Part I

Preliminary

An Act to Criminalise Money Laundering and Terrorism Financing, to Establish Preventive Measures to Combat Money Laundering and Terrorism Financing, and to Recover the Proceeds of Crime, Instrumentalities and Terrorist Property

ENACTED by the [insert method/name] of [insert name of state]

> **Drafting note:** This title will have to be amended if only selected parts of these model legislative provisions are used, so that the title reflects the actual content.

Section 1 Extent, Commencement, Application and Interpretation

This Act makes provision for the criminalisation of money laundering and terrorism financing and related offences, for the recovery of proceeds and instrumentalities of crime, for preventive and investigative measures, for the establishment of the Financial Intelligence Unit (FIU), for the detection of cross-border transportation of cash and bearer negotiable instruments, for the implementation of international obligations in relation to financial sanctions, and for ancillary purposes. This Act shall extend throughout [insert name of jurisdiction].

This Act shall come into force on [insert date of enforcement].

(1) This Act applies notwithstanding any other law.

(2) In this Act, definitions provided for in any Part shall apply to the whole Act notwithstanding that the definition is within a particular Part.

(3) In this Act the word 'includes' is a term of specification and not of limitation; any reference to the singular includes the plural and any reference to the plural includes the singular, and any reference to either gender includes a reference to the other.

> **Drafting note:** This provision eliminates the need to set out certain definitions multiple times. Should drafters opt to leave out one or more parts of the model legislative provisions, they must ensure that any definitions within those parts are brought forward into Section 1 unless such definitions are relevant only to the deleted part.

Section 2 National Cooperative Body

(1) A National Cooperative Body for Combating Money Laundering and Terrorism Financing shall be established, and shall comprise the following members:

(a) a representative of the [insert relevant authority]

(b) a representative of the [insert relevant authority]

(c) …

(d) …

(2) The National Cooperative Body established under this Section shall have the following functions:

(a) to coordinate measures to identify, assess and understand the national money laundering and terrorism financing risks;

(b) to coordinate the development, regular review and implementation of national policies and activities to combat money laundering, terrorism financing and the financing of proliferation of weapons of mass destruction;

(c) to collect and analyse statistics and other information from competent authorities to assess the effectiveness of the national anti-money laundering and countering financing of terrorism (AML/CFT) system;

(d) …

(3) The National Cooperative Body shall issue regulations to set up its internal structure and work procedures.

Drafting note: Under the revised FATF standard, jurisdictions are required to have a designated authority or other coordination mechanism responsible for coordinating the development and implementation of national policies and activities on AML/CFT and for combating the financing of proliferation of weapons of mass destruction (FATF Recommendation 2); and to designate an authority or mechanisms to coordinate the national money laundering and terrorism financing risk assessment (FATF Recommendation 1). Both recommendations suggest that the designation of a competent authority as reflected in this section is one possible avenue for jurisdictions to comply with the relevant requirements.

The language under Section 2 may be set out in primary law, as suggested in this model legislative provision, or in a regulation or administrative decision. In any case, the cooperative body should comprise representatives of all relevant authorities, including prosecution, law enforcement, all supervisory authorities, customs, judiciary and, where useful, other authorities such as the Ministry of Finance, the Ministry of Justice, etc. The powers given to the cooperative body in Section 2(2) could be expanded to include tasks such as coordination of the country's mutual evaluation or other tasks. Operational and procedural aspects of the cooperative body's work may be addressed through regulation issued under Section 2(3).