

Monetary and Financial Code, updated on 3-20-2006 (excerpts)**Article L511-34**

(Act No. 2003-706 of 1 August 2003 Art. 72 1 Official Journal of 2 August 2003)
 (Order No. 2004-1201 of 12 November 2004 Art. 5 Official Journal of 16 November 2004)

Companies established in France which form part of a financial group, a mixed group or a financial conglomerate which includes credit institutions or investment firms having their registered office in a European Community Member State or a European Economic Area Member State or a State in which the agreements referred to in Article L. 613-13 are applicable, are required, notwithstanding any provision to the contrary, to send companies in the same group having their registered office in one of those States:

1 The information relating to their financial situation which is necessary for organisation of the supervision of those credit institutions or investment firms on a consolidated basis and for their additional supervision;

2 The information which is necessary to combat money laundering and the financing of terrorism.

The latter information cannot be communicated to persons outside the group, with the exception of the proper authorities of the States referred to in the first paragraph. This exception does not extend to the authorities of States or territories whose legislation is recognised as inadequate or whose practises are considered to impede the fight against money laundering or the financing of terrorism by the international authority for consultation and coordination to combat money laundering, the list of which is updated by order of the Minister for the Economy.

Persons receiving such information are bound by professional secrecy under the terms and subject to the penalties provided for in Article L. 511-33 in respect of all information or documents which they might receive or hold.

The provisions of the present article shall not impede application of Act No. 78-17 of 6 January 1978 relating to information technology, computer records and freedom.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

[...]

Article L533-3-1

(inserted by Order No. 2003-706 of 1 August 2003 Article 72 2, Official Journal of 2 August 2003)

Companies established in France which belong to a group that includes one or more portfolio management companies having their registered office in a European Community Member State or another European Economic Area Member State or a State in which the agreements referred to in Article L. 621-21 are applicable, are required, notwithstanding any provision to the contrary, to send the companies in the same group the information which is necessary to organise the prevention of money laundering and the financing of terrorism. The provisions of the fourth paragraph of Article L. 511-34 are applicable to that information.

[...]

Article L562-2

(Act No. 2001-420 of 15 May 2001 Art. 34 I Official Journal of 16 May 2001)
 (Act No. 2004-130 of 11 February 2004 Art. 70 III Official Journal of 12 February 2004)
 (Act No. 2004-204 of 9 March 2004 Art. 33 VII 1 Official Journal of 10 March 2004 effective 1 October 2004)
 (Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The financial entities and the persons referred to in Article L. 562-1 are required, as stipulated by the present Part, to declare to the department instituted by Article L. 562-4:

1. Any sums entered in their books which might derive from drug trafficking, from fraud against the financial interests of the European Communities, from corruption or from organised crime, or which might contribute to the financing of terrorism;

2. Any transactions involving sums which might derive from drug trafficking, from fraud against the financial interests of the European Communities, from corruption or from organised crime, or which might contribute to the financing of terrorism.

The financial entities are also required to declare the following to the said department:

1. Any transaction in which the identity of the principal or the recipient remains dubious despite the checks carried out pursuant to Article L. 563-1;

2. Transactions executed by financial entities for their own account, or on behalf of third parties, with natural persons or legal entities, including their subsidiaries or establishments, acting as, or on behalf of, fiduciary funds or some other asset management instrument, when the identity of the grantors or the recipients is not known.

A decree may extend the obligation to declare stipulated in the first paragraph to own-account transactions or transactions on behalf of third parties executed by financial entities with natural persons or legal entities, including their subsidiaries or establishments, domiciled, registered or established in any of the States or territories whose legislation is recognised as inadequate or whose practises are considered to obstruct the fight against money laundering by the international authority for consultation and coordination in regard to the fight against money laundering. The said decree shall determine the minimum amount of the transactions subject to declaration.

[...]

Article L562-4

(Act No. 2001-420 of 15 May 2001 Art. 40 I and II Official Journal of 16 May 2001)
 (Act No. 2004-204 of 9 March 2004 Art. 33 VII 2, VIII Official Journal of 10 March 2004 effective 1 October 2004)
 (Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

A department, placed under the authority of the Minister for the Economy, receives the declaration referred to in Article L. 562-2. That department is composed of public agents of the State who are specially empowered by the Minister, as determined in a Conseil d'Etat decree. The said department collects and assembles all the information needed to establish the origin of the sums or the nature of the transactions which have been the subject of a declaration referred to in Article L. 562-2, the special inspection provided for in Article L. 563-3 or an investigation referred to in Article L. 563-5. As soon as the information collected reveals facts likely to relate to drug trafficking or organised crime or the financing of terrorism, it refers the matter to the Public Prosecutor, informing him, if applicable, that it has also been submitted to the customs administration with a view to it carrying out investigations to seek and establish the offence referred to in Article 415 of the

Customs Code.

The Public Prosecutor sends all final decisions handed down in cases which have been the subject of a declaration of suspicion pursuant to the present Part to the department referred to above.

Article L562-5

(Act No. 2001-420 of 15 May 2001 Art. 33 II, Art. 34 II Official Journal of 16 May 2001)

(Act No. 2004-204 of 9 March 2004 Art. 33 VII 2 Official Journal of 10 March 2004 effective 1 October 2004)

(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Without prejudice to the provisions of Article L. 562-6, the department instituted by Article L. 562-4 acknowledges receipt of the declaration within the time limit applicable to the transaction. It may oppose execution of the transaction. In which case, it is deferred for a maximum period of twelve hours.

If the acknowledgement of receipt is not accompanied by a stop notice, or if, upon expiry of the period stipulated in the stop notice, no decision of the presiding judge of the tribunal de grande instance of Paris or, if applicable, of the investigating judge, has reached the financial entity or the person referred to in Article L. 562-1 who made the declaration, the transaction may be executed.

If it has been impossible to stay their execution, the declaration relates to transactions that have already been executed. The same applies when it has emerged subsequent to execution of the transaction that the sums could be derived from drug trafficking, or organised crime or the financing of terrorism. The department instituted by Article L. 562-4 acknowledges receipt of such declarations.

The presiding judge of the tribunal de grande instance of Paris may, at the request of the department instituted by Article L. 562-4, and after consulting the Public Prosecutor of the tribunal de grande instance of Paris, extend the period indicated in the first paragraph of the present article or order the provisional sequestration of the funds, accounts or securities covered by the declaration. The Public Prosecutor of the tribunal de grande instance of Paris may submit a request having the same object. The order which grants the request is enforceable at once before any notice is served on the person concerned by the declaration.

[...]

Article L564-2

(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Without prejudice to specific restrictive measures taken pursuant to the regulations of the Council of the European Union and measures imposed by the judicial authorities, the Minister for the Economy may decide to freeze, for a renewable period of six months, some or all of any funds, financial instruments and economic resources held by the entities and persons referred to in Article L. 564-1 which belong to natural persons or legal entities who commit, or attempt to commit, terrorist acts, as defined in 4 of Article 1 of (EC) Council Regulation No. 2580/2001, of 27 December 2001, relating to the use of specific restrictive measures against certain persons and entities in connection with the fight against terrorism, or who facilitate or participate in such acts, and against legal entities which are held by such natural persons or legal entities or are directly or indirectly controlled by them within the meaning of 5 and 6 of the aforementioned Article 1 of (EC) Council Regulation No. 2580/2001, of 27 December 2001. The income produced by the aforementioned funds, instruments and resources is also frozen.

The "Freezing" of funds, financial instruments and economic resources held by the entities and persons referred to in Article L. 564-1 shall entail any action intended to prevent any movement, transfer or use of those funds, financial instruments and economic resources which would result in a change in their value, their location, their ownership or their nature, or any other change which could facilitate their use by the persons against whom the freezing order is applied.

The Minister for the Economy may also decide to prohibit any movement or transfer of funds, financial instruments and economic resources for the benefit of the natural persons or legal entities referred to in the first paragraph for a renewable period of six months.

Decisions of the Minister taken pursuant to the present article are published in the Official Journal and are enforceable with effect from their date of publication.

[...]