

Approved by the Supervisory Board of  
“International Bank of Azerbaijan” OJSC:  
Protocol № 5; Decision № 3;  
Date: 21 October 2011

## **S T A T U T E**

### **on Supervision System of “International Bank of Azerbaijan” OJSC over the fight against the legalization of criminally obtained funds and other property and the financing of terrorism**

#### **1. General provisions**

- 1.1. This Statute has been elaborated on the basis of the Law of the Republic of Azerbaijan “On banks”, Law of the Republic of Azerbaijan “On the prevention of the legalization of criminally obtained funds and other property and the financing of terrorism”, Regulation of Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (hereinafter referred to as the FMS) “On establishment of the internal supervision system by monitoring entities and other persons involved in monitoring who are the legal persons for prevention of legalization of criminally obtained funds or other property and the financing of terrorism”, as well as FATF (Financial Action Task Force) recommendations, principles of Basel Committee on Banking Supervision and “Wolfsberg AML Principles” widely used in banking practice.
- 1.2. This Statute shall set out organization of the internal supervision activity of the “International Bank of Azerbaijan” OJSC (hereinafter referred to as the Bank) in the field of prevention of legalization of criminally obtained funds or other property and the financing of terrorism, as well as terms and conditions for establishment of the Bank’s Supervision System with a view to ensure audit mechanism assessing the efficiency of application of supervision regulations.
- 1.3. Supervision System shall mean an ensuring of Bank’s documentation, accurate identification and confidentiality, application of training programmes, detection of

transactions of high interest, enforcement of measures related to appointment of responsible persons, as well as elaboration of other internal regulations.

## **2. Used definitions**

- 2.1. **criminally obtained funds or other property** shall mean funds of every kind, property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, legal documents evidencing the title to such property, obtained directly or indirectly through the commission of an offence provided by the Criminal Code of the Republic of Azerbaijan;
- 2.2. **legalization of funds or other property, knowing that such funds or other property is the proceeds of crime** shall mean conversion or transfer of funds or other property, knowing that such funds or other property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the funds or other property or of helping any person who is involved in the commission of any crime to evade the legal consequences of his or her action, or accomplishment of financial transactions or other deals for the same purposes by using funds or other property, knowing that such funds or other property is the proceeds of crime; or the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to funds or other property, knowing that such funds or other property is the proceeds of crime;
- 2.3. **transactions with funds or other property** shall mean transactions aimed at acquisition, exercising, change or termination of civil rights to the funds or other property as a result of transactions with them;
- 2.4. **financing of terrorism** shall mean wilful provision or collection funds or other property by any means, in full or in part, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in order to finance the preparation, organization or carrying out by a person or by a group (organization, community) of persons of an act which constitutes a crime within the scope and as defined in the articles 102, 214, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan, or by an individual terrorist or by a terrorist organization;
- 2.5. **customer** shall mean any person using the services which concern the transactions with the funds or other property with the Bank;

- 2.6. **beneficial owner** shall mean final natural or legal person which earns economic or any other benefit as a result of transactions related to funds and other property;
- 2.7. **identification** shall mean determination of identity, legal capacity, power of representation and business activity of the client, beneficial owner and representative;
- 2.8. **verification** shall mean determination of validity of ID information obtained about the client, beneficial owner and authorized representative through reliable sources;
- 2.9. **high risk customer** shall mean a person registered in the states or territories, list of which are determined by the FMS, a person representing political importance, a person ordering to enforce a transaction meeting criteria provided in paragraph 4 of this Statute, a person in previously presented ID information of whom false data is detected, a person whose acting on his/her own behalf or on behalf of third person causes suspicion, a persons whose transaction is suspected in relation in any form with legalization of criminally obtained funds or other property and financing of terrorism;
- 2.10. **medium risk customer** shall mean legal persons conducting basic transactions in cash funds; a person using bank service with the amount exceeding fifteen thousand conventional financial units through the international money transfer systems; a person conducting transactions in the total amount of less than fifteen thousand conventional financial units on permanent and recurring basis; lawyers, accountants and brokers acting of behalf of third person;
- 2.11. **low risk customers** shall mean banks, state and municipal authorities, persons who gained serious trust in local and foreign markets, other persons who are not included into the category of high and medium risk customers;
- 2.12. **AML/CFT** shall mean fight against legalization of criminally obtained funds or other property and financing of terrorism.

### **3. Principles of the Supervision System**

- 3.1. The Bank shall be responsible for arrangement of enforcement of AML/CFT measures.
- 3.2. The Bank shall ensure confidentiality of internal documents (information) in the form and terms provided in the legislation.

- 3.3. The Bank shall ensure establishment of centralized intrabank records allowing to identify customers, persons in favor of which transactions are conducted, persons acting on behalf of third person and transactions.
- 3.4. The Bank shall ensure confidentiality of information about bank accounts, deposits and transactions of customers of the Bank.
- 3.5. The Bank shall use a questioning method for identification and verification of its customers.
- 3.6. The documents allowing to identify and verify the customers should be valid on the moment of their submission.
- 3.7. In order to identify and verify natural persons who do not deal with individual business activity, Bank officer, first of all, may question required information on the basis of document certifying his/her identity subject to Annex 1 of this Statute (copy of document certifying the identity should be retained in the Bank). Where representative of the customer acts on his/her behalf, Bank officer shall examine power of attorney formalized in the form provided in the legislation and other relevant documents, as well as powers of the representative in order to identify him/her.
- 3.8. In order to identify and verify natural persons dealing with individual business activity, Bank officer may question required information on the basis of document certifying his/her identity and, in addition, certificate issued by the tax authority subject to Annex 1 of this Statute. Copy of document certifying the identity and original certificate issued by the relevant tax authority or its notarized copy shall be retained in the Bank.
- 3.9. In order to identify and verify legal persons, Bank officer may question required information on the basis of constituent instruments and state registration documents as well as tax registration form, statistical records and notarized sheet of persons entitled to sign documents subject to Annex 2 of this Statute.
- 3.10. The bank officer shall pay special attention to the following in the constituent instruments and state registration documents:
- compliance of constituent instruments and state registration documents to the requirements of legislation (including amendments and modifications);
  - existence of founders (for participation share) having a possibility to influence to decision-making of their governing bodies;
  - structure and powers of governing bodies.
- 3.11. In the course of establishment of interbank correspondent relations, the Bank shall send a request to a correspondent and clarify AML/CFT measures taken by the correspondent, including identification and verification of its customers.

- 3.12. Where correspondent of the Bank fails to take AML/CFT measures, the Bank shall not establish correspondent relations.
- 3.13. In order to identify and verify correspondent in the course of establishment of correspondent relations, Bank officer may question required information subject to Annex 3 of this Statute.
- 3.14. Non-resident wishing to open correspondent account may require the documents reflecting the following information in addition to obligatory required documents in order to clarify activity of the bank:
- 3.14.1. information about the leadership of the bank;
- 3.14.2. legal address of the bank;
- 3.14.3. information about principal directions of the activity;
- 3.14.4. information about internal AML/CFT procedures;
- 3.14.5. purpose of the account and, in exceptional cases, information about third persons which will use the account;
- 3.14.6. type of the account and information about approximate amounts of transactions to be conducted.
- 3.15. The Bank shall take measures to update identification data at least once in three years for low risk customers, once a year for medium risk customers and once in 6 months for high risk customers.
- 3.16. Where the Bank reveals a high risk of legalization of criminally obtained funds or other property and financing of terrorism, a special attention shall be paid to the following criteria of transactions conducted with regard to customers' accounts:
- types of activity, i.e. existence of high risk of legalization of criminally obtained funds or other property and financing of terrorism in the activity carried out by the customer;
  - geographical factors, i.e. relevance of conducted transaction to the regions with high risk of legalization of criminally obtained funds or other property and financing of terrorism;
  - types of banking transactions conducted by the customer, i.e. existence of high risk in banking transaction used for legalization of criminally obtained funds or other property and financing of terrorism.

#### **4. Features showing possibilities of legalization of criminally obtained funds or other property and financing of terrorism**

- 4.1. In addition to transactions in the Bank recommended by the FMS's Regulation "On establishment of the internal supervision system by monitoring entities and other

persons involved in monitoring who are the legal persons for prevention of legalization of criminally obtained funds or other property and the financing of terrorism”, a special attention shall be paid to the following features, including transactions with funds or other property:

- 4.1.1 Transactions of the customer do not make economic sense and do not correspond to the nature of customer’s activity, as well as are not aimed at liquidity management or risk insurance;
- 4.1.2 Unjustified rush in enforcement of transaction insisted by the customer and use of account as a transit account;
- 4.1.3 Absence of information about the customer (legal person, including credit institution) in official survey publications, as well as failure to communicate with the customer through the address and phone indicated by the customer;
- 4.1.4 Failure to identify customer’s counteragents;
- 4.1.5 Signs proving the possibility of legalization of criminally obtained funds or other property and the financing of terrorism in the course of cash fund transactions and fund transfers:
  - Transfer of payments obtained in considerable amount from natural persons to the customer’s account;
  - Transfer of small payments entered to the customers’ accounts to other person having no connection with those amounts;
  - Transfer of funds to foreign anonymous accounts, entry of funds to anonymous accounts;
  - Failure to conduct transactions in the account of legal person within the period exceeding six months and subsequent transfer of funds to that account and their draw out in cash;
  - Unjustified transfer of funds from the account of legal person to its account in other credit institution.
- 4.1.6 Signs certifying a possibility of legalization of criminally obtained funds or other property and the financing of terrorism in the course of transactions conducted subject to loan agreement:
  - Non-compliance of information indicated in the application written by the customer in order to receive a loan with the information and documents obtained in the course of negotiations held with representative of the customer;
  - Repayment of loan by the customer at the expense of unknown funds;

- Where business terms of the customer and information about the customer obtained by the Bank in the course of payment of outstanding debts arising from the loan agreement does not allow to identify the source financing loan debts.

4.1.7 Signs certifying a possibility of legalization of criminally obtained funds or other property and the financing of terrorism in the course of settlements made through internet banking and plastic cards:

- regular transfer of funds by the customer to one or more counteragents for purchase (sale) of goods (works, services) through the Internet with the use of credit or debit cards and submission of the right to write off the amounts from the account of the customer;
- regular transfer of funds entering to their accounts from the credit (debit) cards of customers of the credit institutions by the customers offering services in the field of Internet trade;
- regular draw out of cash funds by the holders of credit or debit cards through the Bank's cash desk or ATMs (on the basis of data transmitted through the institution implementing the processing of plastic cards). There shall be an exception for draw out of funds entered to the account of the employee by the employer and of funds paid in various forms to hired employees.

4.1.8. Signs certifying a possibility of legalization of criminally obtained funds or other property and the financing of terrorism in the course of transactions with the securities:

- giving of instructions to the customers to purchase or sell securities and other financial instruments for prices considerably differing from the current market prices for similar concurrent transactions;
- multiple sale of financial instrument and its subsequent purchase as a result of transaction with the same party;
- single sale (purchase), by the customer, of financial instruments not issued to the stock market for the price considerably differing from the market price, provided that the customer is not a professional stock market participant and securities are not given to the customer for repayment of outstanding debts of counteragent before the customer.

## **5. Risk assessment criteria of legalization of criminally obtained funds or other property and financing of terrorism**

- 5.1. The Bank shall pay special attention to the following business terms, geographical factors and banking transactions accompanied with the high risk of legalization of criminally obtained funds or other property and the financing of terrorism:
- 5.1.1. activity of legal person, which is not deemed to be a credit institution, dealing with transfer of funds, making of payments in cash by bills and collection of funds;
  - 5.1.2. activity of legal persons registered in offshore territories, including derivative associations of credit institutions;
  - 5.1.3. enforcement of foreign economic transactions;
  - 5.1.4. Tourism activity;
  - 5.1.5. Trade of precious metals, stones, as well as trade of jewelry composed of precious metals and stones (particularly its exportation);
  - 5.1.6. Trade of immovable property;
  - 5.1.7. Regions with the high risk of legalization of criminally obtained funds or other property and the financing of terrorism (geographical factor);
  - 5.1.8. Banking transactions providing the customers with the possibility of simple conversion of cashless funds into cash funds or quick transfer of funds from one country to another.
- 5.2. Where the Bank detects unusual or suspicious transaction conducted by the customer, the Bank shall draw up a document about that transaction on the basis of the following information and submit it to the director of structural unit:
- transaction to be mandatory supervised;
  - unusual transaction;
  - transaction amount;
  - information about a person elaborating the information;
  - information about officer elaborating the information;
  - signature of officer elaborating the information;
  - date of elaboration of information;
  - signature of unit director.
- 5.3.. While detecting an unusual transaction, the Bank officer may request the customer to submit required explanation expounding economic sense of transaction, including additional information.
- 5.4. The Bank shall arrange training for its officers with regard to their positions in the field of the following directions in order to prevent legalization of criminally obtained funds or other property and the financing of terrorism:



- acquaintance of officers with guidelines in the field of counteraction against legalization of criminally obtained funds or other property and the financing of terrorism and other acts;
  - acquaintance of officers with internal supervision regulations approved by credit institution in order to counteract against legalization of criminally obtained funds or other property and the financing of terrorism;
  - practical studies for realization of internal supervision regulations, including their enforcement programmes in order to counteract against legalization of criminally obtained funds or other property and the financing of terrorism.
- 5.5. The Bank shall regularly, not less than once a year, arrange training in the field of issues of counteraction against legalization of criminally obtained funds or other property and the financing of terrorism.

## **6. Organizational matters**

- 6.1. For AML/CFT purposes, director of Department of internal supervision and monitoring shall be appointed as a responsible person on the basis of order issued by the chairman of Board of Directors of the Bank in order to carry out internal supervision in the Bank as well as elaborate other internal organizational measures.
- 6.2. For AML/CFT purposes, responsible person shall be appointed by the directors of structural units in order to carry out internal supervision in structural units of the Bank as well as elaborate other internal organizational measures.
- 6.3. Responsible person shall submit reports to the leadership of the Bank with the periods provided.
- 6.4. For AML/CFT purposes, responsible person shall carry out the following duties:
- For AML/CFT purposes, organization of supervision in accordance with FMS Regulation and this Statute;
  - For AML/CFT purposes, consultations to Bank officers in the field of assessment of risks of legalization of criminally obtained funds or other property and the financing of terrorism, including those in the course of internal supervision and issues arising in the course of identification and verification of the customers of the Bank;
- 6.5. In the course of enforcement of his/her duties, responsible person shall be entitled to:
- require necessary information and documents from directors and employees of all structural units of the Bank;

- order temporary suspension of transaction conducted with a view to obtain additional information about the customer and transaction or examine existing information;
- 6.6. In the course of enforcement of his/her duties, responsible person shall be obliged to:
- ensure storage and return of documents obtained from relevant structural units of the Bank;
  - ensure confidentiality of documents obtained in the course of enforcement of his/her duties.
- 6.7. Where all officers of the Bank detect the facts of breach of normative legal documents in the field of AML/CFT in the course of enforcement of transactions with the customers, they shall be obliged to immediately inform the director of their structural unit in writing thereof and director of structural unit shall be obliged to inform responsible person thereof.
- 6.8. Department of internal audit of the Bank shall carry out an assessment of adequacy of internal supervision systems applied by the Bank in the field of AML/CFT.
- 6.9. The Bank may take the following measures in order to identify unusual or suspicious activity:
- transaction monitoring;
  - analysis of relations of customers (meetings, visits or other measures);
  - analysis of information about the scope of customer;
  - submission of information to the relevant state bodies in cases provided in the legislation of the Republic of Azerbaijan.
- 6.10. While conducting the transfers, responsible person of the Bank shall examine the parties receiving and sending the funds taking into account FMS's latest amendments and modifications.

## **7. Final provisions**

- 7.1. In connection with the effectiveness of this Statute, the Statute "On Supervision System of the "International Bank of Azerbaijan" OJSC in the field of legalization of criminally obtained funds or other property and the financing of terrorism" approved by the decision of the Supervisory Board of the Bank dated 19 January 2007 № 3 (Protocol № 43) shall be null and void.
- 7.2. Directors and employees of the relevant structural units of the Bank shall bear liability as provided in the legislation of the Republic of Azerbaijan for due compliance with the requirements of this Statute.

- 7.3. Procedure of writing of letters and their distribution shall be regulated in accordance with the “Manual for Records Management in the International Bank of Azerbaijan”.
- 7.4. Methodological instructions and regulations may be developed and approved by the chairman of the Board of Directors of the Bank in order to improve this Statute, explain and enforce its separate provisions.

**Application form of natural person**

1. Surname, name and patronymic;
2. Place and date of birth (day, month and year);
3. Citizenship;
4. Registered address;
5. Actual place of residence;
6. Information about the document certifying the identity (name, series, number, name of issuing authority, date of issue and date of expiry);
7. Visa information;
8. Number of individual business certificate, date of issue and name of issuing authority, Tax Payer Identification Number, statistical registration and relevant codes, type of business activity);
9. Place of employment, salary or income;
10. Accounts in other banks;
11. Loans obtained in other banks and their current status;
12. Share in capital stock of other legal persons;
13. Charging lien and load of property with the pledge;
14. Accounts in banks registered outside the Republic of Azerbaijan;
15. Contact phone and fax numbers;
16. E-mail address;
17. Title, name, surname and patronymic of officer approving the opening of bank account;
18. Date of opening of bank account;
19. Date of completion of customer's application form;
20. Number and total amount of transactions conducted with regard to bank account (quarterly);
21. Brief description of transactions.

**Application form of legal persons, their branches,  
representative offices and other separate units**

1. Name and organizational and legal form of the company;
2. Actual postal address of its location;
3. Legal address;
4. Contact phone and fax numbers;
5. E-mail address;
6. Date and number of state registration;
7. Tax Payer Identification Number;
8. Statistical registration and relevant codes;
9. Information about a person placing a deposit in favor of legal person opening a bank account (where legal person fails to open an account itself) for legal person;
10. Risk level;
11. Accounts in other banks;
12. Loans obtained in other banks and their current status;
13. Share in capital stock of other legal persons;
14. Charging lien and load of property with the pledge;
15. Accounts in banks registered outside the Republic of Azerbaijan;
16. Information about persons having considerable share in capital stock of the customer which is a legal person as well as leadership of legal person;
17. Date of opening of initial bank account;
18. Information about officer rendering services to the bank account;
19. Title, name, surname and patronymic of officer approving the opening of bank account;
20. Date of completion of customer's application form;
21. Information about top officials, founders as well as founders (with the share) able to influence to decision making by their governing bodies;
22. Information about license for enforcement of type of activity requiring special permission (number, date of the license, issuing authority, including details of goods manufactured, works done, services rendered);
23. Number and total amount of transactions conducted with regard to bank account;
24. Sources, number and total amount of transactions with funds (quarterly);
25. Brief description of transactions.

**Application form of banks (credit institutions) in the  
course of establishment of correspondent relations**

1. Name of credit institutions (including the name in English) and its organizational and legal form;
2. Date and number of state registration;
3. Date and number of license granted for enforcement of banking transactions, including description of transactions enforcement of which is permitted;
4. Legal address;
5. Actual postal address of its location;
6. Contact phone and fax numbers;
7. E-mail address;
8. Bank identification number;
9. Tax Payer Identification Number;
10. Statistical registration and relevant form codes;
11. Objectives and codes of opening of correspondent accounts;
12. Correspondent account curator;
13. Title, name, surname and patronymic of officer approving the opening of bank account;
14. Date of opening of the account;
15. Date of completion of customer's application form;
16. Information about top officials, founders as well as founders (with the share) able to influence to decision making by their governing bodies;
17. Name of auditing company;
18. List of shareholders, their share in the joint stock company, in case of participation of the customer in that company;
19. List of services rendered;
20. Influence to foreign and local bank services, past financial problems. Correspondent relations with other credit institutions;
21. Number and total amount of transactions conducted with regard to correspondent account (quarterly);
22. Brief description of transactions.