS REPRESSION**

**Article 62 :** Any deliberate action targeting by any means the false justification of the illegal origin of movables or real estate or income resulting directly or indirectly from offence or crime is considered laundering of goods.

Any deliberate action aiming at investment, deposit, concealment, management, integration or retention of the proceed arising directly or indirectly from offence or crime or giving one's assistance to these operations constitutes also a laundering of goods.

The provisions of the two previous paragraphs apply even if the infringement of which the funds matter of laundering arise from has not been committed on the Tunisian territory.

**Article 63 :** Any person guilty of money laundering is sentenced to one to six years of prison and fined five thousand dinars to fifty thousand dinars.

The fine's amount can be increased to an amount equal to the half of the value of the goods matter of laundering.

**Article 64** : The sentence is five to ten years of prison and ten thousands dinars to one hundred thousand dinars where infringement is committed by :

- Anyone who deals regularly with laundering operations.
- Anyone who uses the facilities that he gets from carrying out his tasks or his professional or social activity.
- Any organized group.

Is considered as an organized group in the meaning of the current article, any constituted group for any period whatever the number of its members as well as any agreement aiming at preparing the carrying out of one or more infringements.

The amount of the fine can be increased to an amount equal to the value of goods matter of the laundering.

**Article 65**: When the prison sentence incurred for the initial infringement that the goods matter of laundering arise from is higher than the one provided for the infringement targeted in articles 63 et 64 of the current law, the author of the offence of laundering is sentenced to sanctions incurred with respect to initial infringement if it is proved that he was aware of it.

Aggravating circumstances linked to the main offence that the author of money laundering offence was aware of are the only one taken into consideration when determining the incurred sentence.

**Article 66** : Sentences provided for in previous articles are extended, according to the cases, to managers and representatives of businesses whose own responsibility is proved.

This doesn't avoid prosecution against the aforesaid businesses if it is proved that laundering operations have been effected for their benefit or gave rise to an income for them or these laundering operations being their subject. They incur thus a fine equal five times the value of the fine covered by the law for individuals. The fine can be increased to an amount equal to the value of funds matter of the laundering.

This doesn't avoid also the extension of disciplinary sanctions covered by the law to the aforesaid businesses pursuant to the legislation into force which is applied to them notably the forbiddance to carry out their activity for determined period or their dissolution.

**Article 67** : The court must rule the seizure of goods matter of laundering as well as the proceed generated directly or indirectly by laundering infringement and its liquidation to the benefit of the State.

If the real seizure is not made possible, a fine equal to liquidation is passed without being less, in any case, to the value of funds matter of the infringement.

The court can also prevent the author of the infringement from carrying out his duty or social or professional activities which provided him with facilities used to commit one or many laundering operations for a period not exceeding five years.

Laundering infringement authors can be put under administrative observation for a five year period.

This doesn't avoid their sentence for one or all additional convictions provided for by the law.

## **CHAPTER III COMMON PROVISIONS FOR COMBATING TERRORIST FINANCING AND MONEY LAUNDERING**

### **Section I Forbidding illegal financial channels**

**Article 68**: Any kind of support and financing of individuals organizations or activities linked with terrorist infringement and other illegal activities granted directly or indirectly through individuals or businesses whatever their kind or subject is forbidden even if the goal they are seeking is a non profit one.

In the meaning of the current law, any entity provided with capital stock and heritage independent from those of its members or participants even if it is not recognized as a business by a special law, is considered as a business.

**Article 69**: Businesses must adopt the following prudential management rules:

- Refrain from receiving any grants or subsidy the origin of which is unknown or arising from illegal operations termed an offence or crime or from individuals, organizations or bodies involved manifestly inside or outside the territory of the republic in activities linked with terrorist infringement.
- Refrain from receiving any grants or other kind of financial assistance whatever the amount, unless otherwise provided for by a provision of a special law.

- Refrain from receiving, even when the legislation into force doesn't forbid it, any funds coming from abroad without the assistance of a resident authorised intermediary in Tunisia.
- Refrain from receiving any funds in cash the value of which is higher or equal to five thousand dinars even through several payments liable to produce links.

**Article 70** : Businesses must :

- keep the accounts on a day-book showing all earnings and expenses ;
- keep an inventory of earnings and transfers with respect with abroad showing the related amounts, their justification, the date of their carrying out and the identification of the concerned individual or business. Copies of which shall be sent to the departments of the Central Bank of Tunisia ;
- draw up an annual balance sheet ;
- keep books and accounting documents in material records or electronic files during ten years starting from the date of their closing.

Businesses the annual earnings or available reserves of which don't reach a determined ceiling which will be set by a bye law of the minister of finance are exempted from obligations provided for in the current article.

**Article 71** : Duties targeted in the previous article are considered as minimum accounting rules common for all businesses without avoiding the application of some specific accounting systems to some of them and to the rules governing their financing in pursuance of the legislation into force that is enforceable to it.

**Article 72** : The minister of finance can submit businesses suspected of links with individuals, organizations or activities with respect of the infringements targeted by the current law or who would have been guilty of infringing management prudential rules or management of their financing or book keeping, to a prior agreement for receiving any transfer from abroad.

The aforesaid measure is undertaken by a by-law notifying the legal representative of the concerned business through any means liable to leave a written mark.

A copy of the aforesaid by-law is sent to the Governor of the Central Bank of Tunisia in order to advise the Tunisian Commission for Financial Analysis and the financial banking and non banking institutions. It aims at subordinating the payment of funds matter of the transfer to the presentation of the authorisation of the minister of finance.



**Article 72 A** (as added by law n°2009-65 of August 12, 2009): The Minister of Finance may take, in order to honor Tunisia international commitments and on opinion of the Governor of the Central Bank of Tunisia, the decision of freezing funds of persons or organizations whose links with terrorist offences is proved by competent structures of the United Nations Organization.

The freezing includes tangible or intangible property whatever their acquisition mode, ensuing income and profit; documents and deeds, material or electronic, proving the ownership or rights, without prejudice to bona fide third parties rights.

Persons concerned by the implementation of the decision of freezing must, since the publication of the aforesaid decision in the Official Gazette of the Republic of Tunisia, undertake the necessary measures in that effect and must report to the Minister of Finance all the acts of freezing executed by them and all information evidencing the implementation of his decision.

Damage or penalty liability action can not be taken against any natural or legal person who would have carried out in bona fide duties related to the implementation of the decision of freezing.

**Article 72 B** (as added by law n°2009-65 of August 12, 2009): The Minister of Finance may order, on opinion of the Governor of the Central Bank of Tunisia, to the person subject to the decision of freezing, to use a part of his assets to cover his basic needs and those of his family including housing.

**Article 72 C** (as added by law n°2009-65 of August 12, 2009): Anyone subject to a decision of freezing in pursuance of article 72 A of the current law, may request from the Minister of Finance to order the unfreezing of his assets if he considers that this measure has been taken against him inadvertently.

The Minister of Finance is competent to unfreeze funds of persons and entities delisted by structures of the United Nations Organization because considered no longer linked to terrorist offences.

**Article 73** : The president of the court of first instance territorially competent can on request of the minister of finance decide through an order on petition to put any business suspected of links with individuals, organizations or activities with respect with infringements targeted by the current law or who would have been guilty of infringing prudential rules management, rules, governing their

financing or book keeping, through an external audit or a college of specialised experts.

**Article 74** (as modified by law n°2009-65 of August 12, 2009): Banking and non banking financial institutions, professionals entitled to prepare for or carry out financial transactions or operations for their clients concerning buying and selling of real estate or stocks or managing of client money and accounts or organization of contributions for the creation or the management or the operation of companies or any other legal person or controlling these operations or transactions or advising them, should undertake due diligence measures.

Provisions of the precedent paragraph apply to dealers in precious metal, jewelers, dealers in precious stones and in any precious items as well as to managers of casinos for transactions with their clients the value of which is equal or higher than a determined amount, which will be set by bye law of the Minister of Finance.

**Article 74 A**(as added by law n°2009-65 of August 12, 2009): Persons targeted in article 74 of the current law must undertake the following due diligence measures:

1- verifying, using official documents and any other document from reliable and independent source, the identity of their permanent or occasional customers, and keep records of all necessary data of identification.

2- verifying, using official documents and any other document from reliable and independent source:

- the identity of the beneficiary of the operation or transaction and the quality of any person acting on his behalf,
- the constitution of the legal person, its legal form, address, structure of its share capital, the identity of its directors and persons having the power to bind the legal person and undertaking reasonable measures to identify natural persons who carry out an effective control over the legal person.

3- obtaining information on the purpose and nature of the business relationships.

4- obtaining, where recurring to third parties, necessary data to identify the customer and ensuring that the third party is subject to AML and CFT regulation and supervision and that it has undertaken necessary AML and CFT

measures and is able to provide copies of the identification data and other relevant documentation related to the customer upon request and at the earliest convenience. The ultimate responsibility for customer identification remains with the person recurring to third parties.

These measures are notably undertaken when:

- establishing business relationships,
- carrying out occasional transactions which value is equal or higher than a determined amount to be set by bye law of the Minister of Finance or that are wire transfers,
- there is suspicion of money laundering or terrorist financing,
- there are doubts about the veracity or adequacy of previously obtained customer identification data.

Where these persons fail to verify all these data or where these data are insufficient or apparently fictitious, they must not open the account, commence or continue the business relations, perform the operations or transactions and they must consider making a suspicious transaction report.

**Article 74 B** (as added by law n°2009-65 of August 12, 2009): Persons targeted in article 74 of the current law, must keep up to date customer's identification data, conduct ongoing due diligence throughout the course of the relationship and scrutinize all operations and transactions carried out by their customers to ensure that they are consistent with data they collected concerning their customers taking in account the nature of the activity, the risk they are exposed to and where necessary the source of funds.

**Article 74 C** (as added by law n°2009-65 of August 12, 2009): Persons targeted in article 74 of the current law must undertake the following due diligence measures:

- ensure that their foreign subsidiaries and companies they own the majority of their share capital, apply AML/CFT due diligence measures and inform supervisory authorities when laws of the country where these subsidiaries and companies are established oppose the implementation of these measures.
- Have appropriate risk management systems in their relations with persons carrying out or having carried out prominent public functions in a foreign country or their relatives or persons having relations with them, obtain the approval of the manager of the legal person before establishing or continuing the business relationship with them, conduct enhanced ongoing monitoring of

these business relationships and take reasonable measures to identify the source of their funds.

**Article 74 D** (as added by law n°2009-65 of August 12, 2009): Persons targeted in article 74 of the current law must when establishing relation with cross-border correspondent banking or other similar relationships:

- gather sufficient information about the cross-border correspondent to identify the nature of its activity and to assess upon publicly available information its reputation and the efficiency of the mechanism of control that it is submitted to and to verify whether the cross-border correspondent has been subject to money laundering or terrorist financing investigation or a regulatory action ;
- obtain the approval from the management of the legal person before establishing new correspondent relationships and define in writing the responsibilities of each party ;
- refrain from establishing or continuing correspondent banking relation with shell foreign bank or from establishing or continuing relationships with foreign institutions allowing shell bank to access to their accounts.

**Article 74 E** (as added by law n°2009-65 of August 12, 2009): Persons targeted in article 74 of the current law must:

- give special attention to business relationships with persons resident in countries which do not or insufficiently apply AML/CFT international standards,
- give special attention to AML/CFT risks associated to the use of new technologies and undertake measures, where necessary, to prevent from their misuse,
- have in place appropriate policies to address specific risks associated to no face to face business relationships.

**Article 75** (as modified by law n°2009-65 of August 12, 2009): Persons provided for in article 74 of the current law must maintain, for at least ten years from the date of completion of the transaction or the termination of the account, all registers, account book and other documents held on material records or electronic files for consultation, if necessary, and for the needs of marking the different steps of financial transactions or operations effected by them or by their intermediaries and for identifying all participants and be ensured of their veracity.

**Article 76** : Any import or export operation in hand currency the value of which is equal or higher than a determined amount that will be set by a by-law of the minister of finance must be declared to customs as an inflow, outflow or in transit.

Authorized intermediaries and foreign exchange assignees must be ensured of the identity of any person who effects operations in foreign currency the value of which is equal or higher than a determined amount which will be set by a by-law of the minister of finance on information of the Central Bank of Tunisia.

**Article 77 (as modified by law n°2009-65 of August 12, 2009)**: Authorities entitled to supervise persons provided for in article 74 of the current law, are responsible for the working out of programs and practices adapted to money laundering and terrorist financing infringements, seeing to their implementation and taking, if necessary, disciplinary measures pursuant to the legislation into force.

These programs and practices must introduce, notably:

- a detection system of suspicious operations and transactions notably the designation of those from their managers and employees who are responsible for carrying out the obligation of report,
- internal audit rules to assess the efficiency of the introduced system,
- ongoing training programs for their staff.

**Article 77 A (as added by law n°2009-65 of August 12, 2009)**: Notwithstanding penal sanctions, any violation of due diligence measures provided for in articles 74 A, 74 B, 74 C, 74 D, 74 E leads to disciplinary proceeding in accordance with the procedures in force provided for in the disciplinary mechanism of each of the persons enumerated in article 74 of the current law.

Where there is no proper disciplinary mechanism then disciplinary proceedings are carried on by the authority in power to supervise the aforesaid persons.

**Article 77 B (as added by law n°2009-65 of August 12, 2009)**: The competent disciplinary authority may after hearing the concerned person, undertake one of the following sanctions:

- 1- warning,
- 2- blame,
- 3- ban of exercising the activity or suspension of the license for a period not exceeding two years,
- 4- ceasing of functions,
- 5- definitive ban of exercising the activity or withdrawal of the license.

These sanctions apply also to the directors and the members of the supervisory board, where their personal responsibility of non-respect of the diligence measures is proved.

## **Section II**

### **Combating terrorist financing and money laundering**

#### **Sub-section I**

#### **Commission for financial analysis**

**Article 78** : A commission named "the Tunisian Commission for Financial Analysis" is introduced at the Central Bank of Tunisia. It has its headquarters at the Central Bank of Tunisia which looks after the Secretariat.

**Article 79** (as modified by law n°2009-65 of August 12, 2009): The Tunisian Commission for Financial Analysis is made up of:

- the Governor of the Central Bank of Tunisia or his representative, president,
- a third tier magistrate,
- an expert of the minister of domestic affairs and local development,
- an expert of the minister of finance,
- an expert of customs,
- an expert of the committee of financial market,
- an expert of the post office,
- an expert of the general committee of insurance
- an expert specialized in combating financial infringements

Members of the Commission are appointed by decree for a three-year term.

These members exercise their missions in complete independence towards their administrations.

The commission is made up of an orientation committee, an operational cell and a general secretariat. The operating modalities of the commission are set by decree.

**Article 80** (as modified by law n°2009-65 of August 12, 2009): The Tunisian Commission for Financial Analysis is notably responsible for the following missions:

- setting general guidelines liable to help persons provided for in article 74 of the current law to detect and declare suspicious operations and transactions,

- collecting and processing declarations regarding suspicious operations and transactions and issue a notification about follow up,
- contributing to the study of programs that will be implemented to combat illegal financial channels and face up to terrorist financing and money laundering,
- taking part to research, training and study activities and in general to any activity having a link with its intervention field,
- providing representation of different department and bodies concerned by this field at the national and international level and facilitating communication between them

**Article 81** (as modified by law n°2009-65 of August 12, 2009): The Tunisian Commission for Financial Analysis can in the carrying out of its mission appeal to the assistance of administrative authorities responsible for the application of the law and to persons provided for in article 74 of the current law. These are required to convey the necessary information for the analysis of operations and transactions subject of declarations collected in legal delays.

Professional secrecy is not in this case opposable to the Tunisian Commission for Financial Analysis and depositaries of the aforesaid secrecy can not be charged with its disclosure.

**Article 82** : The Tunisian Commission for Financial analysis can also appeal to its foreign counterparts with which they are committed by agreements in order to exchange financial data likely to ensure a quick warning regarding the infringements targeted by the current law and avoid their carrying out.

The cooperation provided for in the previous paragraph is subordinated to the fact that foreign counterparts departments be, pursuant to the legislation governing them, subject to professional secrecy and the obligation of not conveying the disseminated data to ends other than combating and repressing infringements provided for by the current law.

**Article 83** : The Tunisian Commission for Financial Analysis is required to set a database containing information on natural and legal persons suspected of having links with terrorist financing and money laundering operations, declarations regarding collected suspicious operations or transactions, request of information from authorities responsible for law application or from foreign counterparts with conveyed reply (as modified by law n°2009-65 of August 12, 2009).

Moreover, it must keep during a minimum period of ten years starting from the date of closing its works, any information or document kept in a material or

electronic file justifying the reply to declarations that it had collected to consult them if necessary.

**Article 84** : The members of the Tunisian Commission for Financial Analysis, their fellow workers and any other worker called in pursuance of their duties to get access to files subject of declarations on suspicious or unusual transactions are required to professional secrecy. They can not, even after leaving their duties, use the information that they knew to ends other than those required by the task assigned to them.

## **Sub-Section II**

### **Analysis mechanisms of suspected transactions and operations**

**Article 85** (as modified by law n°2009-65 of August 12, 2009): Persons targeted in article 74 of the current law are required to make a written report to the Tunisian Commission for Financial Analysis on any suspected operation or transaction likely to be linked directly or indirectly to the proceed of illegal acts termed offence or crime by the law or to the financing of persons, organizations or activities linked with terrorist financing, as well as any attempt of these transactions or operations.

The obligation of reporting is required even after the carrying out of the transaction or operation if there are new information liable to link the aforesaid operation or transaction directly or indirectly to the proceed of illegal acts termed offence or crime by the law or to the financing of persons, organizations or activities linked with terrorist financing.

**Article 86** (as modified by law n°2009-65 of August 12, 2009): Persons targeted in article 74 of the current law must pay special attention to all complex, unusual large transactions and operations and unusual transactions and operations, which have no apparent economic or visible lawful purpose.

They must consider, as far as possible, the background and purpose of such operations and transactions, set forth their findings in writing and keep them available for the authorities of supervision and for auditors.

**Article 87**: The Tunisian Commission for Financial Analysis can order the author of the declaration to freeze temporarily the funds subject of the declaration and deposit them in a suspense account.



The author of the declaration must refrain from informing the concerned individual of the declaration and the resulting measures.

**Article 88:** Should analysis not confirm suspicions linked to the operation or transaction matter of the declaration, the Tunisian Commission for Financial Analysis must advise without delays the author of the declaration. Should the Tunisian Commission of Financial Analysis not convey the outcome of its works in the delay provided for in provision 91 of the current law its silence is worth authorizing the lift of freezing.

**Article 89:** Should the analysis confirm suspicions linked to the operation or transaction matter of the declaration, the Tunisian Commission for Financial Analysis conveys without delay to the public prosecutor in Tunis its conclusions and any related document it possesses in order to assess the reply to convey and inform the author of the declaration.

The public prosecutor must decide on the reply to convey no later than five days following the reception of the denunciation and advise his decision to the author of the declaration and the Tunisian Commission for Financial Analysis (*as modified by law n°2009-65 of August 12, 2009*).

**Article 90 :** Proceedings, preliminary investigation and trial in the field of money laundering infringement come under the competence of the court of first instance in Tunis. Modalities governing terrorist infringements in pursuance of the current law are applicable to it.

**Article 91** (*as modified by law n°2009-65 of August 12, 2009*): The Tunisian Commission for Financial Analysis is required to close its works at the earliest convenience. However, the Commission must, when it rules temporary freezing of the funds subject to report, close its works within a delay of five days starting from the date of ordering the freezing, and advise the reporting person of the findings of its works.

**Article 92:** The decisions made by the Tunisian Commission for Financial Analysis must be justified, they are not liable to any appeal.

**Article 93:** The public prosecutor's decision of considering the matter closed gives rise to the immediate lifting of the freezing of assets matter of the declaration.

Should the public prosecutor decide an inquiry, the freezing is maintained unless otherwise decided by the judicial authority responsible for the case.

**Article 94** (as modified by law n°2009-65 of August 12, 2009): The public prosecutor to the court of appeal in Tunis can, notwithstanding any suspicious transaction or operation report, demand that the president of the court of first instance rules a freezing of assets belonging to individuals or businesses suspected to be linked to individuals, organizations or activities linked to infringements targeted by the current law even if they are not committed on the territory of the republic.

**Article 95:** The decision of freezing provided for in the previous article is made by the president of the court first instance in Tunis pursuant to the procedure of orders on petitions.

**Article 96:** The public prosecutor to the court of appeal in Tunis is required to convey immediately the order of freezing applying the previous article and any other document he possesses to the prosecutor of the Republic in Tunis to rule that he is advised of the order.

The public prosecutor to the court of appeal in Tunis conveys a copy of the order of freezing to the Tunisian Commission for financial analysis and advises it of the preliminary investigation against the concerned individual.

The asset matter of the order targeted above remain frozen unless otherwise decided by the judicial authority responsible for the case.

**Article 97:** Anyone who refrains deliberately to comply with the obligation of declaration in the meaning of the provisions of article 85 of the current law, is sentenced to one to five years imprisonment and fined fifty thousand dinars.

**Article 98 :** Damage or penalty liability action can't be taken against any individual or business which would have carried out in good faith the duty of declaration provided for in article 85 of the current law.

Damage or penalty liability action can't also be taken against the Tunisian Commission for Financial Analysis on the occasion of carrying out its assigned mission.

**Article 99 :** Anyone who refrains from complying with the obligation of declaration provided for in the first paragraph of article 76 of the current law, is sentenced one month to five years imprisonment and fined three thousand dinars to three hundred thousands dinars.

The fine can be increased five times the value of the funds of the infringement.

**Article 100 :** Fines provided for in the previous article are applied to authorized intermediaries and foreign exchange assignees who refrain from complying

with obligations provided for in the second paragraph of article 76 of the current law.

**Article 101** (as modified by law n°2009-65 of August 12, 2009): Persons carrying out tasks targeted in article 74 of the current law, jewelers and dealers in precious stones and any others precious items, managers, representatives and officers of legal persons, whose personal liability for violation or non respect of the provisions of articles 69, 70, 72, third paragraph of article 72 B, articles 73, 75, 84, 86, second paragraph of article 87 and articles 96 of the current law, is proved are sentenced to six months to three years imprisonment and fined five thousand dinars to ten thousand dinars.

The sentence of imprisonment is three months to two years and the fine is one thousand dinars to five thousand dinars, where a business relationship is established or continued or an occasional transaction or operation, which value is equal or higher than a determined amount to be set by bye law of the Minister of Finance or that is effected through wire transfer, is carried out without complying with the obligations of:

- verifying, using official documents and any other document from reliable and independent source, the identity of their permanent or occasional customers and recording all necessary data allowing their identification,
- verifying, using official documents and any other document from reliable and independent source, the identity of the beneficiary of the operation or transaction, the quality of the person acting on his behalf, the constitution of the legal person, its legal form, address and the identity of its managers and those having the power to bind the legal person,
- obtaining information on the purpose and nature of the business relationship,
- refraining from opening an account, establishing or continuing a business relationship where related data are obviously fictitious or insufficient.

This doesn't avoid proceedings against legal persons, which incur a fine equal to five times the amount of the fine provided for in the initial infringement.

**Article 102** : Trials passing the liquidation or seizure of assets when applying the current law can no in any case indermine third party rights acquired honestly.

**Article 103** : provisions of article 52 A of the penal code, the third paragraph of article 305, the second paragraph of article 313 of the penal code and article 30 of law 92-52 of May 18, 1992 regarding drugs are abrogated.

The current law will be published in the official gazette of the Republic of Tunisia and executed as a state law.

**Article 4 of law n°2009-65 of August 12, 2009:** Persons subject to due diligence must within a period of three years from the date the current law becomes in force, update files of their customers existing before the current law is passed, in order to ensure compliance to its provisions.