

REPUBLIC OF ARMENIA

LAW

ON BANK SECRECY*

ARTICLE 1. Subject of the Law

This Law shall define information constituting bank secrecy, legal grounds thereof and procedures for publishing, maintaining and providing such information, legal rights and obligations of persons participating in relation to bank secrecy as well as liability for violations of provisions of this Law.

ARTICLE 2. Bank Secrecy Legislation

Relations to bank secrecy shall be governed by the present Law, other laws and, if prescribed by law, other normative regulations.

ARTICLE 3. Scope of the Law

The provisions of this Law shall apply to the Central Bank of the Republic of Armenia (hereinafter referred to as the Central Bank), banks operating in the territory of the Republic of Armenia, including subsidiaries (hereinafter referred to as branches) and representatives (hereinafter referred to as banks) thereof and of foreign banks operating in the territory of the Republic of Armenia, as well as those natural and legal persons and entities without legal status (hereinafter referred as to persons) who have been provided with or have been informed about information constituting, by this Law, bank secrecy. Unless otherwise is provided for by the clause, the term “bank” in the context of this Law shall include the Central Bank also with respect to liability prescribed therein.

This Law shall apply to banks in liquidation unless otherwise is provided for by law.

(Article 3 is amended according to AL-228-N, 15.11.05)

ARTICLE 4. Bank Secrecy

1. Subject to bank secrecy shall be information that becomes known to the bank in the course of its official activity with its customer, such as information on customer's accounts, transactions made by instruction or in favor of the customer, as well as the

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23.12.97, LA-164 (ARDB 1997/29, 25.12.97),
22.06.02, LA-367-S (ARDB 2004/23(198), 03.07.04),
30.03.04, LA-48-S (ARDB 2004/21(320), 14.04.04),
21.12.004, LA-146-S (ARDB 2004/72(371), 28.12.04),
11.01.05, LA-14-S (ARDB 2005/5(377), 21.01.05),
13.12.05, LA-228-S (ARDB 2005/79(451), 21.12.05),
LA-113-S, (ARDB 2007(542), 04.04.07).

customer's trade secret, facts relating to any projects or plans of its activity, invention, sample products and any other information which the customer has intended to keep in secret and that the bank becomes aware or may have become aware of such intention.

2. Information on banks and their customers with respect to supervision thereof prescribed by the first paragraph of this Article that has come to the Central Bank's attention shall be subject to bank secrecy. Banks shall be deemed as the customers of the Central Bank.

ARTICLE 5. Third Parties

In the meaning of this Law third parties shall be considered to be all other persons excepting the given bank and its customers. The Central Bank, banks and credit organizations defined by the Armenian law "On Credit Organizations", Deposit Guarantee Fund in cases defined by the Armenian law "On Guarantee of Remuneration of Bank Deposits of Physical Entities" shall not be regarded as third parties.

(Article 5 is amended according to AL-367-N, 29.05.02; AL-146-N, 24.11.04)

ARTICLE 6. Making Bank Secrecy Public

1. Bank secrecy shall be deemed disclosed when any information constituting bank secrecy is made publicly available or otherwise disseminated in its oral or written expression in mass media or otherwise, when it becomes known to a third party or parties, or efforts have been directly or indirectly made to enable the parties to gain such information as it could be the case of permitting, not preventing or, in the result of respective secrecy duties violations, making possible the disclosure of secrecy.

2. Information or provision of bank secrecy by the bank to any persons or organizations who are engaged in providing legal, accounting, other advisory or representation services or carrying out some specific jobs for the bank, provided that it is necessary for providing such services or carrying out such jobs and that such persons or organizations are obliged to refrain themselves from carrying out activities or non-activities prescribed by Article 8 of this Law, shall not be regarded as disclosure of bank secrecy.

3. Once a quarter the Central Bank shall publish names of negligent debtors holding major liabilities to banks and (or) a bank in press and (or) other mass media. For the purpose of this point a major liability is a liability amounting 20 million drams of the Republic of Armenia, or an equivalent to it and over. The equivalency of a liability in foreign currency to dram liability shall be and calculated using the average exchange rate of exchange markets, determined by the Central Bank as of the last business day of the previous quarter. A negligent debtor is a party holding its contractual obligations overdue for 180 and more days. Publishing of information provided for in this Article is not deemed as illegal publication of bank secrecy.

4. The publication of decisions about the application of the Central Bank's sanctions towards a bank or bank managers, which have broken the laws or normative regulations, shall not be deemed as an illegal disclosure of bank secrecy. When publishing decisions about sanctions it is prohibited to specify the names of bank customers.

(Article 6 is amended according to AL-48-N, 03.03.04; AL-228-N, 15.11.05, AL-113-S, 04.04.07)

ARTICLE 7. Prohibiting Disclosure of Bank secrecy

1. Bank secrecy shall be prohibitive to make public by a person, organization, public authority or official who have been entrusted in keeping such information, but have become informed during their service or office activity or have been provided, by this Law, with such information.

2. This Article shall not apply to the bank customers to the extent such information refers only to them, as well as the banks to the extent such information is disclosed to the Central Bank under its supervision authority, as well as to the extent of information disclosed to the Guarantee Deposit Fund under the Armenian law “On Guarantee of Remuneration of Bank Deposits of Physical Entities”.

3. With respect to certain customer, facts or any information constituting bank secrecy may be subject to publication if such customer permits doing that in a written form or makes it verbally public at the court. Upon such permission, information exclusively concerning to the customer may be published pursuant to Article 14 of this Law.

(Article 7 is amended according to AL-146-N, 24.11.04)

ARTICLE 8. Maintaining Bank secrecy

1. Banks shall guarantee the maintenance of bank secrecy.

2. Bank managers and employees acting or formerly acting for the bank, as well as persons and organizations providing or formerly providing services (jobs) to the bank shall be prohibited to make public any information containing bank secrecy that has been entrusted to them or has come to their attention due to their service or job as well as prohibited to make use of it in personal or third parties interest, by promoting directly or indirectly the use of such information by third parties as it could be the case of permitting, not preventing or, by violating secrecy maintenance duties, making possible the disclosure of such secrecy.

3. Banks shall undertake safety measures and set administrative rulings, which will ensure decent maintenance of bank secrecy.

4. A bank may disclose bank secrecy related to the customer at the court, provided it is necessary for protecting rights and lawful interests thereof, if the dispute has been arisen between the bank and the given customer. In such case, the court proceeding, solicited by either the bank or the customer, may be held closed-door.

ARTICLE 10. Provision of Information Constituting Bank secrecy to the Criminal Prosecution Authorities

1. Banks shall provide, by this Law, the criminal prosecution authorities with confidential information concerning criminally charged persons only in case of court decision, passed pursuant to this Law and the Code of Criminal Procedures of the Republic of Armenia.

2. A bank, upon receipt of the court decision, shall be bound to provide, within two bank days, information and documentation indicated and required by the court decision in a closed and sealed envelope to the criminal prosecution authorities or an authorized person thereof. The bank is prohibited from informing its customers about the fact of providing the criminal prosecution authorities with confidential information.

3. Bank managers or employees shall not be interrogated for obtaining bank secrecy constituting information on the customers, except for the cases prescribed by Articles 11, 12 and 16 of this Law.

ARTICLE 11. Provision of Bank Secrecy Containing Information to the Court

1. Banks shall disclose and provide, by this Law, bank secrecy containing information on their customers as a party of civil and criminal action exclusively on a court decision passed pursuant to the Code of Civil Procedure or the Code of Criminal Procedure of the Republic of Armenia, as well as on a legal final judgment of court effected for impounding customer bank accounts.

2. Upon receipt of the court decision or judgment of court a bank shall be bound to provide, within two bank days, information and documentation indicated and required by the court decision or judgment of court in a closed and sealed envelope to the court or an authorized person thereof. In the meantime, the bank shall take necessary measures to inform its customers about the bank's obligations of obtaining the court decision or judgment, passed pursuant to the Code of Civil Procedure of the Republic of Armenia, and providing the confidential information.

The bank is prohibited from informing its customers about the bank's obligations of obtaining the court decision or judgment, passed pursuant to the Code of Criminal Procedure of the Republic of Armenia, and providing the confidential information.

ARTICLE 12. Provision of Information Constituting Bank Secrecy to the Customer's Heirs (Legal Successors)

1. Banks shall provide, by this Law, bank secrecy containing information referring to the customers to the heirs (successors) if the latter persons or the representatives thereof have submitted appropriate necessary documents verifying rights on such heritage (succession).

2. On receipt of the documents verifying heritage (succession) rights a bank shall, within five bank days, notify the applicants (persons or organizations), if the documents are insufficient, about incompleteness of the documents by indicating the lacking list of documents, and in case of completeness of the documents, it shall, within ten bank days, provide the applicants with a complete information and handle the appropriate documents that the bank possesses with respect to the customer.

3. Any refusal by the bank to submit the information and documents in the manner prescribed by this Article or failure to submit such information and documents in the fixed time frame may be appealed at the court. Any losses caused to the applicants because of such refusal or failure shall be subject to a complete compensation if the refusal has been groundless or the fixed dates have been violated through the bank's fault.

ARTICLE 13. Provision of Information Constituting Bank Secrecy to the Tax Authorities

Banks, pursuant to this Law, shall submit confidential bank information on their customers to the Tax Authorities of the RA only on the ground of a court decision taken

under the Code of Civil Procedure or Code of Criminal Procedure of the Republic of Armenia as well as on a lawful final judgment of court effected for impounding customer bank accounts.

ARTICLE 13¹. Provision of Information Constituting Bank secrecy in the frameworks of Combating the Legalization of Proceeds from Crime and Financing of Terrorism

The Central Bank shall strictly inform the criminal prosecutions authorities if the analysis of information defined by the Armenia law “On Combating the Legalization of Proceeds from Crime and Financing of Terrorism carried out by the Central Bank reveals that there has been a case or an attempt of legalization of proceeds from crime or of financing of terrorism.

(Article 13¹ is amended according to AL-14-N, 14.12.04)

ARTICLE 14. Bank Secrecy Circulation among Banks

1. With an aim to assure safety of their activities as well as ensure recoverability of loans and other investments thereof, banks may exchange or provide information on their customers, even if it represents bank secrecy, within each other or with credit organizations identified by the Armenian law “On Credit Organizations”.

2. The Central Bank, while executing its supervisory duties, shall be empowered to obtain and study information referring to the bank customers, even if it represents bank secrecy.

(Article 14 is amended according to AL-367-N, 29.05.02; AL-48-N, 03.03.04)

ARTICLE 15. Limitations for Provision of Bank Secrecy Constituting Information

1. As prescribed by Articles 10, 11, 12 and 13 of this Law a bank shall provide bank secrecy only on its customer; whereas, if in the bank documents, with respect to customers, names of other persons or organizations, terms of transactions and other similar data are indicated, such information, by this Article, shall be considered as information on the customer.

2. The bank, while providing, by this Law, information on its certain customer, shall have no right to provide any information about the persons and organizations who represent a contractual party of the customer’s agreements or other transactions unless otherwise is required by the provisions of this Law.

ARTICLE 16. Rejection of Requests for Providing Bank secrecy containing Information

Banks shall reject any request made for obtaining bank secrecy containing information if such request contradicts to the provisions of this Law.

ARTICLE 17. Obligations for Notifying Crimes

1. Bank managers shall be obliged to notify the Criminal Prosecution Authorities any imminent crimes or crimes already committed that are definitely known to them.

Moreover, information and documents containing bank secrecy shall be extended to the Criminal Prosecution Authorities in accordance with Article 10 and 11 of this Law. Bank employees shall be obliged to notify in a written form the bank managers or at least one of them any imminent crimes or crimes already committed that are definitely known to them.

2. No any provision of this Law shall mean that persons who found guilty in concealing any crime and criminally obtained funds or persons who failed to inform crimes are relieved from criminal liability under the Criminal Code of the RA.

ARTICLE 18. Liability for Violations of Provisions of this Law

Persons and organizations who found guilty in violations of Article 7, 8, 10, 11 and 15 of this Law shall be liable to completely recoup the bank customer for losses caused to him or her as a result of violations. Such violations shall carry a penalty of fine amounting from two thousand-fold up to ten thousand-fold minimum salary and may carry criminal liability. Penalty shall undergo legal enforcement.

ARTICLE 19. Transitional Provisions

Before renewal of the Code of Criminal Procedures, banks, by this Article 10, shall disclose bank secrecy containing information only with respect to criminally charged persons and upon a legal search sanction pursuant to the present Code of Criminal Procedures.

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