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Flemish Bar Council

CODE OF ETHICS FOR LAWYERS

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PART I

ESSENTIAL DUTIES OF A LAWYER

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CHAPTER I.1 Essential duties

Article 1 (art. I.1.1)

A lawyer must exercise his profession in an expert manner, in compliance with professional privilege, the essential duties of independence and partiality, and by avoiding conflicts of interest. He must uphold the principles of dignity, righteousness, and discretion that form the basis of his profession.

CHAPTER I.2 Independence

Section I.2.1 Independence

Article 2 (art. I.2.1.1)

A lawyer is subject to obligations that require his absolute independence, free from all pressure, especially from his own interests or outside influence. A lawyer must avoid any impairment of his independence and may not disregard professional ethics to please the client, the judge or third parties.

Independence is essential in all activities.

Article 3 (art. I.2.1.2)

A lawyer may not deal with any cases of or against close family members or act for people who cohabit with him or who are closely related to those cohabitants.

Section I.2.2 Partiality

Article 4 (art. I.2.2.1)

A lawyer is always obliged, with due observance of statutory rules, professional rules, and rules of conduct, to protect his clients' interests as well as possible and to place them above his own interests or those of third parties.

Section I.2.3 Conflict of interests

Article 5 (art. I.2.3.1)

§1 A lawyer may not act if this gives rise to a conflict of interests or the substantial threat of such a conflict between him and a client.

§2 A lawyer may not act for more than one client, if there is a conflict of interests or the substantial threat of such a conflict between those clients, unless and as long as the conditions of Article. I.2.3.2 are fulfilled.

Article 6 (art. I.2.3.2)

§1 However, a lawyer may act for several clients if there is a conflict of interests, or the threat of a conflict of interests, between them:

- if the clients involved agree to this after having been informed in writing; and
- as long as there is no danger of a breach of the lawyer's professional privilege or his independence, and
- as long as no claim is being pursued between the clients before a court or an arbitration tribunal regarding the subject of their requested intervention.

§ 2 If several clients with a conflict of interests, or a threatened conflict of interests, also have a common interest in the same matter and approach a lawyer to act in defense of that common interest, he may act for those clients before a court or arbitration tribunal only if:

- the clients agree to this in writing; and
- the lawyer holds the view that the conflict of interests, or risk of such a conflict, does not prevent him from protecting all the clients' interests to the best of his ability without breaching his professional privilege and independence.

Article 7 (art. I.2.3.3)

A lawyer may not accept a case from a new client if there is any threat of breaching the confidentiality of the privileged information that they have received from another client.

Article 8 (art. I.2.3.4)

A lawyer may act if it becomes known that the client systematically approaches different lawyers and will appoint a different lawyer in that case. A lawyer must therefore refrain from acting in every respect if his involvement would imply a breach of his professional privilege or independence.

Article 9 (art. I.2.3.5)

§ 1 Articles I.2.3.1 to I.2.3.4 apply to lawyers, their employees, and trainee lawyers.

§ 2 If a lawyer practices his profession in association or grouping, Articles I.2.3.1 to I.2.3.4 will apply both to the group in its entirety and its individual members, as well as his trainee lawyers and employees.

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Section I.2.4 Acting for colleagues

Article 10 (art. I.2.4.1)

A lawyer who defends the interests of another lawyer may not be a member of the same grouping or association as the lawyer concerned, or be his employee or trainee lawyer, or have worked together with that lawyer on the case to which the dispute relates.

Section I.2.5 Incompatibility

Article 11 (old art. I.2.5.1)

Practicing the profession of a lawyer is incompatible with any activity that may compromise the core values of and public trust in the legal profession.

The incompatibilities or prohibitions in this chapter do not apply only to the lawyer concerned, but also to the lawyers that work with him in an association or grouping, his employees and/or trainee lawyers.

Article 12 (art. I.2.5.2)

Lawyers that are members of the executive power (a federal, regional, community, provincial, or municipal authority) may not argue or act in cases in the interest of or against the authority where they are elected or appointed. This applies both throughout their mandate or appointment and for a period of two years after the end of their mandate or appointment, unless the chairman of the Bar Council gives prior consent. After the end of their mandate or appointment, they may not argue or act in cases in which they have been involved.

Article 13 (art. I.2.5.3)

Lawyers that manage or act as an employee of a manager, however named, of one or more departments of a legislative or executive power may not argue or act in cases that fall under the authority of the department where they are appointed or posted. This applies both throughout their term of office and for a period of two years after the end of their term of office, unless the chairman of the Bar Council gives prior consent. After the end of their term of office they may not argue or act in cases in which they have been involved.

Article 14 (art. I.2.5.4)

In the cases referred to in Articles 12 and 13:

- a lawyer must confirm [immediately][1] and in writing to the chairman that he has accepted the mandate or appointment and provide the necessary information on how his firm, or cases in the firm he belongs to, will be managed; the documents and correspondence of the

[1] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

firm to which the lawyer belongs may continue to state his name as before, unless he accepts the mandate of a member of parliament.

The lawyer concerned may not sign correspondence except in cases in which he is permitted to act. The substitute must then sign the correspondence without reference to the name of the lawyer concerned.

Article 15 (art. I.2.5.5)

a) Notwithstanding the authority of the chairman to make an exception in this regard, the provisions of this section do not apply to arbitrators [and mediators][2].
b) A lawyer may accept the position of director or liquidator of legal entities.
c) A lawyer may perform day-to-day management duties only in professional partnerships (partnerships whose purpose is to practice the profession of lawyer) or in legal entities relating to his personal property or his shares in family property (property companies).
d) A lawyer must inform the chairman in writing of his intention to accept the offer or proposal of a mandate, as referred to above, and simultaneously provide a copy of the articles of association and any internal regulations. He must also include the identity of the persons or legal entities that are part of the management board and supervisory board, as well as the shareholding structure and participation, and provide all additional information that the chairman may request.
e) A lawyer must inform the chairman of any changes that directly or indirectly influence the performance of his mandate in accordance with the provisions of this chapter and of this Code in general.
f) A lawyer may accept mandates only once the chairman has informed him that the aforementioned obligation to provide information has been fulfilled.

Article 16 (art. I.2.5.6)

A lawyer may represent a legal entity, which is not a professional partnership or property company for which he performs a mandate, before the courts or an arbitration tribunal. He may not do so if he is or may become personally involved in the case and/or if there is a threat that the integrity or responsibility of the management board will be compromised.

Article 17 (art. I.2.5.7)

A lawyer/assessor of the legislation department of the Council of State and his colleagues that have entered into a cooperation agreement may argue before the administrative law division.

[2] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

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CHAPTER I.3 Professional privilege

Section I.3.1 Principles

Article 18 (art. I.3.1.1)

A lawyer is obliged to uphold professional privilege. Professional privilege covers all confidential information that a lawyer becomes aware of or establishes during the performance of his duties and applies indefinitely.

Article 19 (art. I.3.1.2)

A lawyer may provide confidential information to the courts, arbitration tribunals, and third parties only insofar as:

- the release of that information is relevant; and
- the release of that information is in the client's interests; and
- the client agrees to the release of that information; and
- the release of that information is not prohibited by law.

Article 20 (art. I.3.1.3)

A lawyer is obliged to be circumspect under all circumstances and to act at all times with the necessary discretion.

Article 21 (art. I.3.1.4)

A lawyer must ensure that his personnel, agents, and other people that work with him in a professional capacity uphold professional privilege. If a lawyer practices in an alliance, Articles I.3.1.1 to I.3.1.3 will apply, both to the alliance in its entirety and its individual members.

Article 22 (art. I.3.1.5)

Professional privilege is not breached if a lawyer uses confidential information that is necessary for his own defense.

Section I.3.2 Attachment by garnishment at a lawyer

Article 23 (art. I.3.2.1)

A lawyer that has funds or other assets in his possession that must be transferred to others in the practice of his profession must, in principle, invoke professional privilege in the garnishee's declaration that he must make when a garnishment order or writ of execution is served on him.

On receipt of a garnishment order or writ of execution, a lawyer who is a garnishee must ask his chairman for advice. A lawyer must judge whether or not being in possession of the funds or other assets is covered by professional privilege.

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Article 24 (art. I.3.2.2)

A lawyer who is a garnishee may not surrender the funds or other assets that are the subject of the garnishment order or writ of execution, unless this order or writ has already been lifted.

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PART II

ACCESS TO THE PROFESSION, TRAINEESHIP, AND TRAINING

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CHAPTER II.1 Traineeships

Section II.1.1 General organization of traineeships

Article 25 (art. II.1.1.1)

As part of the application to be registered on the list of trainee lawyers, a candidate trainee lawyer must provide the following documentation to the secretariat of the Bar Council:

a) his degree, stating the date on which the oath was taken in accordance with Article 429 of the Belgian Judicial Code;
b) an original copy of the traineeship agreement, entered into in accordance with the provisions of Section 3 of this chapter and which the board of the Bar Council has determined, based on a favorable opinion of the traineeship committee, complies with the minimum requirements of this Code;
c) a signed declaration referring to any prior applications for registration to a domestic or foreign bar and the outcome of such an application;
d) a signed declaration stating the professions he is currently practicing.

A candidate trainee lawyer must also confirm in writing to the chairman that he has never been subject to a conviction or criminal sentence, an administrative sanction, or disciplinary measure. If that is the case, and the chairman requests further information, this must be provided.

A candidate trainee lawyer must explain any pending criminal or disciplinary investigations against him to the chairman in writing.

Article 26 (art. II.1.1.2)

The board of the Bar Council determines the date of registration on the list of trainee lawyers.

The traineeship lasts three years, subject to the provisions of Article 435 of the Belgian Judicial Code and Article 27.

[The trainee lawyer must have a supervising principal for the entire duration of the traineeship.][1]

[1] amended at the GM of 27/05/2015.

Article 27 (art. II.1.1.3)

27.1 The suspension of traineeship obligations is the temporary release from the obligations of the traineeship.

A trainee lawyer remains a lawyer during a suspension. He remains subject to the ethical obligations that apply to lawyers, including financial obligations towards the Bar Council. The board of the Bar Council may grant a full or partial exemption from the bar contribution.

Suspension does not terminate the traineeship agreement. Only the respective obligations of the supervising principal and the trainee lawyer are suspended for the period of the suspension.

27.2 Interruption is a temporary omission from the list of trainee lawyers.

A trainee lawyer loses the capacity of lawyer during an interruption. The interruption terminates the traineeship agreement.

27.3 The traineeship may be suspended or interrupted for a period not exceeding one year. This period may be extended for valid reasons.

A trainee lawyer must address the request for suspending or interrupting his traineeship, or for extending the suspension or interruption, to the chairman. The board of the Bar Council rules on that request, after receiving the traineeship committee's opinion.

A trainee lawyer must inform the chairman that he is resuming his traineeship no later than one month before the current suspension or interruption expires.

A trainee lawyer that resumes his traineeship after an interruption must file a new traineeship agreement with the secretariat of the Bar Council. The traineeship committee provides advice in this regard.

A trainee lawyer that does not notify the chairman that he has resumed his traineeship will be called to appear before the chairman. If a trainee lawyer does not comply, he will be called to appear before the board of the Bar Council for a decision on whether or not to omit him from the list of trainee lawyers. Such an omission implies the loss of the traineeship achievements.

The traineeship is continued after the suspension or interruption:

- without loss of the achievements of the previously completed part of the traineeship;
- without loss of the ranking of the registration on the list of trainee lawyers;
- without the period of suspension or interruption counting as part of the traineeship.

Article 28 (art. II.1.1.4)

A trainee lawyer may complete an equivalent traineeship for a maximum one-year period at a domestic or foreign bar or in other legal professions with which the Flemish Bar Council or the board of the Bar Council have entered into agreements.

Such an equivalent traineeship is completed only once the trainee lawyer has attained the certificate of competency, as referred to in Chapter II.2, section II.2.4 (Professional training).

The trainee lawyer must address a reasoned request to the chairman to commence an equivalent traineeship. The board of the Bar Council rules on that request, after receiving the traineeship committee's opinion.

At the end of his equivalent traineeship, the trainee lawyer must draw up a report setting out his activities in detail. His foreign supervising principal, the competent authority of the foreign bar, or the other legal practitioner that has acted as his supervising principal must confirm the content of that report.

The trainee lawyer must submit the report to the chairman and state that his equivalent traineeship has ended. If he fails to do so, he will be called to appear before the chairman.

The board of the Bar Council determines, on the basis of the report, whether the traineeship qualifies in whole or in part as an equivalent traineeship. If it does not qualify, the board of the Bar Council will extend the traineeship for the unaccepted period.

Article 29 (art. II.1.1.5)

At the end of the traineeship, the trainee lawyer requests the chairman in writing to be registered on the lawyers' roll.

The board of the Bar Council rules on that request, after receiving the traineeship committee's opinion and:

- the supervising principal's final report;
- the report of the chairman of the legal aid office.

A trainee lawyer may examine his file with those reports at the chairman.

Section II.1.2 Conditions for being a supervising principal

Article 30 (art. II.1.2.1)

Every lawyer that has been registered on the lawyers' roll of the Bar Council, the EU list, or the lawyers' roll at the Court of Cassation for at least seven years may become a supervising principal. The board of the Bar Council may make exceptions to this requirement in individual cases.

The board of the Bar Council, after receiving the traineeship committee's opinion, draws up a list of supervising principals. Candidate supervising principals must address a request to be included on the list to the board of the Bar Council. The board of the Bar Council may refuse their inclusion only after having called the lawyer to be heard in accordance with Chapter VII.1 (The board of the Bar Council acting as a disciplinary committee).

A supervising principal may train three trainee lawyers at the same time. The board of the Bar Council may make an exception to that restriction in individual cases if the supervising principal is able to show on the basis of objective and verifiable elements that quality training is guaranteed for each trainee lawyer.

Article 31 (art. II.1.2.2)

If the board of the Bar Council finds that a supervising principal is no longer complying with his ethical obligations or the obligations for being a supervising principal, it may remove that supervising principal from the list after having called him to be heard in accordance with Chapter VII.1 (The board of the Bar Council acting as a disciplinary committee).

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Section II.1.3 Traineeship agreements

Article 32 (art. II.1.3.1)

The supervising principal and candidate trainee lawyer enter into an agreement for the purpose of the traineeship. Where applicable, the legal entity or partnership to which the supervising principal belongs will be a party to the agreement.

The agreement, as well as any amendments or additions, is submitted to the secretariat of the Bar Council as referred to in Article II.1.1.1.

Article 33 (art. II.1.3.2)

Any party may terminate the traineeship agreement early in writing with due observance of a reasonable notice period.

The traineeship committee must be notified immediately and will oversee the transfer to a new supervising principal.

All provisions of the agreement remain in force during the notice period.

The parties may jointly agree to waive a notice period upon the termination of the agreement.

Section II.1.4 Duties of supervising principals

Article 34 (art. II.1.4.1)

A supervising principal must ensure that the trainee lawyer performs his activities in compliance with ethical rules and that he acquires knowledge and practical skills.

A supervising principal must be available, where necessary, to assist and guide the trainee lawyer.

[Immediately after the end of every traineeship that is completed under him, each supervising principal must submit a report on the traineeship to the traineeship committee.][1]

[1] amended at the GM of 27/05/2015

Article 35 (art. II.1.4.2)

A supervising principal must give his trainee lawyer the necessary time to fulfil his traineeship obligations.

Article 36 (art. II.1.4.3)

A supervising principal and trainee lawyer determine the remuneration of the trainee lawyer by agreement. The monthly minimum remuneration for full-time availability is [€1,400.00][1] for the first traineeship year and [€1,950.00]1 from the second traineeship year.

The general meeting of the Flemish Bar Council may alter the minimum remuneration in [December][2] of each year, with effect from the following judicial year.

The minimum remuneration may be altered proportionally if a trainee lawyer has reduced availability for a supervising principal. This will be recorded in the traineeship agreement or in later amendments or additions. Work imposed by the chairman or in relation to legal aid may not be taken into account for assessing reduced availability.

A supervising principal and trainee lawyer may agree that the trainee lawyer must pay a fee for the use of the premises, infrastructure, or other office expenses. However, that fee may never adversely affect the remuneration referred to in paragraphs 1 and 2 of this article.

** Amounts apply as from [1 September 2018]$_1$ pursuant to a general meeting resolution of [20 December 2017]$_1$.*

[1] amended at the GM of 20/12/2017

[2] amended at the GM of 23/09/2015

Section II.1.5 Duties of the trainee lawyer

Article 37 (art. II.1.5.1)

A trainee lawyer must handle the cases assigned to him by his supervising principal with the necessary diligence and care. He is obliged to refuse a case if he believes in good faith that it is without just cause.

He must attend the professional training arranged for trainee lawyers by the Bar Council authorities.

He must perform the tasks imposed on him by the chairman or in relation to legal aid.

At the end of his traineeship, the trainee lawyer must file a final report on how he performed his traineeship with the traineeship committee.

Section II.1.6 Traineeship committee

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Article 38 (art. II.1.6.1)

Every Bar Council entrusts the supervision of traineeships to a traineeship committee that consists of at least:

- a chairman designated by the board of the Bar Council;
- a member designated by the legal aid office;
- a member designated by the trainee lawyers.
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Article 39 (art. II.1.6.2)

The traineeship committee:

- provides advice on the inclusion of a candidate supervising principal on the list of supervising principals;
- provides advice on the traineeship agreement concluded between a supervisory principal and trainee lawyer;
- monitors compliance with obligations by supervising principals and trainee lawyers;
- takes formal notice of the early termination of a traineeship agreement;
- monitors the transfer of a trainee lawyer to a new supervising principal in case of early termination;
- provides advice on a request by a trainee lawyer to suspend, interrupt, or extend their traineeships;
- provides advice on the new traineeship agreement that must be entered into after a traineeship is interrupted;
- provides advice on doing equivalent traineeships;
- takes formal notice of and checks the traineeship reports drawn up by a supervising principal and trainee lawyer;
- provides advice on the inclusion of a trainee lawyer on the lawyers' roll of the Bar Council;
- mediates in disputes between a supervising principal and trainee lawyer;
- provides advice to the chairman and board of the Bar Council in connection with any problems that arise in connection with traineeships.

CHAPTER II.2 Professional training

Section II.2.1 General

Article 40 (art. II.2.1.1)

In order to be able to register on the lawyers' roll of the Bar Council, a trainee lawyer must attend professional training and attain the certificate of competency. Professional training is organised by the Flemish Bar Council and given by traineeship schools.

Section II.2.2 Traineeship schools

Article 41 (art. II.2.2.1)

Each Bar Council establishes a traineeship school either alone or together with other Bar Councils. The traineeship school consists of a director, appointed by the council(s) of the participating Bar Council(s), and the lecturers of all the subjects.

Article 42 (art. II.2.2.2)

The traineeship school is authorized, *inter alia*, to:

1. propose lecturers for the compulsory subjects to the traineeship committee;
2. propose the topic, content, course, and lecturer(s) of an optional subject to the traineeship committee;
3. provide advice to the board of the Bar Council that decides on the request of a trainee lawyer to attend or continue subjects during the second traineeship year;
4. evaluate the results of the examinations and, if necessary, deliberate in the manner and in accordance with the criteria laid down by the professional training committee and in the presence of the lecturers.

Section II.2.3 Professional training committee

Article 43 (art. II.2.3.1)

The Flemish Bar Council establishes a professional training committee.

The committee consists of the traineeship department manager of the Flemish Bar Council and the director of every traineeship school or their respective representatives. In case of combined traineeship schools (as referred to in Article II.2.2.1), each bar that is part of the merger is free to delegate one representative.

Article 44 (art. II.2.3.2)

The committee is authorized to:

1. compile the courses of the compulsory subjects;
2. appoint and evaluate the lecturers of the compulsory subjects, whether or not nominated by the traineeship schools;
3. determine and compile the courses of the optional subjects, whether or not nominated by the traineeship schools;
4. appoint and evaluate the lecturers of the optional subjects, whether or not nominated by the traineeship schools;
5. determine the credits of each subject every year;

6. determine the minimum total number of credits to be achieved each year;
7. exempt a trainee lawyer from attending compulsory subjects and/or sitting exams;
8. allow a third attempt if a trainee lawyer has failed to pass his admission examinations on the second attempt;
9. indicate one or more optional subjects, on receiving a reasoned request from a Bar Council, which trainee lawyers of that Bar Council must attend and for which the traineeship committee determines the number of credits. Those credits count towards the total number of credits to be achieved, as determined by the professional training committee each year;
10. determine the form and content of the examinations;
11. determine the manner of evaluation and deliberation;
12. provide advice to the general meeting and management board of the Flemish Bar Council on the budgets of traineeship schools and on the individual contribution that a trainee lawyer pays directly to the Flemish Bar Council.

Section II.2.4 Professional training

Article 45 (art. II.2.4.1)

The professional training consists of compulsory subjects and optional subjects.

The compulsory subjects are:

1. Ethics
2. Communication Skills
3. Civil Procedure
4. Criminal Procedure

The professional training committee also draws up a list of optional subjects from which trainee lawyers can choose themselves, notwithstanding Article II.2.3.2, point 9 of this chapter, under which each board of the Bar Council may impose certain optional subjects.

Each subject represents a number of credits, which expresses the course load of each subject. One credit corresponds to at least one hour of educational activity.

The optional subjects, compulsory (in accordance with Article II.2.3.2) or otherwise, never represent more than one-third of the total number of credits that the professional training committee determines each year.

Article 46 (art. II.2.4.2)

Notwithstanding the provisions of Article II.1.1.3 (Chapter II.1 Traineeship), a trainee lawyer must attain the certificate of competency during the first year of his traineeship.

Article 47 (art. II.2.4.3)

The professional training committee may exempt a trainee lawyer, on receipt of a reasoned request, from a compulsory subject or optional subject that is imposed and/or from an examination in those subjects.

Article 48 (art. II.2.4.4)

A trainee lawyer is evaluated on the subjects that he must take as part of the professional training. There are two examination sessions in each judicial year.

He must obtain at least half of the marks to pass each subject.

A trainee lawyer that does not pass after deliberation may have a second attempt at each subject in which he has failed to obtain at least half of the marks.

A trainee lawyer is entitled to sit two examinations in each subject.

Even if he does not pass on the second attempt, he may request the professional training committee to allow him to have a third attempt.

Article 49 (art. II.2.4.5)

A trainee lawyer who passes his examinations receives a certificate of competency from the Flemish Bar Council.

A trainee lawyer who does not pass his examinations receives his results from the Flemish Bar Council by registered post. The chairman and the director of the trainee lawyer's traineeship school are informed in both cases.

Article 50 (art. II.2.4.6)

A trainee lawyer who does not pass his examinations after deliberation has up to three months after the notice referred to in Article 49 to see his examination script after making a simple request to the professional training committee.

Section II.2.5 Appeal procedure

Article 51 (art. II.2.5.1)

A trainee lawyer that has not passed may appeal against that decision to the appeal board. The appeal board consists of five members, including the chairman of the Flemish Bar Council or a director that represents him. The general meeting appoints four permanent members and four substitutes for a period of two years. The appeal board sets its own procedural regulations.

Appeals must be submitted by means of a registered letter to the Flemish Bar Council, failing which they will be deemed inadmissible. This must be done within one month of the notice of the examination results, as set out in Article 53*bis* of the Belgian Judicial Code. A trainee lawyer must also elect his address for service in the judicial district of the traineeship school.

Appeals are dealt with within one month of their submission.

A trainee lawyer who appeals is invited to be heard and may be assisted by his supervising principal and/or a lawyer of his choice.

The appeal board decides whether or not a trainee lawyer has passed.

The appeal board's decision is sent to the trainee lawyer concerned by registered letter to his elected address for service. The chairman and director of the traineeship school also receive a copy of the decision.

CHAPTER II.3 Continuous professional development

Article 52 (art. II.3.1)

Each lawyer has an ethical duty to undergo continuous professional development (CPD).

[The CPD obligation is included in the definition of practitioner of an independent profession, as included in the Belgian Economic Law Code.][1]

CPD means that a lawyer must 'regularly train and take refresher courses in legal or practice-related subject matters by attending recognized courses, teaching or giving lectures in legal subjects, or publishing within the meaning of this chapter'.

[1] amended at the GM of 25/02/2015

Article 53 (art. II.3.2)

[Each lawyer is free to compile his own annual continuing professional development (CPD) programme, which may consist of legal training and practice-related training. Points are awarded for CPD activities.

A lawyer must accumulate 20 CPD points in each judicial year.

A maximum of 10 points per year can be taken into consideration for seminars, study days or clarification sessions that are arranged within alliances, firm organisations or jointly by lawyers and not accessible to other lawyers.

At least two points must be earned for ethics-related training every five judicial years.

The chairman may exempt a member of his bar on valid grounds from complying with the CPD obligation and impose special terms and conditions for this purpose. The exemption applies for one judicial year and may be renewed. The chairman keeps a list of the granted exemptions, which is available for the board of the Bar Council.

A maximum of 40 surplus points earned in any judicial year may be carried over to the next judicial year, subject to the total transfers not being allowed to exceed 40 points.

A lawyer who has not earned enough points in a judicial year may be ordered by the chairman to make up the shortfall within a certain period.

For trainee lawyers, compulsory CPD training does not apply for the year of the traineeship in which they attend professional training.][3]

Article 54 (art. II.3.3)

[§ 1 The terms 'CPD activity', 'legal training module', 'legal lectures' and 'legal contributions' referred to in § 2 to § 6 and § 8 also include all CPD training that is given electronically, whether or not via *live stream* or *on demand*.

§ 2 One point an hour is awarded for attending a CPD activity that is recognised in advance.

§ 3 One point an hour may be awarded for attending a CPD activity that is not recognised in advance, provided that the applicant submits motivation.

§ 4 A legal training module at a university or other institute of higher education may be recognised for two points for each hour taught, subject to a maximum of 20 points per judicial year.

The same applies to lecturing in a subject on the professional training for trainee lawyers.

§ 5 A legal lecture at academic level may be recognised for two points for each hour taught, subject to a maximum of 20 points per judicial year.

§ 6 Writing a legal contribution of at least 2,500 words that is published in legal literature or an equivalent publication may be recognised for four points per 2,500 words, subject to a maximum of 40 points.

§ 7 40 points may be awarded for attaining an additional degree with a recognised curriculum from a law faculty.

The same applies to attaining a doctorate from a law faculty. A maximum of 40 points may also be awarded for the publication of the associated doctoral thesis.[4]

§8 A CPD activity that is recognized by another Bar Council or organization of lawyers may be recognized by the Flemish Bar Council. A lawyer who has participated or wishes to participate in such an activity may submit a recognition application in the manner as set out in Article 56, §5.

After obtaining the opinion of the recognition committee, the Flemish Bar Council may enter into agreements with other bars or organizations for the mutual recognition of CPD activities, providing for the award of CPD points.

Article 55 (art. II.3.4)

§1 The Flemish Bar Council has established a recognition committee that is based at the registered office of the Flemish Bar Council.

[3] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

[4] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

§2 This recognition committee consists of seven members:

- the CPD department manager of the Flemish Bar Council (or his representative) that automatically chairs the committee;
- three lawyers and three academics, chosen by the general meeting of the Flemish Bar Council;

§3 Their mandate lasts for three years and is renewable.

§4 The recognition committee decides by an ordinary majority of votes. It is only validly constituted when at least four members are present. [If the votes are tied, the chairman has the right to vote and his vote is decisive.]$_1$

$_1$ amended at the GM of 25/02/2015

Article 56 (art. II.3.5)

§1 The recognition committee of the Flemish Bar Council decides which activities, as referred to in Article II.3.1, will be recognized and determines the nature and number of points to be awarded to the recognized activities. [It applies the same criteria for all recognitions, regardless of whether it assesses the application for recognition before or after the training.] [1]

§ 2 The recognition committee takes the following criteria into account in its decision to recognise and award points for a CPD activity:

(i) the main target group of the activity must be lawyers, academically trained jurists or people who exercise a profession that is demonstrably directly relevant to exercising the profession of lawyer, and the activity must have

(ii) an adequate and demonstrable legal – or other directly relevant – added value that contributes to exercising the profession of lawyer.

The organisation of or participation in activities that are mainly a networking activity are not taken into consideration

When deciding whether or not to recognise a CPD activity, the recognition committee may also take the outcome of the evaluations that are gathered pursuant to §8 into consideration. [5]

The recognition committee or its representative may—as part of its right of inspection—check the activity at all times.

§3 The recognition committee makes a decision within one month of the application. The recognition committee must motivate any rejection of a recognition application.

[5] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

A rejected applicant may lodge an objection, exclusively by e-mail, within one month of the aforementioned rejection decision being sent to him by e-mail. The application to review the first decision will be handled again by the recognition committee.

§4 The organizer of a CPD activity, who has applied for recognition and the awarding of points for this purpose, may only announce that application. The recognition and awarding of points may be announced only once the decision has been made in this regard.

§5 Both the organizer of the CPD activity and the individual lawyer [address their]1 application for recognition and awarding of points to the recognition committee of the Flemish Bar Council, exclusively via the electronic application form on the Flemish Bar Council's website. [The organizer must submit his application one month prior to the date of the CPD activity.][1]

§5*bis* [The organizer's application is admissible only once a fee equal to one times the full registration or participation fee of each potential participant, subject to a minimum of €25.00 and a maximum of €695.00, has been paid to the Flemish Bar Council.][1]

§6 The amounts stipulated in Article 5*bis* may be adjusted upon every three-point rise in the consumer price index in relation to the amounts applicable on 10 December 2010 (the date of entry into force of the FBC regulations on CPD).

§7 The organiser of a CPD activity that requests recognition must submit a dossier together with an undertaking to issue attendance certificates (after verifying the actual attendance of participants at the commencement and end of the CPD activity). The organiser must at least state:

1. the date and venue of the CPD activity;

2. the nature and topic of the activity, where applicable with titles of the various lectures;

3. the number of hours for which recognition is being requested;

4. the identity of the speaker(s);

5. the target group;

6. the registration or participation fee;

7. whether there is a syllabus for the participants and, if so, this must be appended to the application;

8. how the CPD activity will be advertised.[6]

[1] amended at the GM of 25/02/2015

§8 If the Flemish Bar Council provides an electronic system for registering attendance, the organizer is obliged to use that system. The same applies to the provision of an electronic system for issuing attendance certificates, or that adds them directly to the lawyer's points card.

[6] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

Every CPD activity that is recognized in advance will be subject to electronic evaluation. The organizers are obliged to cooperate fully in this evaluation[7].

Article 56*bis*

§1 An organiser can be recognised as a recognised training institute at its own request by the recognition committee.

A recognised training institute is exempt for the period of validity of its recognition from submitting an application for recognition to the recognition committee for the training that it provides and may decide for itself which CPD activities qualify as CPD and how many points are to be awarded to each training course.

§2 In order to be recognised, the candidate recognised training institute must address its request in a registered letter to the Flemish Bar Council, appending the provided form for completion and an explanatory memorandum that describes the following:

1. the underlying vision and strategy of the training;
2. how the CPD activity will contribute towards maintaining or developing the professional knowledge and skills of lawyers, and how a CPD activity will be planned;
3. whether the transfer of knowledge will be tested and, if so, in which manner;
4. how the academic level of a course is guaranteed;
5. how the institution uses the contributions of lawyers to create and improve a course;
6. how the speakers are selected and supervised;
7. how the quality of training courses is guaranteed.

The candidate recognised training institute must pay a charge of EUR 750.00 both for the application and any extension.

The recognition committee will make a decision within two months of the application.

§3 The recognition applies for three years from the date on which the recognition committee makes its decision.

The recognition committee may reject the application, including if it is not sufficiently clear from the memorandum referred to in §2 that the intended objectives will be achieved. If it sees reason to do so, the recognition committee may request the applicant to give further guarantees before deciding whether or not to grant recognition.

§4 The recognition committee will continually verify whether the recognised training institute is complying with the requirements of this chapter. For this purpose, it may use the information that

[7] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

must be forwarded to it in accordance with §5, paragraph 10, the results of the evaluations, the results of the right of inspection, and all other information that can contribute towards its decision.

If the recognition committee believes there is reason to cancel the recognition of a training institute early, it will notify the recognised training institute of this fact by means of a registered notice in which it sets out its findings and invite the recognised training institute to put forward its position, within the period it specifies, and also invite the recognised training to be heard.

The recognition committee can then cancel the recognition with immediate effect or require additional guarantees from the recognised training institute that must be fulfilled within a certain specified time.

The early cancellation of recognition has no consequences for training that lawyers are attending prior to the date of the cancellation decision.

§5 The recognised training institute has the following obligations:

1. The recognised training institute is responsible for the continuity of training and must appoint a designated contact person;
2. The recognised training institute must present at least five courses a year at academic level.
3. The recognised training institute must cooperate fully in the system that the Flemish Bar Council uses to measure the quality of each training course that is offered;
4. The recognised training institute must evaluate the results of the quality measurement.
5. The recognised training institute must guarantee and, where possible, improve the standard of the training.
6. The recognised training institute must have a written complaints procedure.
7. The recognised training institute must apply Article 56, § 8 and may, if necessary, ask the recognition committee for advice.
8. The recognised training institute may award CPD points only to training courses that comply with the requirements of this chapter and, in particular, those described in Article 56, § 2.
9. The recognised training institute must cooperate in any investigation by the recognition committee into compliance with the obligations set out in this article.
10. The recognised training institute must report any planned training to the recognition committee of its own accord and also provide the information summarised in Article 56, § 7.

§6 The recognised training institute must pay a fee to the Flemish Bar Council, in accordance with Article 56 § 5 *bis,* on a monthly basis. For this purpose, the recognised training institute must submit a monthly list of the training courses it has organised and their cost price for each participant.[8]

[8] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

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Article 57 (art. II.3.6)

§1 Each lawyer must report in writing [via the private section][1] each year, by no later than 30 September, to the chairman of their bar council on the CPD programme that he has completed in the previous judicial year and also submit documentary proof thereof.

§2 The chairman must forward the processed data of his bar to the Flemish Bar Council by no later than 31 March of the year following the date mentioned in Article II.3.6, §1.

[1] amended at the GM of 25/02/2015

CHAPTER II.4 Lawyers that are nationals of an EU Member State and members of foreign bars

Article 58 (art. II.4.1)

Each bar keeps an EU list of lawyers who are nationals of an EU Member State where they are entitled to practice their profession under a title that corresponds to lawyer, and who wish to permanently practice the profession in Belgium under their original professional title.

The board of the Bar Council determines the form and content of the request for registration and the conditions for remaining registered.

Article 59 (art. II.4.2)

A certificate from the authority in the home Member State confirming the lawyer's registration there must accompany the above request for registration.

The board of the Bar Council determines the minimum content of that certificate and how often it must be renewed. The certificate may not be older than three months when it is submitted and it must refer to any disciplinary proceedings instituted in the home Member State.

An applicant that is a member of several bars must submit a certificate from each of the competent authorities. The competent authority is notified of the registration on the EU list.

Article 60 (art. II.4.3)

The board of the Bar Council may oppose lawyers who are members of a group that has other members from outside the profession from practicing the profession in Belgium.

A group as referred to in the first paragraph has other members from outside the profession if at least the following conditions are fulfilled:

1. all or part of the group's capital is held by people who do not have the capacity of lawyer within the meaning of the Belgian Judicial Code; or
2. the name under which the group operates is used by the people referred to in 1; or

3. the control within the group is exercised in fact or in law by the persons referred to in 1.

Article 61 (art. II.4.4)

Lawyers registered on the EU list must insure their professional liability in Belgium under the conditions laid down by the board of the Bar Council. If they have already taken out insurance or provided a guarantee in their home Member State, this will be taken into consideration to the extent that it is equivalent in relation to its terms and conditions and extent of cover. If the cover is only partially equivalent, the board of the Bar Council may require additional insurance or a guarantee for the elements that are not yet covered by the insurance or guarantee that was obtained in accordance with the rules of the home Member State.

Article 62 (art. II.4.5)

Lawyers registered on the EU list must state their original professional title as well as the information required by law in the official language or one of the official languages of their home Member State, and at least the language or languages of the judicial district where the bar at which they are registered is established, in all documents and records, including those on electronic carriers, which they use as part of their professional activities.

Article 63 (art. II.4.6)

Each bar must keep a B list of the members of foreign (non-EU) bars that are based in Belgium and do not comply with the conditions for registration on the lawyers' roll, the list referred to in Article II.4.1, or the list of trainee lawyers. The B list is published and kept up to date by the chairman. The board of the Bar Council decides on registration on the list and checks:

- whether the lawyer involved is duly registered at his home bar;
- whether he has complied with any traineeship obligation at that bar;
- whether there are any legal or ethical inconsistencies;
- whether he has undertaken to submit to the discipline, regulations, and decisions of the board of the Bar Council;
- whether his status is consistent with the laws and regulations on residence and the activities of foreign nationals in Belgium;
- whether his professional liability is covered by insurance or a guarantee entered into according to the rules of the home country, which are at least equivalent in relation to the terms and conditions and extent of cover to those of lawyers registered on the lawyers' roll.

Article 64 (art. II.4.7)

Notwithstanding disciplinary law, the board of the Bar Council may order the removal from the list of foreign bar members that do not comply or that no longer comply with the above conditions for inclusion.

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CHAPTER II.5 List of honorary lawyers

Article 65 (art. II.5.1)

A lawyer who has been authorized to use the title of honorary lawyer, undertakes to:

- avoid any confusion between the title of honorary lawyer and that of a lawyer on the lawyers' roll, for example by using the title of lawyer only as part of 'honorary lawyer' and not to state it on his residence;
- to use the title of 'honorary lawyer' during the practice of any profit-making activity only with due care and discretion;
- to regularly pay the contribution determined by the council.

An honorary lawyer may wear a toga at ceremonies in which the bar participates.

The board of the Bar Council may always withdraw the authorization if the rules of dignity, righteousness, and discretion are not observed or if the conditions for awarding the title are no longer fulfilled. In that case, the rules of Chapter VII.1 (The board of the Bar Council acting as a disciplinary committee) are applicable. It is not possible to appeal that decision.

The chairman may exempt an honorary lawyer from paying the contribution under certain circumstances.

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PART III

PRACTISING THE PROFESSION OF LAWYER

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CHAPTER III.1 Relationships with clients

Section III.1.1 Mandate that a lawyer does not receive directly from his client

Article 66 (art. III.1.1.1)

A lawyer that does not receive a mandate directly from his client:

- must verify both the identity of the principal and of the client;
- must check the good faith of the principal and whether or not the principal's activity is illegal;
- must check whether the client's free choice of a lawyer is guaranteed;
- must perform his duties only if he receives a mandate from the client or if the principal was duly authorized by the client to appoint a lawyer;
- must check whether there is any conflict of interests between the principal and the client in the case for which he has been appointed;
- uphold professional privilege in his dealings with the principal.

[Section III.1.2 Prevention of money laundering][9]

Article 67 (art. III.1.2.1) – **Scope of application**

§ 1. This section applies to lawyers registered at a bar of the Flemish Bar Council whenever they, as part of their professional activity:
a) assist a client in planning or performing transactions relating to:
1. buying or selling real estate or business entities;
2. managing a client's money, securities or other assets;
3. opening or managing bank, savings or securities accounts;
4. organizing the contributions needed for incorporating, operating or managing companies;
5. establishing, operating or managing fiduciary companies or trusts, companies, foundations or similar structures.
b) act in the name and on behalf of their client in any financial or real estate transactions.
§ 2. Within the context of the above activities, a lawyer must comply with all applicable obligations of this section and of Annex 1 (Obligations to prevent money laundering) to this Code.

Article 68 (art. III.1.2.2) – **Identification and vigilance obligations**

§ 1. A lawyer who acts for a client within the context of an activity as referred to in Article 67 – even if only on an occasional basis – must be consistently vigilant and familiarize himself with internal procedures to ensure compliance with statutory provisions.

§ 2. He does this under the rules set out in Annex 1 to this Code (Obligations to prevent money laundering)

[9] amended at the GM of 27/06/2018

Article 69 (art. III.1.2.3) – **Internal organization measures**

A lawyer draws up internal procedures in accordance with the rules set out in Annex 1 to this Code (Obligations to prevent money laundering).

Article 70 (art. III.1.2.4) – **Professional privilege – declaration of suspicion**

§ 1. A lawyer must comply with professional privilege under all circumstances.
§ 2. Nevertheless, if a lawyer establishes facts while performing the activities listed in Article 67, which he knows or suspects are related to money laundering or the financing of terrorism, he must immediately inform the Chairman of the Bar Council to which he belongs.
§ 3. To fulfil the above obligation to report to the Chairman, the lawyer will observe the rules set out in Annex 1 to this Code (Obligations to prevent money laundering).

Article 71 (art. III.1.2.5) – **Informing clients**

§ 1. Prior to commencing their cooperation, a lawyer must inform his potential client about the existing statutory framework, the established internal procedure, the nature of the personal information collected, and its retention. He must also inform the potential client that the procedure also requires their cooperation and that under the Belgian Act of 18 September 2017, companies must provide the details of the beneficial owner and any updated information in that regard to lawyers.
§ 2. At the start of the cooperation, a lawyer must inform his potential client that if the required information is not provided, he cannot enter into the business relationship and, if he has already provisionally acted, that he must end his further involvement.

Article 72 (art. III.1.2.6) – **Prevention and control measures**

§ 1. The board of the Flemish Bar Council and local bars regularly cooperate to develop prevention and awareness measures to help combat money laundering and the financing of terrorism. These may include setting up training programs, making recommendations and other statements, or sending out questionnaires.
The questionnaires aim to make potentially and existing obliged lawyers aware of the statutory provisions and these regulations and to ensure their effective application. They are generally directed by the Chairmen and/or the Flemish Bar Council to members of the bar or to potentially obliged lawyers, and the associations and groupings that potentially include obliged lawyers. The answers to the questionnaires sent by the Chairmen are also forwarded to the Flemish Bar Council. Prior to their entry into force, the prevention measures are approved by the board of the Flemish Bar Council.
§ 2. Local bars can also carry out inspections in law firms at the Chairman's initiative and do so as soon as there are indications that a lawyer, association or grouping is contravening or threatening to contravene the Belgian Act of 18 September 2017 or this section. The Belgian Financial Intelligence Processing Unit may request the Chairman to have an inspection carried out.
§ 3. In consultation with the Flemish Bar Council, local bars will develop a supervisory system under the provisions of Article 48(1) and (2) of Directive 2015/849. This supervisory system will be implemented based on the risk assessment as envisaged in Article 87 of the Belgian Act of 18 September 2017.

§ 4. If the board of the Bar Council thinks it is advisable, preventive inspections will be organized based on drawing lots or under a system or criteria determined by the local board. Notwithstanding the right of every bar to determine the criteria for this to happen, the Chairman audits at least 2.5 % of his bar members each year.
§ 5. A anti-money laundering audit team is established within the Flemish Bar Council.
Every board of the Bar Council nominates at least one and no more than five lawyers to be members of that team. The general meeting notes the nominations and confirms the composition of the audit team. Members of the audit team are appointed for three years. Their mandate is renewable without limitation.
The general meeting chooses a chair and two assessors from the members of the audit team who designate the working members of the audit team for each case.
The audit team draws up its own working regulations that are submitted for approval to the general meeting.
§ 6. Only the Chairman is authorized to rely on the audit team. He may entrust the audit to the team but also relieve it of its duties at any time.
The Chairman or the audit team, after the Chairman gives his approval, may arrange to be assisted by an external advisor.
The audit team has investigative powers only and reports exclusively to the Chairman.
The costs of the audit team are generally payable by the bar whose Chairman has requested the audit.
If the Chairman or the audit team establishes irregularities at the lawyer being audited, the costs may be recovered from that lawyer.
§ 7. Inspections at law firms are conducted by an audit team of which at least one member is also a member of the bar concerned. The audit team forwards the results of the audit to the Chairman of the lawyer concerned and to the Flemish Bar Council. The local bars send an annual inspection report to the Flemish Bar Council.
§ 8. The board of the Flemish Bar Council issues an annual report on these inspection activities to the general meeting of the Flemish Bar Council. That report is issued without reference to the names of the inspected lawyers or of the inspected associations or groupings of lawyers.

Article 73 (art. III.1.2.7) – **restriction on the use of cash**

§ 1. This article applies to lawyers regardless of the work they perform within the context of their professional activity (and is thus not limited to the activities referred to in Article 67).
§ 2. No cash payments over EUR 3,000.00 or the equivalent in another currency may be made or received by a lawyer within the context of his professional activity, regarding a transaction or set of transactions that appear to be linked.

The provision of the first paragraph does not apply to the sale of real estate as referred to in Article 66 of the Belgian Act of 18 September 2017 on the prevention of money laundering and financing of terrorism and on the restriction of the use of cash where a total prohibition on cash applies.

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ANNEX 1. – OBLIGATIONS TO PREVENT MONEY LAUNDERING

Book I. – General provisions

Title 1. – Definitions

Article 1.
For the application of the Code, "money laundering" includes:
1. converting or transferring money or other assets, knowing these have been obtained from criminal activity or from participating in such activity, to conceal or disguise their illicit origin or of assisting any person involved in such an activity to evade the legal consequences of that person's actions;
2. concealing or disguising the true nature, origin, location, alienation, movement, rights to or ownership of money or assets, knowing these have been obtained from criminal activity or from participating in such activity;
3. acquiring, possessing or using money or assets, knowing, at the time of receipt, these have been obtained through criminal activity or from participating in such activity;
4. participating in, aiding and abetting, attempting to, assisting in, instigating, facilitating or advising to commit any of the acts referred to in points 1, 2 and 3.

Article 2.
For the application of the Code, the "financing of terrorism" means providing or collecting funds and other assets, by any means, directly or indirectly, with a view to their use, or knowing they will be fully or partially used, by a terrorist organisation or by a terrorist acting alone, even if unconnected with a specific terrorist act.

Article 3.
For the purpose of applying the Code, these terms have the stated meaning:
1. "ML/FT": money laundering and financing of terrorism;
2. "ML/FTP": money laundering, financing of terrorism, and financing the proliferation of weapons of mass destruction;
3. "Directive 2015/849": Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC;
4. "implementing measures of Directive 2015/849": the implementing measures referred to in Articles 10-15 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/20;
5. "EU Funds Transfer Regulation":
a) until 25 June 2017, Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds;
b) from 26 June 2017, Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006;
6. "Binding provisions on financial embargoes": the obligations relating to financial embargoes, freezing of funds and other restrictive measures and vigilance obligations within the context of the fight against terrorism, financing of terrorism, or financing of the proliferation of weapons of mass

destruction imposed in European Regulations, in the Belgian Decree-Law of 6 October 1944 establishing control over all possible transfers of goods and securities between Belgium and abroad, in the Belgian Act of 11 May 1995 on implementing decisions of the Security Council of the United Nations Organisation, in the Belgian Act of 13 May 2003 on implementing restrictive measures adopted by the Council of the European Union against States, certain persons and entities, in the decrees and regulations enacted to implement these laws, in the Royal Decree of 28 December 2006 on specific restrictive measures against certain persons and entities with a view to combating the financing of terrorism, or in the decrees and regulations adopted to implement this Royal Decree;

7. "Member State" means a State that is a party to the Agreement on the European Economic Area (EEA);

8. "third country" means a State that is not a party to the Agreement on the European Economic Area;

9. "high-risk third country": a third country whose ML/FT legislation has been designated by the European Commission, under Article 9 of Directive 2015/849, as having strategic weaknesses that pose a significant threat to the financial system of the European Union, or which has been identified by the Financial Action Task Force, the Ministerial Committee for coordinating the fight against the laundering of money of illicit origin, the National Security Council, or the obliged entities as having a high geographical risk;

10. "Financial Action Task Force" or "FATF" means the intergovernmental institution for developing international standards to combat ML/FTP;

11. "European Supervisory Authorities": the authority established under Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, the authority established under Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC, and the authority established under Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, referred to below as the "ESAs";

12. "Ministerial Committee for coordinating the fight against the laundering of money of illicit origin": the Ministerial Committee established by the Royal Decree of 23 July 2013 establishing the Ministerial Committee and Board tasked with coordinating the fight against the laundering of money of illicit origin, which is responsible for establishing and coordinating the general policy on combating the laundering of money of illicit origin and for determining the priorities of the services operating at that level;

13. "National Security Council": the national Council established under the Royal Decree of 25 January 2015 on establishing the National Security Council tasked with coordinating the fight against the financing of terrorism and the proliferation of weapons of mass destruction;

14. "coordinating bodies": the Ministerial Committee for coordinating the fight against the laundering of money of illicit origin and the National Security Council;

15. "financial intelligence unit": a financial intelligence unit established by a Member State under Article 32 of Directive 2015/849 or an equivalent financial intelligence unit established by a third country, referred to below as a "FIU";

16. "FIPU": the Financial Information Processing Unit referred to in Article 76;

17. "supervisory authorities": the Chairman of the Bar Council to which the lawyer belongs;

18. "the Chairman of the Bar Council to which the lawyer belongs": is determined based on the lawyer who is "dominus litis" (the lead lawyer) in the case in question (referred to below for the purpose of this Annex, as "the Chairman");
19. "obliged entity": an obliged entity as referred to in Article 5, §§ 1 and 4 of the Act;
20. "obliged entity established in another Member State or third country": an obliged entity in another Member State or third country which has a subsidiary, branch or other form of establishment through agents or distributors permanently representing it there;
21. "obliged entity governed by the law of another Member State": an obliged entity as referred to in Article 2(1) of Directive 2015/849 subject to the statutory and regulatory provisions of another Member State that transpose this Directive into national law;
22. "obliged entity governed by the law of a third country": a natural person or legal entity that performs an activity as referred to in Article 2(1) of Directive 2015/849, that is established in a third country and is subject to the statutory and regulatory provisions to combat ML/FT;
23. "group": a group of undertakings consisting of undertakings affiliated with each other by a relationship within the meaning of Article 22 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, and branches of those affiliated undertakings established in a Member State other than the latter or in a third country;
24. "criminal activity": any form of involvement in the commission of a crime related to:
a) terrorism or the financing of terrorism;
b) organized crime;
c) illicit drug trafficking;
d) illicit trafficking in arms, goods and merchandise, including anti-personnel mines and/or submunitions;
e) human smuggling;
f) human trafficking;
g) exploitation of prostitution;
h) illegal use in animals of hormonal substances or the illicit trade in such substances;
i) illicit trafficking in human organs or tissues;
j) fraud detrimental to the financial interests of the European Union;
k) serious tax fraud, whether organized or not;
l) social fraud;
m) embezzlement by public officials and corruption;
n) serious environmental crimes;
o) counterfeiting coins or banknotes;
p) counterfeiting goods;
q) piracy;
r) a stock exchange-related offence;
s) unlawful public offerings;
t) providing banking services, financial services, insurance services or funds transfer services, exchange trading, or any other regulated activity, without having obtained the license required for such activities or without meeting the conditions for access;
u) fraud
v) breach of trust;
w) misuse of corporate assets;

x) hostage-taking;
y) theft;
z) extortion
aa) the state of bankruptcy;
bb) computer fraud.
25. "goods" means assets of any kind, whether movable or immovable, corporeal or incorporeal, and legal documents or instruments in any form, including electronic and digital, evidencing ownership or other rights to these assets;
26. "life insurance contract": a life insurance contract within the meaning of those covered by branch 21 as referred to in Annex II to the Belgian Act of 13 March 2016 on the status and supervision of insurance or reinsurance firms, or an insurance contract under which the investment risk is borne by the policyholder;
27. "trust": a legal relationship created by a legal act of the founder ("express trust"), as referred to in Article 122 of the Belgian Act of 16 July 2004 containing the Private International Law Code;
28. "beneficial owner": the natural person(s) who ultimately own(s) or control(s) the client, the client's mandatory or the beneficiary of life insurance contracts and/or the natural person(s) on whose behalf a transaction is performed or a business relationship is entered into.
These are regarded as persons who ultimately own or control the client, the client's mandatory or the beneficiary of life insurance contracts:
a) in companies:
i) the natural person(s) who directly or indirectly hold a sufficient proportion of the voting rights or of the ownership interest in this company, including holding bearer shares.
An interest of over twenty-five per cent of the voting rights or of over twenty-five per cent of the shares or the capital of the company held by a natural person, indicates a sufficient percentage of the voting rights or of the direct interest within the meaning of the first paragraph.
An interest held by a company controlled by one or more natural person(s), or of several companies controlled by the same natural person(s), of over twenty-five percent of the shares or of over twenty-five percent of the capital of the company, indicates a sufficient indirect interest within the meaning of the first paragraph;
ii) the natural person(s) controlling this company by other means.
Exercising control by other means may be determined, in particular, under the criteria laid down in Article 22(1)-(5) of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC;
iii) the natural person(s) who form(s) part of management if, after all possible means have been exhausted and there are no grounds for suspicion, none of the persons referred to in i) or ii) have been identified, or if there is any doubt on whether the identified person(s) is or are the beneficial owner(s);
b) in fiduciary companies or trusts:
i) the founder;
ii) the fiduciary manager(s) or trustee(s);
iii) any protector;
iv) the beneficiaries, or if persons who are the beneficiaries of the fiduciary company or trust have not yet been designated, the category of persons in whose main interest the fiduciary company or trust was created or operates;

v) any other natural person who, from their direct or indirect ownership or through other means, ultimately controls the fiduciary company or trust;
c) In international or national non-profit associations and foundations:
i) the persons referred to respectively in Article 13(1), Article 34, § 1 and Article 49(2) of the Belgian Act of 27 June 1921 on non-profit associations, foundations and European political parties and foundations that are members of the management board;
ii) the persons authorized to represent the association under Article 13(4) of the same Act;
iii) the persons entrusted with the day-to-day management of the international or national association or foundation, as referred to in Article 13bis, paragraph 1, Article 35(1), and Article 49(2) respectively of the same Act;
iv) the founders of a foundation, as referred to in Article 27(1) of the same Act;
v) the natural persons or, if such persons have not yet been designated, the category of natural persons in whose main interest the international or national non-profit association or foundation was formed or operates;
vi) any other natural person who ultimately exercises control over the international or national association or foundation by other means;
d) In legal structures similar to fiduciary companies or trusts, the natural person(s) who hold(s) equivalent or similar positions to those referred to under b);
Are considered a natural person or persons for whom a transaction is performed or a business relationship is entered into, the natural persons who benefit or will benefit from this transaction or business relationship, and who in law or in fact, directly or indirectly, have the authority to decide on performing that transaction or entering into that business relationship and/or to determine or agree to the terms of that transaction or business relationship;
29. "politically exposed person" means a natural person who holds or has held a prominent public position, in particular:
a) heads of state or government, ministers and secretaries of state;
b) members of parliament or members of similar legislative bodies;
c) members of governing bodies of political parties;
d) members of supreme courts, constitutional courts or other higher judicial bodies, including administrative judicial bodies, that deliver judgments without a right of appeal, except in exceptional circumstances;
e) members of audit offices or the management board of central banks;
f) ambassadors, consuls, chargé d'affaires and senior officers of the armed forces;
g) members of the administrative, management or supervisory bodies of public undertakings;
h) directors, deputy directors and members of the management board or equivalent positions in an international organization;
30. "family member":
a) the spouse or a person deemed equivalent to the spouse;
b) the children and their spouses or persons recognized as equivalent to their spouses;
c) parents;
31. "persons known as close associates":
a) natural persons who, with a politically exposed person, are the beneficial owners of an entity referred to in 27 a), b), c) or d), or who are known to have other close business ties with a politically exposed person;
b) natural persons who are the sole beneficial owners of an entity referred to in 27 a), b), c) or d), which is known to have been established to benefit a politically exposed person;

32. “senior lawyers”: lawyers with sufficient knowledge of the exposure of their institution to the ML/FT risk and who have a sufficiently high hierarchical position to make decisions affecting that exposure, without necessarily being a member of the statutory management body;
33. “international organization”: an association of means or interests established by an international agreement between States, which may provide for common bodies with legal personality that are subject to a legal system distinct from that of its members;
34. “business relationship”: a professional or commercial relationship entered into with a client and expected to last for some time:
a) if this business relationship results from entering into an agreement for whose implementation the parties will perform several successive transactions for a specified or indefinite period or which causes several continuing obligations; or
b) if this business relationship arises from a client, without entering into an agreement as referred to in a), relying on the same obliged entity for performing several successive transactions;
35. “managerial responsibilities”: the responsibilities assigned to persons performing management duties in an obliged entity by or under a statutory provision, the articles of association, or an assignment of powers by the entity concerned;
36. “managerial functions”: the functions of a member of a statutory administrative or management body of the obliged entity concerned, in particular the duties of director, manager, delegate for day-to-day operations, a member of the executive committee, management board or supervisory board, and all functions that include the authority to bind this obliged entity and represent it in relation to third parties, in particular public authorities, including the FIPU and the supervisory authority competent to act in relation to the obliged entity;
37. “the Act”: the Belgian Act of 18 September 2017 on the prevention of money laundering, financing of terrorism and restriction of the use of cash
38. “alliance”: a long-term cooperation as described in Article 170 of the Code;
39. “office”: the members of an alliance and all their employees and trainee lawyers who work permanently or at least regularly with the lawyer and/or the alliance;
40. “lawyer”: both the individual lawyer and the office of which the individual lawyer is part;

Title 2. – Risk-based approach

Article 4.
§ 1. Unless stipulated otherwise, a lawyer, in accordance with the provisions of the Act, must take the preventive measures referred to in Book II in a differentiated manner, depending on his assessment of the ML/FT risks.
§ 2. In an office with over 25 lawyers, employees and trainee lawyers in total, these measures are exercised and organized at office level. Any board of the Bar Council may deviate with reasons from the above number by making certain offices of less than or equal to 25 lawyers, employees and trainee lawyers subject to the application of this paragraph.

BOOK II – OBLIGATIONS OF A LAWYER IN RELATION TO THE PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

Title 1. – Organization and internal control

Chapter 1. – Organization and internal control of a lawyer

Article 5.
§ 1. A lawyer must develop appropriate and effective policies, procedures and internal controls commensurate with the nature and size of his practice:
1. to comply with the provisions of the Act, of the decrees and regulations adopted to implement it and of the implementing measures of Directive 2015/849, and to limit and effectively manage the relevant risks identified at the level of the European Union, Belgium and the lawyer and/or the office itself;
2. to comply, where applicable, with the provisions of the EU Funds Transfer Regulation;
3. to comply with the binding provisions on financial embargoes.
§ 2. The policies, procedures and internal controls referred to in paragraph 1 include:
1. developing policies, procedures and internal control measures specifically about risk management models, client acceptance, client screening, vigilance regarding clients and transactions, reporting of suspicions, retention of records, internal control, and managing compliance with the obligations set out in the Act and the decrees and regulations adopted to implement it, the EU Funds Transfer Regulation and the restrictive measures referred to in § 1, 3;
2. insofar as appropriate because of the nature and size of a lawyer's practice and notwithstanding the obligations laid down by or under other statutory provisions:
a) an independent audit function to test the policies, procedures and internal controls measures referred to in 1;
b) procedures when recruiting or appointing associates, employees and trainee lawyers of the office to verify they are sufficiently reliable, considering the risks associated with the duties and functions to be performed;
3. raising the awareness of a lawyer's associates, employees and trainee lawyers of the ML/FT risks and training these persons in the measures for limiting such risks.
§ 3. A lawyer must submit the policies, procedures and internal control measures he introduces under § 1 to the senior lawyers for approval.
§ 4. A lawyer must satisfy himself on the suitability and effectiveness of the measures taken to comply with this article and improve these measures, if necessary.

Article 6.
§ 1. A lawyer that is a legal entity must appoint a responsible person, at the highest level, from among the members of its statutory management body or, where applicable, its effective management, to ensure the application of and compliance with the provisions of the Act and the decrees and regulations adopted to implement it and, where applicable, the administrative decisions based on these provisions, the EU Funds Transfer Regulation and the restrictive measures referred to in Article 5, § 1, 3.
If a lawyer is a natural person, the duties referred to in the first paragraph will be performed by that person.
§ 2. Notwithstanding § 3, the lawyer must also designate one or more persons responsible for supervising the implementation of the policies, procedures and internal control measures referred

to in Article 5, for analyzing atypical transactions, and for drawing up the relevant written reports under Articles 34 and 35, in order to take appropriate action, where necessary, under Article 36. These persons must also raise the awareness of and train the associates, employees and trainee lawyers in accordance with Article 8.
If a lawyer is a legal entity, the person(s) referred to in the first paragraph will be appointed by its statutory management body or effective management.
A lawyer must verify beforehand whether the person(s) referred to in the first paragraph have:
1. the professional reliability needed to perform their duties with integrity;
2. the appropriate expertise, knowledge of the Belgian statutory and regulatory framework on the prevention of ML/FTP, the availability, hierarchical level and powers within the entity, which are necessary for the effective, independent and autonomous performance of these duties;
3. the authority to, on their own initiative, propose all necessary or useful measures to the statutory management body or the effective management of a lawyer that is a legal entity or to a natural person who is a lawyer, including assigning the necessary means to ensure the conformity and effectiveness of the internal measures to combat ML/FTP.
§ 3. If justified to take account of the nature and size of the office, particularly in terms of its legal form, management structure or staffing, the duties referred to in § 2 may be performed by the person referred to in § 1.

Article 7.
A lawyer must develop and implement appropriate procedures commensurate with the nature and size of his practice to enable his associates, employees and trainee lawyers to report any breach in the performance of the obligations, as set out in this Book, to the persons designated under Article 6 through a specific, independent and anonymous channel.

Article 8.
§ 1. A lawyer must take measures commensurate with the risks, nature and size of his practice to make his associates, whose position so requires, and his employees and trainee lawyers aware of the provisions of this Act and the decrees and regulations taken to implement it, including the applicable rules on data protection, and, where relevant, the obligations referred to in Article 5, § 1, 2 and 3.
He must ensure that the persons referred to in the first paragraph know and understand the policies, procedures and internal control measures applied by the lawyer under Article 5, § 1, and that they have the necessary knowledge of the applicable methods and criteria to identify transactions that may be related to ML/FT, how to proceed in such a case, and how to comply with the obligations referred to in Article 5, § 1, 2 and 3.
In addition, he must ensure that the persons referred to in the first paragraph know the internal reporting procedures referred to in Article 7 and the procedures for reporting to the Chairman.
§ 2. The measures referred to in § 1 include the persons referred to in its paragraph 1 participating in special ongoing training programs. They can be determined considering the duties they perform at the lawyer and the ML/FT risks to which they may be exposed when performing these duties.

Chapter 2. – Organization and internal control within groups

Article 9.
§ 1. A lawyer belonging to a group must apply the group-wide policies and procedures for preventing ML/FT, specifically including the policies on data protection and the policies and procedures for information sharing within the group for the purpose of combating ML/FT.
Obliged entities established in another Member State or third country must ensure these policies and procedures are effectively implemented in their branches in that other Member State or third country.
§ 2. Obliged entities established in another Member State must ensure that their branches comply with the provisions of that other Member State transposing Directive 2015/849 into national law.
§ 3. Obliged entities established in a third country must ensure that their branches in that third country comply with the national provisions of that country providing for minimum rules on combating ML/FT at least as stringent as those laid down in the Act.
Alliances established in one of the third countries where the minimum rules on combating ML/FT are less stringent than those provided for in this Act must ensure that their branches apply the rules laid down in this Act, including those on data protection, to the extent permitted by the law of the third country concerned.
If the law of a third country does not permit the application of the policies and procedures prescribed under § 1, a lawyer must ensure that the branch of the alliance of which he is a member in that third country takes measures, besides the local ones, to effectively manage the risk of ML/FT and he must inform the Chairman.

Article 10.
Lawyers, associations or groupings may not open a branch or representative office in a country or territory designated by the King under Article 54 of the Act.
They may not, directly or indirectly, acquire or incorporate a subsidiary operating as an obliged entity domiciled, registered or established in the aforementioned country or territory.

Title 2. – General risk assessment

Article 11.
A lawyer must take appropriate measures commensurate with the nature and size of his practice to identify and assess the ML/FT risks to which he is exposed, specifically considering the characteristics of his clients, products, services or transactions he offers, the countries or geographical areas concerned, and the delivery channels used.
In his overall risk assessment referred to in paragraph 1, a lawyer must at least consider the variables in list I. He may also consider those factors in list II that indicate a potentially lower risk, and must at least consider those factors in list III that indicate a potentially higher risk.
He must also consider the relevant findings of the report drawn up by the European Commission under Article 6 of Directive 2015/849, the report drawn up by the coordinating bodies under Article 68, any information about them and any relevant information at their disposal.

Article 12.
The general risk assessment referred to in Article 11 must be documented, updated and kept available for the Chairman.

A lawyer must be able to demonstrate to the Chairman that the policies, procedures and internal controls he establishes under Article 5, including, where applicable, the client acceptanc e policy, are commensurate with the identified ML/FT risk.
Where applicable, updating the general risk assessment also includes updating the individual risk assessments referred to in Article 14, § 2, first paragraph.

Article 13.
The Chairman may decide that certain documented risk assessments are not required if the specific risks inherent in the activities concerned are clear and comprehensible.

Title 3. – Screening of clients and transactions

Chapter 1. – General vigilance obligations

Section 1. – General provisions

Article 14.
§ 1. A lawyer must take vigilance measures in relation to his client that consist of:
1. identifying and verifying the identity of the persons referred to in Part 2, under the provisions of that part;
2. assessing the characteristics of the client and the purpose and intended nature of the business relationship or the occasional transaction and, if necessary, obtaining additional information to this end, under the provisions of Part 3; and
3. exercising ongoing vigilance over business relationships and transactions, under the provisions of Part 4.
§ 2. The vigilance measures referred to in § 1 are based on an individual assessment of the ML/FT risks, considering the particular characteristics of the client and the business relationship or transaction concerned. This individual risk assessment also considers the general risk assessment referred to in Article 11(1) and particularly the variables and factors referred to in Article 11(2).
If a lawyer identifies high-risk cases during his individual risk assessment as referred to in the first paragraph, he must take enhanced vigilance measures. He may apply simplified vigilance measures if he identifies low-risk cases.
A lawyer must ensure in any case that he can demonstrate to the Chairman that the vigilance measures he applies are commensurate with the identified ML/FT risk.

Section 2. – Obligations to identify and verify identification

Subsection 1 – Persons to be identified

Article 15.
§ 1. A lawyer must identify and verify the identity of his clients:
1. with whom he enters into business relationships;
2. who occasionally, outside a business relationship referred to in 1:
a) perform one or more transactions that appear to be linked, for an amount of EUR 10,000.00 or more; or
b) notwithstanding the obligations under the EU Funds Transfer Regulation, makes one or more remittance of transfer of funds within the meaning of that Regulation, which appear to be linked,

and for an amount exceeding EUR 1,000.00, or any amount, where the funds concerned have been received by a lawyer in cash or as anonymous electronic money.
For the purpose of the first paragraph, transferring funds to a payee's current account performed in Belgium is not considered a transfer of funds within the meaning of the EU Funds Transfer Regulation, if all of the following conditions are met:
i) the invoice concerned is only for paying the price for the supply of goods or services;
ii) the payment service provider of the payee is an obliged entity;
iii) the payment service provider of the payee is able, through the payee, to trace the person who has concluded an agreement with the payee for the supply of goods or services using a unique transaction code; and
iv) the amount of the funds transfer does not exceed EUR 1,000.00;
3. who are not covered by 1 or 2 and regarding whom there is a suspicion of money laundering or financing of terrorism;
4. for whom there are doubts on whether the previously obtained client identification data are truthful or correct.
§ 2. For the purpose of § 1, 2, "linked transactions" refers to transactions performed by the same person, relating to the same transaction of the same nature having an identical or similar object and performed in the same place, regardless of whether these transactions are performed simultaneously or at short intervals.

Article 16.
Where applicable, a lawyer must identify the client's mandatory or mandatories referred to in Article 15 and verify their identity.

Article 17.
§ 1. Where applicable, a lawyer must identify the beneficial owner(s) of the clients as referred to in Article 15, and the beneficial owner(s) of the mandatory or mandatories referred to in Article 16, and take appropriate measures to verify their identity.
Identifying the beneficial owners under paragraph 1 includes taking reasonable steps to understand the ownership and control structure of a client or mandatory that is a company, legal entity, foundation, fiduciary company, trust or similar legal structure.
§ 2. § 1 does not apply if the client, the client's mandatory, or a company controlling the client or the mandatory, is a company listed on a regulated market within the meaning of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, in a Member State or on a regulated market in a third country where the listed company is subject to statutory provisions equivalent to those laid down in that Directive and which, in particular, impose requirements for disclosing participating interests in the company concerned that are equivalent to those laid down in EU law.

Subsection 2 – Object of identification and identity verification

Article 18.
§ 1. To fulfil his obligation to identify the persons referred to in Articles 15-17, a lawyer must collect relevant information on those persons to be able to distinguish them with sufficient certainty from any other person, considering the level of risk identified under Article 14, § 2, first paragraph.

§ 2. Notwithstanding the low-risk circumstances referred to in § 3 or the high-risk circumstances referred to in § 4, the relevant information referred to in § 1, is:
1. if the identification requirement relates to a natural person: his surname, first name, date and place of birth and, insofar as possible, his address;
2. if the identification requirement relates to a legal entity: its registered name, registered office, list of directors and the provisions on the authority to bind the legal entity;
3. if the identification obligation relates to a trust, a fiduciary company or similar legal structure: its name, the information referred to in 1 or 2 about its trustee(s) or fiduciary manager(s), founder(s), protector(s), where applicable, and the provisions on the authority to bind the trust, fiduciary company or similar legal structure.
Notwithstanding paragraph 1:
1. if the identification obligation concerns a natural person in his capacity as beneficial owner, his date and place of birth must be identified insofar as possible;
2. if the identification obligation concerns natural persons in their capacity as beneficial owners of a foundation, an international or national non-profit association, fiduciary company, trust, or similar legal structure that appoint their beneficiaries based on their specific characteristics or the specific category to which they belong, a lawyer must obtain sufficient information regarding the characteristics or category concerned to be able to establish the identity of the natural persons who are the beneficial owners at the time of payment or when the beneficiaries exercise their definitive rights.
§ 3. If the individual risk assessment performed under Article 14, § 2, paragraph 1 shows that the risk associated with the client and the business relationship or transaction is low, a lawyer may limit the information he obtains regarding that listed in § 2. However, the gathered information must remain sufficient to distinguish the person concerned from any other person with sufficient certainty.
§ 4. If the individual risk assessment performed under Article 14, § 2, paragraph 1 shows that the risk associated with the client and the business relationship or transaction is high, a lawyer must pay particular attention to ensuring that the information gathered under § 2 enables him to incontrovertibly distinguish the person concerned from any other person. If necessary, he must gather additional information for this purpose.

Article 19.
§ 1. To comply with his obligation to verify the identity of the persons referred to in Articles 15-17, a lawyer must test all or part of the identification data collected under Article 18 against one or more records or reliable and independent sources of information that can confirm these data, to obtain sufficient assurance he knows the persons concerned. In doing so, the lawyer must consider the level of risk identified under Article 14, § 2, first paragraph.
§ 2. Notwithstanding the application of §§ 3 and 4, a lawyer must verify all the identification data collected under Article 18, § 2.
§ 3. If the individual risk assessment performed under Article 14, § 2, paragraph 1 shows that the risk associated with the client and the business relationship or transaction is low, a lawyer may limit the information gathered under Article 18 that he verifies. However, the verified information must remain sufficient to give the lawyer sufficient assurance regarding his knowledge of the person concerned.
§ 4. If the individual risk assessment performed under Article 14, § 2, paragraph 1 shows that the risk associated with the client and the business relationship or transaction is high, a lawyer must verify all the information he has gathered under Article 18 and pay particular information to

ensuring that the documents and sources of information he relies on to verify this information give him a high degree of assurance regarding his knowledge of the person concerned.

Article 20.
A lawyer who has access to the central register of beneficial owners referred to in Article 73 of the Act, to the equivalent registers kept in other Member States under Article 30(3) of Directive 2015/849 or in third countries, or to registers of the beneficial owners of trusts, fiduciary companies or similar legal structures held in other Member States under Article 31(4) of Directive 2015/849 or in third countries does not rely solely on consulting those registers to comply with his obligations to identify and verify the identity of the beneficial owners of his clients, the mandatories of his clients or the beneficiaries of life insurance contracts. For this purpose, he must take additional measures commensurate with the level of risk identified under Article 14, § 2, paragraph 1.

Subsection 3 – Date of identification and identity verification

Article 21.
A lawyer must comply with his obligation to identify and verify the identity of clients referred to in Article 15, § 1 and of the beneficial owners referred to in Article 17, § 1 before entering into any business relationship with his clients or performing any occasional transactions requested of him.
A lawyer must comply with his obligation to identify and verify the identity of clients' mandatories referred to in Article 16 before these mandatories exercise their authority to bind the clients they represent.

Article 22.
Notwithstanding Article 21(1) and (2), a lawyer, without prejudice to Article 27, in special circumstances listed exhaustively in his internal procedures and insofar as necessary not to interrupt the exercise of the activities, may verify the identity of the persons referred to in Articles 15-17 during the business relationship, if these conditions are met:
1. the individual risk assessment performed under Article 14, § 2, first paragraph, shows that the business relationship represents a low ML/FT risk;
2. the identity of the persons involved must be verified under Article 19 as soon as possible after the first contact with the client.

Subsection 4 – Failure to comply with the obligation to identify and verify identity

Article 23.
§ 1. If a lawyer cannot comply with his obligation to identify and verify a client, the client's mandatories or beneficial owners within the time limits set out in Articles 21-22, he may not enter into a business relationship with or perform transactions on behalf of that client. He must also terminate any business relationship already entered into.
In the cases referred to in the first paragraph, a lawyer must, under Article 35, investigate whether the reasons the obligations referred to in the first paragraph cannot be met cause a suspicion of ML/FT and whether there are reasons to report this to the Chairman.
§ 2. § 1 does not apply to a lawyer on the strict condition he is determining his client's legal position or defending or representing the client in or in connection with legal proceedings, including advice on how to institute or avoid such legal proceedings.

Section 3. – Obligation to identify the characteristics of the client and the purpose and nature of the business relationship or of the occasional transaction

Article 24.
§ 1. A lawyer must take appropriate measures to assess the characteristics of the client and the purpose and nature of the business relationship or the intended occasional transaction.
He must specifically ensure that he has the information needed to implement the client acceptance policy referred to in Article 5, for performing the obligation of ongoing vigilance regarding business relationships and transactions under Section 4, and for the specific obligation of enhanced vigilance under Chapter 2.
In particular, he must take reasonable steps to determine whether the identified persons, in compliance with Section 2, including the beneficial owner of the beneficiary of a life insurance contract, are politically exposed persons, family members of politically exposed persons, or persons known as close associates of politically exposed persons.
This information must be obtained by the date the business relationship is entered into or the occasional transaction is performed. For this purpose, he must take measures commensurate with the level of risk identified under Article 14, § 2, paragraph 1.
§ 3. If a lawyer cannot comply with his obligation as referred to in § 1, he may not enter into a business relationship or perform a transaction, particularly through a bank account, on behalf of the client. He must also terminate any business relationship already entered into.
In the cases referred to in the first paragraph, a lawyer must, under Article 35, investigate whether the reasons the obligation referred to in §1 cannot be met cause a suspicion of ML/FT and whether there are reasons to report this to the FIPU.
§ 4. §3 does not apply to a lawyer on the strict condition he is determining his client's legal position or defending or representing the client in or in connection with legal proceedings, including advice on how to institute or avoid such legal proceedings.

Section 4. – Ongoing vigilance obligation

Article 25.
§ 1. A lawyer must exercise ongoing vigilance over the business relationship commensurate with the level of risk identified under Article 14, § 2, paragraph 1, which specifically includes:
1. carefully examining the transactions performed during the business relationship and, if necessary, of the origin of the funds, to verify whether these transactions are consistent with the characteristics of the client, the purpose and nature of the business relationship or the intended transaction and with the risk profile of the client, in order to detect atypical transactions that must be subjected to a thorough analysis under Article 35;
2. keeping the data held under Sections 2 and 3 up to date, particularly when elements relevant to the individual risk assessment referred to in Article 14 are changed.
The data referred to in the first paragraph, 2, will be updated and verified under Articles 18-20.
As part of updating the information he keeps about his clients, a lawyer must take measures as referred to in Article 30, § 1, 1, enabling him to identify, among those clients, persons who have become politically exposed persons, family members of politically exposed persons or persons known as close associates of politically exposed persons. Where appropriate, the senior lawyers will decide whether or not to continue the business relationship and the other enhanced vigilance measures referred to in Article 30, § 1, will apply.

Notwithstanding Article 12, paragraph 3, updating information under paragraph 3, if necessary, implies that the individual risk assessment referred to in Article 14, § 2, paragraph 1 will also be updated regarding the clients concerned and, where applicable, that the scope of the ongoing vigilance measures taken will be adjusted.
§ 2. If the lawyer has reasons to believe that he cannot comply with his obligation as referred to in § 1, he may not enter into a business relationship or perform a transaction for the client. If he cannot comply with that obligation regarding existing clients, he must terminate the business relationship already entered into or, where applicable, apply the alternative restrictive measures referred to in Article 23, § 1, paragraph 3.
In the cases referred to in the first paragraph, a lawyer must, under Article 35, investigate whether the reasons the obligation referred to in the first paragraph cannot be met cause a suspicion of ML/FT and whether there are reasons to report this to the Chairman.
§ 3. § 2 does not apply to a lawyer, on the strict condition that he is determining his client's legal position or defending or representing the client in or in connection with legal proceedings, including advice on how to institute or avoid such legal proceedings.

Article 26.
Each lawyer must ensure that his associates, employees or trainee lawyers who internally report a transaction they consider atypical within the meaning of Article 25, § 1, paragraph 1, or the fact that they cannot comply with the vigilance obligations referred to in Articles 23, § 1, 24, § 3, and 25, § 2, are protected against any threat or act of aggression, and in particular against any prejudicial or discriminatory action by the employer.

Chapter 2. – Special cases of enhanced vigilance

Article 27.
In the cases referred to in Article 22, measures taken to verify the identity of persons referred to in Articles 15-17 and transactions performed within the context of the business relationship are subject to enhanced vigilance until the identity of all the persons concerned has been verified. Any anomaly, including the impossibility of verifying the identity of these persons as soon as possible, must be analyzed and a written report as referred to in Article 34 must be drawn up.

Article 28.
A lawyer must apply enhanced vigilance measures in his relationships with natural persons, legal entities or legal structures, such as trusts or fiduciary companies, established in a high-risk third country.
A lawyer who has established branches or majority subsidiaries in high-risk third countries may allow them to apply non-automatic enhanced vigilance measures, based on a special risk assessment, provided that he is satisfied that the branches and subsidiaries concerned comply fully with the policies and procedures applicable at group level under Article 9.

Article 29.
A lawyer must apply enhanced vigilance measures, particularly considering the risk of money laundering arising from serious tax fraud, whether or not organized, as referred to in Article 3, 23, k):

1. regarding transactions, including the receipt of funds, relating to a State with or without low tax in the list established by Royal Decree under Article 307, § 1, paragraph 7, of the Belgian Income Tax Code 1992; and
2. regarding the business relationships in which transactions are performed, including the receipt of funds, relating to a State referred to in point 1, or involving natural persons, legal entities or legal structures, such as trusts or fiduciary companies, established in such a State or governed by the law of such a State.

Article 30.
§ 1. A lawyer who performs transactions or establishes business relationships with politically exposed persons, family members of politically exposed persons or persons known as close associates of politically exposed persons, must, besides the vigilance measures regarding clients provided for in Chapter 1, take measures consisting of:
1. notwithstanding Article 5, having appropriate risk management systems in place, including appropriate risk-based procedures, to determine whether the client, a mandatory of the client or the beneficial owner of the client, is or has become a politically exposed person;
2. the following measures in case of business relationships with politically exposed persons:
a) obtaining permission from the senior lawyers to enter into or continue business relationships with such persons;
b) taking appropriate measures to identify the source of capital and funds used in business relationships or transactions with such persons;
c) exercising enhanced supervision over the business relationship.
§ 2. If a politically exposed person is no longer entrusted with a prominent public position by a Member State, a third country or an international organization, a lawyer must consider the ongoing risk posed by that person for at least 12 months and apply appropriate measures based on the assessment of that risk until such person ceases to constitute a risk inherent to politically exposed persons.

Chapter 3. – Compliance with the vigilance obligation by third-party business introducers

Article 31.
Notwithstanding the cases where use is made of mandatories or subcontractors acting in accordance with their instructions and under their supervision and responsibility, a lawyer may arrange for the vigilance obligations referred to in Articles 18-22, 24 and 25, § 1, 2 to be complied with by third-party business introducers. In that case, the ultimate responsibility for complying with these obligations remains with the lawyer concerned.

Article 32.
§ 1. In this chapter, a “third-party business introducer” means:
1. an obliged entity as referred to in Article 5 of the Act;
2. an obliged entity within the meaning of Article 2 of Directive 2015/849 governed by the law of another Member State;
3. an obliged entity within the meaning of Article 2 of Directive 2015/849 governed by the law of a third country, and:
a) that must fulfil statutory or regulatory client vigilance requirements and record-keeping obligations consistent with those laid down in Directive 2015/849; and

b) whose compliance with these statutory or regulatory obligations is monitored under the requirements laid down in Chapter VI, Section 2, of Directive 2015/849.
§ 2. A lawyer may not rely on third-party business introducers established in high-risk third countries.
Notwithstanding paragraph 1, a lawyer may rely on his branches, majority subsidiaries or other entities in his group he has established in high-risk third countries, if these conditions are met:
1. the lawyer is guided by information provided exclusively by a third-party business introducer who is part of the same group;
2. that group applies policies and procedures to prevent ML/FT, as well as vigilance measures and rules on record-keeping, under this Act or Directive 2015/849, or equivalent rules of the law of a third country, and effectively checks whether the third-party business introducer actually complies with those policies and procedures, measures and rules;
3. the actual performance of the obligations referred to in 2 will be supervised at group level by the supervisory authority competent under Article 85 or by the supervisory authority of the Member State or third country where the parent undertaking of the group is established.

Article 33.
§ 1. A lawyer who uses a third-party business introducer must require him to immediately provide the information about the identity of the client and, where applicable, of the client's mandatories and beneficial owners, and about the characteristics of the client and the purpose and intended nature of the business relationship needed for performing the vigilance obligations entrusted to the third-party business introducer under Article 31.
He must also take appropriate measures to ensure that the business introducer immediately provides him, on request, with a copy of the records or reliable sources of information used to verify the identity of the client and, where applicable, of the client's mandatories and beneficial owners.
Under the conditions laid down in Articles 31 and 32, a lawyer may accept the results of the vigilance obligations performed by a third-party business introducer in a Member State or third country, even if the particulars or records to which the identification or identity verification relates differ from those required by this Act or by the measures taken to implement this Act.
§ 2. The obliged entities referred to in Article 5 of the Act that operate as third-party business introducers must immediately disclose the information to the institutions or persons where the client has been introduced about the identity of the client and, where applicable, of the client's mandatories and beneficial owners, and about the characteristics of the client and the purpose and intended nature of the business relationship needed for performing the vigilance obligations entrusted to them under Article 31.
They must also, immediately on request, provide a copy of the records or reliable sources of information to verify the identity of the customer and, where applicable, of the client's mandatories and beneficial owners.

Title 4. – Analysis of atypical transactions and reporting of suspicions

Chapter 1. – Analysis of atypical transactions

Article 34.
§ 1. Under the responsibility of the person designated under Article 6, § 2, a lawyer must specifically analyze atypical transactions identified under Article 25, § 1, 1, to establish whether these transactions can be suspected as relating to money laundering or financing of terrorism. In

particular, he must, to the extent reasonably possible, examine the background and purpose of any complex and unusually large transactions, and any unusual transaction patterns, which have no apparent economic or lawful purpose.
In so doing, he must take all necessary measures to supplement the measures referred to in Articles 14-41.
§ 2. A lawyer must prepare a written report on the analysis performed under § 1.
This report will be drawn up under the responsibility of the persons referred to in Article 6, § 2, who must take appropriate action in compliance with the obligations set out in this Title.

Article 35.
In the cases referred to in Articles 23, § 1, 24, § 3, and 25, § 2, a lawyer must perform a specific analysis, under the responsibility of the person appointed under Article 6, § 2, to determine whether the reasons for non-compliance with the vigilance obligations cause a suspicion of ML/FT and whether there are grounds for reporting to the FIPU under Articles 36-43.
A lawyer must prepare a written report on the analysis performed in compliance with paragraph 1.
This report will be drawn up under the responsibility of the persons referred to in Article 6, § 2, who must take appropriate action in compliance with the obligations set out in this Title.

Chapter 2. – Reporting suspicions

Section 1. – Obligation to report suspicions and provide additional information to the Financial Information Processing Unit

Article 36.
§ 1. Only when performing the activities listed in Article 67 of the Code, a lawyer must report to the Chairman, if he knows, suspects or has reasonable grounds to suspect:
1. that funds, regardless of their amount, relate to money laundering or the financing of terrorism;
2. that transactions or attempted transactions relate to money laundering or the financing of terrorism. This obligation to report also applies if the client decides not to perform the intended transaction;
3. other than the cases referred to in 1 and 2, that an act of which he is aware relates to money laundering or the financing of terrorism.
The obligation to report to the Chairman under 1-3 does not require the lawyer to identify the criminal activity underlying the money laundering.
§ 2. A lawyer must also report any suspicious funds, transactions or attempted transactions and acts, as referred to in § 1, to the Chairman that he learns of within the context of activities he performs in another Member State without having a representative subsidiary, branch or other form of establishment there.
§ 3. A lawyer must report all funds, transactions and acts to the Chairman as determined by the King in a decree deliberated in the Cabinet and adopted on the recommendation of the FIPU.
§ 4. In compliance with §§ 1-3, a lawyer must report to the Chairman within the periods referred to in Article 40.
§ 5. A lawyer must simultaneously submit all information and useful documents to the Chairman.
§ 6. A lawyer should consult his Chairman if he is in any doubt.
§ 7. Notwithstanding §§ 1-6, a lawyer will not disclose the information and intelligence in those sections if he receives it from or about a client when he is determining that client's legal position, or defending or representing that client in or in connection with legal proceedings, including giving

advice on instituting or avoiding legal proceedings, regardless of whether such information is received or obtained before, during or after such proceedings. Determining the legal position of clients includes providing legal advice in the broad sense.

The first paragraph does not apply if the lawyer himself has participated in the money laundering activities or the activities for the financing of terrorism, has provided legal advice for money laundering or the financing of terrorism, or knows that his client is seeking legal advice for money laundering or the financing of terrorism
§ 8. The Chairman will verify compliance with the conditions set out in § 7. Where applicable, he will forward the information to the FIPU under Articles 39 and 40.

Article 37.
A lawyer must respond to requests for additional information sent to him by the FIPU under Article 54, within the time limits set by the FIPU. However, a lawyer may only comply with this requirement if his Chairman intervenes.

Article 38.
In principle, any information or intelligence referred to in Articles 36 and 37 must be reported to the Chairman by the person or persons designated under Article 6, § 2.
However, any manager, associate, representative, employee or trainee lawyer of a lawyer who is himself a lawyer must personally report the information or intelligence concerned to the Chairman whenever the procedure referred to in the first paragraph cannot be followed.

Article 39.
The information and intelligence referred to in Articles 36 and 37 are reported by the Chairman to the FIPU in writing or electronically, under the terms set by the FIPU.
On the recommendation of the FIPU, the King may draw up a list of obliged entities for which the notifications and information referred to in paragraph 1 are reported exclusively online.

Article 40.
§ 1. Information relating to a transaction as referred to in Article 36, § 1, 2, and §§ 2 and 3 must be communicated to the Chairman before the transaction is performed. Where applicable, the time limit within which the transaction concerned must be performed will be indicated.
If the lawyer cannot inform the Chairman of the transaction before it is performed, either because it is impossible to postpone its performance due to the nature of the transaction or because any delay could prevent the prosecution of the beneficiaries of that transaction, he must report this transaction to the Chairman immediately after it has been performed.
In this case, the reason why the Chairman could not be informed before the transaction was performed must also be given.
§ 2. If the lawyer knows, suspects or has reasonable grounds to suspect that funds or an act as referred to in Article 36, § 1, 1 and 3, and § 2, relate to money laundering or the financing of terrorism, or if he learns of funds or acts as referred to in Article 36, § 3, he must immediately report this to the Chairman.

Section 2. – Prohibition on disclosure

Article 41.
§ 1. Neither the lawyer, his employees, trainee lawyers nor the Chairman, may disclose to any client involved or to any third party that any information or intelligence has been or will be provided to the Chairman under Articles 36 or 37, or that an analysis on money laundering or the financing of terrorism is in progress or may be initiated.
The prohibition referred to in the first paragraph also applies to disclosing the information or intelligence referred to therein to the branches of obliged entities established in third countries.
§ 2. If a lawyer tries to dissuade a client from participating in an illegal activity, there is no disclosure within the meaning of § 1.

Article 42.
§ 1. The prohibition referred to in Article 41 does not apply to the disclosure to the Chairman or to disclosure for repressive purposes.
§ 2. The prohibition referred to in Article 41 does not apply to disclosing information:
between auditors, external accountants and tax consultants, licensed bookkeepers and accounting professionals-tax experts, civil-law notaries, judicial officers and lawyers:
a) who are performing their professional activities, whether or not as employees, within the same legal entity or larger structure to which the person belongs and that has the same ownership, management or supervision of compliance with obligations; or
b) if they intervene in relation to the same client and as part of the same transaction, provided that the information exchanged relates to that client or transaction, that it is used solely for the prevention of money laundering or the financing of terrorism, and that the addressee of the information is subject to obligations equivalent to those laid down in Directive 2015/849 on the prohibition of disclosure and protection of personal data.

Section 3. – Protection of reporting parties

Article 43.
Disclosure of information in good faith to the Chairman by a lawyer, one of his directors, associates, employees and/or trainee lawyers, or by the Chairman, constitutes no breach of any restriction on disclosure of information imposed by contract or by any statutory, regulatory or administrative provision, and does not involve that lawyer and/or office or his directors, associates, employees and/or trainee lawyers in liability of any kind, whether civil, criminal or disciplinary, nor any adverse or discriminatory action by the employer, even if that person was not precisely aware of the underlying criminal activity, and regardless of whether any illegal activity actually occurred.

Section 4. – Retention and protection of data and documents

Article 44.
A lawyer must keep these documents and information, using any type of information carrier, to prevent, detect or investigate potential money laundering or the financing of terrorism by the FIPU or other competent authorities:
1. identification data referred to Sections 2 and 3 of Title 3, Chapter 1, updated where applicable under Article 25, and a copy of the records or the result of consulting an information source,

referred to in Article 19, for ten years after the end of the business relationship with his client or after the date of an occasional transaction;
2. subject to any other applicable legislation, the records and registration data of transactions required to identify and precisely reconstruct the performed transactions, for ten years after performing the transaction;
3. the written report, drawn up based on Articles 34 and 35, under the procedures described in 2.
Notwithstanding paragraph 1, the ten-year retention period will be reduced to seven years in 2017 and to eight and nine years in 2018 and 2019 respectively.

Article 45.
Notwithstanding Article 44, 1, a lawyer may substitute the retention of a copy of the records by the retention of references to these records, provided that the references, due to their nature and retention methods, enable the obliged entity to produce these documents immediately on request of the FIPU or other competent authorities, after intervention by his Chairman, during the retention period laid down in the same article, and without it being possible for these documents to have been changed or altered in the meantime.
A lawyer who intends to use the derogation referred to in paragraph 1 must specify, in his internal control procedures in advance, the categories of records of which he retains references instead of a copy, and the methods of retrieving these documents, so they can be produced, on request, under paragraph 1.

Article 46.
§ 1. Subject to any other applicable legislation, a lawyer must delete personal data at the end of the retention period referred to in Article 44.
§ 2. The retention period for documents and information, referred to in Article 44, paragraph 1, regarding the business relationships ended or transactions concluded up to five years before the entry into force of this Act will be seven years.

Article 47.
A lawyer must have systems enabling him to fully respond, within the period laid down in Article 37 and via secure channels to ensure complete confidentiality, to requests for information from the FIPU under Article 81, from the judicial authorities or Chairman, within the scope of their respective powers, to determine whether the lawyer maintains or, in the ten years prior to this request, has maintained a business relationship with a specific person, and, where applicable, to questions on the nature of this relationship.

Article 48.
§ 1. The processing of personal data under this Act is subject to the provisions of the Belgian Act of 8 December 1992 on protecting privacy regarding the processing of personal data and to the provisions of European regulations that have direct effect. This processing of personal data is necessary to perform a task in the public interest within the meaning of Article 5 of the same Act.
§ 2. A lawyer processes personal data under this Act for ML/FT prevention purposes only and does not subsequently process these data in a manner that is incompatible with these purposes.
The processing of personal data under this Act for any purposes other than those laid down in this Act, i.e. for commercial purposes, is prohibited.

§ 3. A lawyer must provide his clients with the required information under Article 9 of the aforementioned Belgian Act of 8 December 1992 prior to establishing a business relationship or performing an occasional transaction.
This information specifically includes a general notice on the obligations of obliged entities under the aforementioned Act when processing personal data to prevent money laundering and the financing of terrorism.

Article 49.
The person whose personal data are processed under this Act does not have the right to access and rectify his data, the right to be forgotten, the right to the portability of these data, the right to object, the right not to be profiled, or the right to be notified of security breaches.
The right of the person involved to access personal data relating to him is exercised indirectly, under Article 13 of the aforementioned Belgian Act of 8 December 1992, through the Commission for the Protection of Privacy established by Article 23 of the same Act.

LISTS

The lists to this Annex form an integral part of it and consist of articles. Any reference to these articles expressly mentions that it involves the articles on the list concerned.

List I.

Article 1.
The variables that the obliged entities at least consider in their comprehensive risk assessment as referred to in Article 16, paragraph 2 are:
1. the purpose of an account or a relationship;
2. the extent of the assets deposited by a client or the scope of the concluded transactions;
3. the regularity or duration of the business relationship.

List II.

Article 1.
The indicative factors of a potentially lower risk referred to in Articles 16, paragraph 2 and 19, § 2 are:
1. client-specific risk factors:
a) listed companies subject to disclosure requirements (under stock exchange regulations or statutory or enforceable means) which include requirements to ensure adequate transparency regarding the beneficial owners;
b) authorities or publicly owned companies;
c) clients resident in geographical areas with a lower risk than referred to in point 3;
2. risk factors related to products, services, transactions or delivery channels:
a) low-premium life insurance contracts;
b) pension insurance contracts that contain no surrender clause and cannot serve as security;
c) a pension scheme, a pension fund or a similar scheme that pays pensions to employees, for which contributions are deducted from salaries and the rules of the scheme do not permit participants to transfer their rights under the scheme;

d) financial products or services that appropriately include certain and limited services for particular types of clients to increase access for financial inclusion purposes;
e) products where the risk of ML/FT is managed by other factors such as spending limits or transparency of ownership (e.g. certain types of electronic money);
3. geographic risk factors:
a) Member States;
b) third countries with effective systems to control ML/FT;
c) third countries that according to credible sources have a low level of corruption or other criminal activity;
d) third countries that according to credible sources, such as mutual assessments, detailed evaluation reports, or published follow-up reports, have rules on combating ML/FT that comply with the revised FATF recommendations and effectively implement those rules.

List III.

Article 1. The indicative factors of a potentially higher risk referred to in Articles 16, paragraph 2 and 19, § 2 are:
1. client-specific risk factors:
a) the business relationship takes place in unusual circumstances;
b) clients resident in geographical areas with a high risk as referred to under 3;
c) legal entities or legal structures that are vehicles for holding personal assets;
d) companies with proxy shareholders or bearer shares;
e) business entities that have a high volume of cash transactions;
f) the ownership structure of the company appears unusual or excessively complex given the nature of its corporate activity;
2. risk factors related to products, services, transactions or delivery channels:
a) private banking;
b) products or transactions that promote anonymity;
c) remote business relationships or transactions, without some guarantees, such as electronic signatures;
d) payments received from unknown or unrelated third parties;
e) new products and new business practices, including new delivery mechanisms, and using new or evolving technologies for both new and existing products.
3. geographic risk factors:
a) without prejudice to Article 38, countries identified as having no effective ML/FT systems based on credible sources, such as mutual assessments, detailed evaluation reports, or published follow-up reports;
b) third countries that according to credible sources have significant levels of corruption or other criminal activity;
c) countries subject to sanctions, embargoes or similar measures imposed, for example, by the European Union or the United Nations;
d) countries providing financing or support for terrorist activities, or in whose territory organisations designated as terrorist organizations are active.

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Section III.1.3 Limitation of liability

Article 74 (art. III.1.3.1)

Lawyers and alliances may limit their professional liability towards clients, but that limitation may not fall below the amount of the basic cover of their Bar Council professional liability insurance, which is currently €1,250,000.

Professional liability may be limited in agreements with clients or by practicing the profession under a professional partnership with limited liability. A lawyer may never make the indemnity at his client's expense.

Section III.1.4 Contact between a lawyer and detained client

Article 75 (art. III.1.4.1)

Unless appointed by a legal aid office or chairman, a lawyer may visit his detained client only if he is appointed by that client while being interviewed by the examining judge or consulted by that client by letter, e-mail, or telephone in compliance with the applicable administrative regulations.

Article 76 (art. III.1.4.2)

A lawyer may also visit a detainee if he has been consulted by a family member or partner of that detainee. A lawyer must then check the identity of the person consulting him as well as the existing family or other relationship with the detainee.

Article 77 (art. III.1.4.3)

In the cases referred to in Article III.1.4.2 and from the first interview in prison, a lawyer must ensure that the detainee confirms his choice of lawyer. A lawyer must withdraw immediately if the detainee has already chosen another lawyer, unless the detainee has expressed the wish to be assisted by a further lawyer.

Article 78 (art. III.1.4.4)

A lawyer will refuse to act, inter alia, for a detainee who has approached him in the prison, including if the request is made by another detainee and from any person who is part of the correctional facility (administrative personnel, chaplain, etc.) or the legal environment (police, interpreters, etc.), subject to the provisions of the Belgian Act of 13 August 2011.

Section III.1.5 Provision of files

Article 79 (art. III.1.5.1)

A lawyer may provide a copy of the criminal file in which his client is personally involved to the client, provided that he complies with the rules of care and discretion, notwithstanding the application of the Belgian Youth Protection Act (*Jeugdbeschermingswet*) of 8 April 1965.

Article 80 (art. III.1.5.2)

A lawyer of the parents of a minor may inform them of the content of that minor's personality file and of documents concerning his living environment but may not give them copies thereof.

A lawyer of a minor may inform the minor of the content of his personality file and of documents concerning his living environment but may not give him copies thereof. He may not provide the contents of that file to the minor's parents.

Section III.1.6 Social reports

Article 81 (art. III.1.6.1)

A lawyer must exercise the utmost discretion during the discussion of social reports that are added to the file during the hearing of a case before the Youth Court or the Committee for the Protection of Society (*Commissie tot Bescherming van de Maatschappij*), particularly in relation to confidential and very sensitive information.

Section III.1.7 Advertising

Article 82 (art. III.1.7.1)

A lawyer may advertise or arrange for advertising insofar as this is not contrary to any legal standards, particularly this section.

Article 83 (art. III.1.7.2)

A lawyer may not conduct any misleading advertising.

Article 84 (art. III.1.7.3)

§1 A lawyer in a current case may not intentionally and without invitation try to solicit the clients of another lawyer through advertising.

§2 A lawyer may not advertise a personalized range of services for a particular case or file without being invited to do so.

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Article 85 (art. III.1.7.4)

A lawyer may not advertise that he has specific expertise in one or more areas of law, unless a convincing case for that expertise can be made on the basis of knowledge and/or experience that he has acquired.

Article 86 (art. III.1.7.5)

[Unless his professional privilege or regulations relating to data protection dictate otherwise, a lawyer may refer in his advertising to the nature, scope and result of the cases that he has handled or is handling, without mentioning the name of the client, unless the client specifically agrees to this.][10]

Article 87 (art. III.1.7.6)

§1 A lawyer that refers to rates and conditions in his advertising must do so clearly and unambiguously. He must at least clearly state which services the rates relate to and how costs are charged so the client can form a complete picture of the fees and disbursements.

§2 It is not permitted to refer solely to basic or minimum prices in advertising.

§3 A lawyer is bound by the rates and conditions that he publishes.

Article 88 (art. III.1.7.7)

A lawyer may not refer to the offices that he holds or has held in the judiciary and the political mandates that he exercises or has exercised in advertising, other than in personal details and curriculum vitae.

Section III.1.8 Secondary legal assistance

Article 89 (art. III.1.8.1)

A lawyer that is consulted by a client and knows or suspects that the client qualifies for secondary legal assistance must inform the client of this fact.

[10] amended at the GM of 23/05/2018

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[Section III.1.9 Work of lawyers in the context of secondment] [11]

Article 90 (old art. III.1.9.1): **Definitions**

For the purpose of Section III.1.9, the following terms have the stated meaning:

1. 'secondment': the limited assignment of a lawyer on the lawyers' roll to a client, in order for the lawyer, in his capacity as a lawyer, to provide the services of a lawyer to that client from within that client's structure;

2° 'seconded lawyer': the lawyer on the lawyers' roll who is assigned to a client by another lawyer or an alliance, or who makes himself available;

3° 'client': the purchaser of services from a lawyer on the lawyers' roll or an alliance in order to be assigned such a lawyer from that lawyer or that alliance.

Article 91 (old art. III.1.9.2): **Independence**

The seconded lawyer remains subject to the Code of Ethics for the duration of his secondment.

Article 92 (old art. III.1.9.3): **No confusion**

The lawyer must ensure that his secondment does not give cause for any confusion. He must make himself known as a lawyer, not sign any documents using the client's letterhead or logo, and not use the client's e-mail address.

Article 93 (old art. III.1.9.4): **Confidentiality**

Work performed by a seconded lawyer within the context of his secondment does not affect the compulsory confidential nature of his contacts with other lawyers, with the client, or with the lawyer or alliance that has seconded him, except for the exceptions permitted in laws or regulations.

Article 94 (old art. III.1.9.5): **Written agreement**

The secondment will be recorded in a written agreement. The wording of this Section on secondment will be added to the agreement to become an integral part of it. A copy of the agreement must be communicated to the chairman before the activity commences.

Article 95 (old art. III.1.9.6)

Secondment that does not comply with Articles 90 and 91 of this Section is incompatible with the profession of lawyer.

Article 96 (old art. III.1.9.7): **Transitional provision**

Section III.1.9 applies immediately.

[11] Section inserted after approval at the GM of 27/1/2016 – Belgian Official Journal 4/2/2016 – Entry into force on 4/2/2016

A lawyer who is seconded when Section III.1.9 enters into force must immediately report his secondment to the chairman and give notice of the written agreement.

If there is no written agreement relating to the secondment of the lawyer at that time, the lawyer must record his agreement with the client in writing and immediately give the chairman notice thereof.

CHAPTER III.2 Relationships with lawyers

Section III.2.1 Collegiality

Article 97 (art. III.2.1.1)

A lawyer is always obliged, with due observance of the law and rules of ethics to protect his client's interests as well as possible and to place them above his own interests or those of third parties.

A lawyer must protect his client's interests by upholding the rights of defense. He must respect the adversarial nature of proceedings and not mislead anyone.

In order to promote the fair and proper administration of justice, a lawyer has an obligation of loyalty and collegiality. The rules of collegiality promote the relationship of trust among lawyers in the interests of the client and also serve to avoid unnecessary proceedings and any conduct that may harm the reputation of the profession.

Article 98 (art. III.2.1.2)

If a defended action follows prior contact between lawyers, the lawyer instituting action must inform his colleague of this fact, unless doing so would harm the client's lawful interests.

Article 99 (art. III.2.1.3)

A lawyer may adopt all unilateral judicial and extrajudicial measures and institute all proceedings by way of an ex-parte application without prior notice to the opposing party's lawyer.

Article 100 (art. III.2.1.4)

In defended actions, a lawyer must never unilaterally contact the judge, arbitrator, or expert. Letters, documents, exhibits, or statements of case given to a judge, arbitrator or expert must be given simultaneously to the opposing counsel or to the opposing party if that party has no lawyer.

Article 101 (art. III.2.1.5)

Documents are exchanged between lawyers out of court and without formalities. The exchange may be made by filing the documents with the court registry only if the nature of the documents necessitates this. Even in that case, a lawyer gives his opposing counsel an inventory of his documents with at least a copy of those documents that may be copied.

Article 102 (art. III.2.1.6)

A lawyer must have no direct contact with a party in a specific case whom he knows is represented in that case by a lawyer. Direct contact is permitted if the lawyer of that party gives express consent and on condition that he is kept informed thereof. A lawyer may obtain information that his client is entitled to directly from the authorities in accordance with the law, even if the authority concerned is a party in the case.

Article 103 (art. III.2.1.7)

A lawyer must organize his work so as to avoid any useless postponement of cases he is handling and any unnecessary travel or wasted time for his colleagues. A lawyer that causes unnecessary travel or wasted time for his opposing counsel, without serious or unforeseeable cause, is not acting in a collegial manner.

Article 104 (art. III.2.1.8)

A lawyer that requests a case be sent to the cause list or a postponement at the introductory hearing must notify his opposing counsel thereof in due time and the most efficient manner.

A lawyer that wishes to request the postponement of a case set down for hearing must notify the court and, where applicable, the public prosecution service, his opposing counsel, and the opposing party who appears in person thereof in due time and the most efficient manner.

Article 105 (art. III.2.1.9)

A lawyer who establishes that a colleague involved in a case is absent from a scheduled hearing must do all that is possible to reach and make arrangements with that colleague before continuing the case, if necessary, in his absence.

A lawyer may deal with a case in the absence of a colleague who is involved in that case, only if he has given that colleague written notice of the hearing date and his intention to proceed with the case in any event.

Article 106 (art. III.2.1.10)

Before serving and enforcing a court ruling, a lawyer must invite his opposing counsel to carry out voluntary enforcement and/or waive all remedies and give him a reasonable time for that purpose.

Immediate service and/or enforcement are permitted in urgent cases or in case of necessity arising from the law or the actual ruling.

A lawyer must always inform the other lawyers involved that he is giving instructions for a court ruling to be served. This must be done no later than when that instruction is given.

Article 107 (art. III.2.1.11)

A lawyer that makes use of a remedy must notify the lawyers involved in the case thereof as soon as possible. This must be done no later than when that remedy is used.

Article 108 (art. III.2.1.12)

A lawyer that makes use of the services of a colleague is responsible for payment of the fees and disbursements due to that colleague for the instructions entrusted to him, unless he is advised in writing beforehand that those fees and disbursements must be charged directly to the client. If a lawyer no longer wishes to assume responsibility for payment of future services, he must notify his colleague thereof in writing.

Article 109 (art. III.2.1.13)

A lawyer may not institute legal action, lay criminal complaints, or take precautionary measures against a colleague without giving prior notice to his chairman. The draft initiating summons or complaint must accompany this notice.

A lawyer that wishes to defend the interests of a party that has already submitted a complaint without a lawyer or has instituted action against a lawyer must notify his chairman before continuing the proceedings.

A lawyer may not institute or continue the above proceedings until one month has passed since the notification, except in a case of reasoned urgency.

The duty of notification does not apply to action against a lawyer in his capacity as a legal mandatary, unless his liability is compromised.

Article 110 (art. III.2.1.14)

A lawyer that institutes a claim against a colleague on behalf of a client and the colleague himself must notify their respective chairmen of the ruling and its enforcement.

Section III.2.2 Fee for introductions

Article 111 (art. III.2.2.1)

§1 A lawyer may not ask for or accept any fee, advance, or other form of payment for recommending another lawyer to a client or for sending a client to another lawyer. A lawyer may not receive such payment from another lawyer, except as part of an alliance among lawyers, or from any third party.

§2 A lawyer may not pay anyone a fee, advance, or other form of payment as consideration for introducing a client, except in case of an alliance among lawyers.

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Section III.2.3 Confidentiality of discussions

Article 112 (art. III.2.3.1)

Notwithstanding the application of the articles on correspondence between lawyers, the content of discussions between lawyers in the absence of clients and third parties is confidential. The existence of the discussions and contacts may not be denied due to loyalty.

If lawyers wish to keep the existence of discussions absolutely confidential, they must agree on this expressly and in writing at the start of the discussions.

Where applicable, the chairman will ensure the faithful application of this article.

Section III.2.4 Production of correspondence between lawyers

Article 113 (art. III.2.4.1)

Correspondence between lawyers is confidential. Even if lawyers agree, correspondence may be produced only with the consent of the chairman. This applies both to judicial and extrajudicial use.

Article 114 (art. III.2.4.2)

The following notices lose their confidential nature and may thus be produced without the chairman's consent:

§1 every notice that constitutes or replaces a court document;

§2 (old regulations of 6 March 1980): every notice that is expressly stamped as non-confidential and contains a unilateral commitment made without reservation;

§3 every notice, made without reservation and that is non-confidential, at the request of one party, in order to inform another party, on condition that the addressee expressly accepts it as non-confidential;

§*3bis* (old regulation of 22 April 1986): every written notice marked as 'non-confidential' that contains only an accurate description of the precise facts, as well as the answer thereto, and which replaces either a judicial officer's writ or a notice from one party to the other;

§4 every notice, even if made confidentially in the name of a party, when it contains specific proposals that are accepted unconditionally in the other party's name.

The provisions of this article apply only to those notices that contain nothing other than what is stated under §1, 2, 3, 3*bis* and 4.

It is recommended:

a) to have written consent from the client in relation to those notices;

b) to keep notices of an official nature short and concise, and to mention that nature in the letter itself;
c) to give every notice that is confidential in nature in a separate letter.

Article 115 (art. III.2.4.3)

The chairman ensures the faithful application of Article III.2.4.2.

Article 116 (art. III.2.4.4)

If there is a dispute among lawyers from different bars, their correspondence may be used only with the prior consent of their respective chairmen, on the understanding:

a) (amended by the regulation of 8 May 1980) that if there is disagreement, the decision of the chairman of the bar in the judicial district where the correspondence is produced will be binding if one of the lawyers concerned are part of that chairman's bar; in other cases and for international and foreign jurisdictions, the most restrictive interpretation will apply;
b) that the rule of jurisdiction also applies if the correspondence is used for the first time on appeal;
c) that every dispute in relation to the use of letters that arises at the hearing will be decided by the chairman of the bar of the judicial district where the case is heard;
d) that if there is a change of lawyer during the course of proceedings, the chairman of the bar to which the new lawyer belongs cannot reverse the decision made by the chairman of the bar to which the previous lawyer belonged.

Article 117 (art. III.2.4.5)

The right to produce correspondence does not alter the existence and scope of the invoked agreements.

Section III.2.5 Production of correspondence between lawyers and legal mandataries

Article 118 (art. III.2.5.1)

Correspondence between lawyers and lawyers/legal mandataries is official.

Article 119 (art. III.2.5.2)

The sender may make his letter confidential by stating this expressly in the letter. The addressee must regard and treat that letter as confidential.

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Section III.2.6 Succession

Article 120 (art. III.2.6.1)

A lawyer that succeeds another lawyer in the same case must immediately inform him thereof. The new lawyer must immediately ensure the representation and assistance of the client.

The old lawyer must hand the file to the new lawyer as soon as possible, together with all details that are necessary for continuing the case. He must give a statement of fees and disbursements to the client as soon as possible and notify the new lawyer thereof. The new lawyer must request the client to pay the statement of fees and disbursements insofar as it is not disputed.

The new lawyer may perform all acts in the interest of his client, even if the statement of fees and disbursements is disputed. He may receive advance payments, fees, and costs from the client.

If necessary, the chairman may prohibit the new lawyer from performing any further acts for the client or order any other measure.

Article 121 (art. III.2.6.2)

The new lawyer may act in a dispute concerning the fees and disbursements of the old lawyer, regardless of whether he is a member of the same bar as the old lawyer. He does not require permission from his chairman for this purpose. The new lawyer must attempt to reach an out-of-court settlement. In special cases and especially when required due to reasons of loyalty and discretion, the chairman may prohibit the new lawyer to act in such a dispute.

The new lawyer may not act in court in a dispute concerning the professional liability of the old lawyer. The chairman may allow this in special cases when required by the client's interests. The new lawyer may give the old lawyer a notice of default in connection with his professional liability.

[Section III.2.7 The terms and conditions for the succession of lawyers in the context of secondary legal assistance and Salduz]$_1$ (Section III.2.6*bis*)

[1] introduced at the GM of 27/05/2015 and 24/06/2015

The following terms and conditions apply notwithstanding the provisions of Section III.2.6 – 'Succession':

Article 122 (art. III.2.6*bis*.1) – **Discharge**

A lawyer who acts in the context of secondary legal assistance may be succeeded by a lawyer who also wishes to act in that regard, provided that the following conditions are fulfilled:

If the client has a breach of trust or other serious complaint against the lawyer who was appointed by the Legal Aid Office or the chairman, then the client, the candidate new lawyer or the chairman must report that in writing or electronically, with motivation, to the appointed lawyer.

The person making the report must also send the letter simultaneously to the Legal Aid Office that appointed the lawyer, with a request for a new appointment. In that letter, the person making the report must request the appointed lawyer to inform the Legal Aid Office within two working days

(Saturdays, Sundays and public holidays excluded), or immediately in an urgent case, whether he objects to the new appointment, with a copy to the lawyer requesting succession.

- If no objection is made, the succession may be allowed in principle. The original lawyer is discharged and the Legal Aid Office notifies the new lawyer and the person seeking justice.
- If an objection is made, the party requesting the succession is notified that this is not possible at that stage. After hearing the original lawyer, the chairman of the Legal Aid Office may, after giving any explanation, discharge him if there has been a breach of trust or if another serious reason for succession has been proved.

If succession is refused, the person seeking justice is notified of that in writing or electronically.

Article 123 (art. III.2.6*bis*.2) – **New appointment**

Once the Legal Aid Office that made the initial appointment has approved the discharge of the originally appointed lawyer, the same Legal Aid Office or another one (depending on the bar to which the new lawyer belongs) may appoint the new lawyer as counsel for the purpose of secondary legal assistance. As long as the originally appointed lawyer is not discharged, he remains appointed.

Article 124 (art. III.2.6*bis*.3) – **Payment**

If the original lawyer is succeeded by a lawyer who acts in the context of secondary legal assistance, the points will be divided between the original lawyer and the new lawyer, in accordance with the services they actually performed. The total points for both lawyers may not exceed the maximum number of points laid down in the points classification code.

If the succession is in a case where the lawyer was appointed under a partial no-cost arrangement, the advance payment must also be divided so that the amount of the advance payment does not exceed the value of the points awarded to the original lawyer. If the original lawyer and new lawyer cannot reach consensus in this regard, the chairman of the Legal Aid Office of the original lawyer will decide.

Section III.2.8 Certification of documents to be appended to appeals in cassation as true copies (Section III.2.7)

Article 125 (art. III.2.7.1)

If a party that is a future appellant in cassation wishes for the purpose of substantiating an appeal in cassation to rely on an argument based on the breach of the evidentiary value of a document that was regularly filed before the court hearing the merits of the case, the lawyer of any party may ask the court hearing the case on the merits to certify that document as a true copy of the original or copy filed before that court, as the case may be.

If the lawyer of the future appellant in cassation is not in possession of the original document or a copy thereof, he may ask the lawyer of a party before the court hearing the case on the merits, who is in possession of the original document or a copy thereof, to make a copy and have it certified as a true copy of the document submitted to the court hearing the case on the merits.

Article 126 (art. III.2.7.2)

The certification as a true copy as referred to in Article III.2.7.1 involves inserting the following words at the bottom of the copy of the document, followed by a signature:

Copy that is certified as a true copy of document no. ... of the file that the [claimant or defendant] on the merits submitted to [court] in the case entered on the general cause list under the number ...

mr ..., lawyer that represented (party's name) before that court.

mr ..., lawyer that represented (party's name) before that court.

(The above wording must be adapted if the circumstances require it, for example because there is no inventory of the documents or because the parties have submitted different versions of a document).

Article 127 (art. III.2.7.3)

Disputes are settled by the chairman of the lawyer who must certify the documents as true copies.

Section III.2.9 Third-party funds (Section III.2.8)

Subsection III.2.9 .1 Scope of application and definitions (section III.2.8.1)

Article 128 (art. III.2.8.1.1)

This section governs the handling of third-party funds by a lawyer, the reporting obligation, and the audit on the handling of third-party funds.

This section does not apply to accounts that a lawyer uses in the performance of a legal mandate, notwithstanding the chairman's right to request to inspect these accounts.

Article 129 (art. III.2.8.1.2)

The following terms have the stated meaning in this section:

- third-party funds: funds entrusted by clients or third parties to a lawyer in order to give them a specific purpose.
- third-party account: an account at a financial institution that is recognized by the Flemish Bar Council, of which the lawyer is the account holder and in which funds that belong to clients or third parties are received or managed.
- subaccount: a third-party account opened in a specific case or for a specific client.
- a financial institution recognized by the Flemish Bar Council: a financial institution with which the Flemish Bar Council has entered into an agreement for the handling of third-party funds, which conforms to the provisions of this section.

Subsection III.2.9.2 Third-party account (Section III.2.8.2)

Article 130 (art. III.2.8.2.1)

Every lawyer, either in his personal capacity or via the association or grouping to which he belongs, must have at least one third-party account at a financial institution that is recognized by the Flemish Bar Council. The number of the third-party account is listed together with the contact details of the lawyer in the public section of the Flemish Bar Council's website.

Article 131 (art. III.2.8.2.2)

The lawyer may only open a third-party account at a financial institution that is recognized by the Flemish Bar Council. The descriptions and obligations associated with that account are:

- the third-party account is a current account;
- the third-party account may never have a debit balance;
- no form of credit is allowed with regard to the third-party account;
- debit or credit cards may not be issued for the third-party account;
- direct debits are not allowed on the third-party account;
- the issue of cheques and cash withdrawals from the third-party account is not allowed unless the chairman gives prior written consent after the identity of the beneficiary is confirmed;
- the lawyer may give standing orders, but only in favor of clients or third parties;
- the third-party account may not serve as security in any way;
- no set off, merger, or determination that an integrated account exists between the third-party account and other bank accounts is allowed;
- with the exception of the subaccount, the third-party account does not yield any interest or other income, notwithstanding the option for the Flemish Bar Council and/or the National Bar Council to negotiate payment for themselves with the financial institution.

Article 132 (art. III.2.8.2.3)

On opening the third-party account, the lawyer grants an irrevocable power of attorney to the chairman of the Bar Council where he is registered, to have full access to and obtain copies of all transactions on that third-party account. If the lawyer does not comply with the chairman's request to furnish him with a copy of the account statements, the chairman may request these from the financial institution at the lawyer's expense.

Article 133 (art. III.2.8.2.4)

The third-party account is used only for handling third-party funds.

A lawyer may handle third-party funds only via a third-party account and must specify that account expressly each time that he requests funds.

If a lawyer receives payment of third-party funds, other than by way of direct transfer into his third-party account, he must transfer those funds into his third-party account as soon as possible.

A lawyer must remit funds that he receives for the purpose of forwarding payment to another lawyer exclusively by transferring these funds to the third-party account that is communicated to him by the other lawyer.

Article 134 (art. III.2.8.2.5)

A lawyer must transfer third-party funds to their beneficiary as soon as possible, with a reference that makes it possible to identify the relevant case file.

A lawyer may retain all or part of the funds that are intended for his client, by way of transfer to his current account, as an advance payment, for fees, or for the reimbursement of costs, after he has informed his client thereof in writing. These funds may then not remain in the third-party account.

If a lawyer, for reasons beyond his control, cannot or may not transfer the funds quickly to the beneficiary, he must transfer those funds to a subaccount, whose net interest accrues to the beneficiary.

Article 135 (art. III.2.8.2.6)

The chairman supervises the correct use of the third-party account.

He may take all precautionary measures, including imposing a temporary ban on the handling of third-party funds.

If a third party is appointed over the person or assets of the lawyer, or if the lawyer is unable to practice his profession, the chairman may relieve him of the management of his third-party accounts for the duration thereof.

If the lawyer is left out for a reason other than transferring to another bar or if he is struck off, he must provide proof that his third-party accounts have been closed or designate a lawyer to take over the management thereof. If he does not do so, the chairman may designate a lawyer to take over the management of his third-party accounts.

Subsection III.2.9.3 Reporting (Section III.2.8.3)

Article 136 (art. III.2.8.3.1)

A lawyer, association, or grouping that manages the third-party accounts, must report on at least the following aspects to the chairman each year:

- a list of all third-party accounts, including subaccounts;
- a list of all third-party accounts, including subaccounts, that have been opened and/or closed in the past year;
- the balance of every third-party account on 31 December;
- a breakdown of the aforementioned balances for each file.

Subsection III.2.9.4 Audit (Section III.2.8.4)

Article 137 (art. III.2.8.4.1)

The chairman supervises the third-party accounts of the lawyer or of the association or grouping.

If the lawyer fails to comply with Articles 131 and/or 136 of this section, the chairman will perform an audit in any event.

Notwithstanding the right of every bar to determine whether audits take place by means of drawing lots or otherwise, the chairman audits a minimum of 2.5 % of his bar members each year.

Article 138 (art. III.2.8.4.2)

An audit team will be established within the Flemish Bar Council.

Every board of the Bar Council nominates at least one and no more than five lawyers to be members of that team. The general meeting takes note of the nominations and confirms the composition of the audit team. Members of the audit team are appointed for three years. Their mandate is renewable without limitation.

The general meeting chooses a chairman and two assessors from the members of the audit team who designate the working members of the audit team for each case. Their mandate is renewable only once.

The audit team draws up its own working regulations that are submitted for approval to the general meeting.

Article 139 (art. III.2.8.4.3)

Only the chairman is authorized to rely on the audit team. He may entrust the audit to the team but also relieve it of its duties at any time.

The chairman or the audit team may arrange to be assisted by an external advisor.

The audit team only has audit responsibilities and reports exclusively to the chairman.

The costs of the audit team are generally payable by the bar whose chairman has requested the audit.

If the chairman or the audit team establishes irregularities at the lawyer being audited, the costs may be recovered from that lawyer.

Article 140 (art. III.2.8.4.4)

The chairman may delegate the powers granted to him under this chapter to a member or former member of the board of the Bar Council.

Pursuant to Article 458, § 2 and 3 of the Belgian Judicial Code, the chairman of the disciplinary tribunal has the same powers as this section assigns to the chairman.

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Section III.2.10 Proceedings before special courts (Section III.2.9)

Article 141 (art. III.2.9.1)

In all administrative, social, and tax proceedings before administrative and constitutional courts, exhibits and procedural documents are produced immediately on request, either as hard copies or electronically.

If there is a real and demonstrable problem in producing certain documents, the lawyer will be notified thereof immediately and informed how he can examine them in the near future.

Section III.2.11 Status of lawyers (Section III.2.10)

Article 142 (art. III.2.10.1)

A lawyer exercises his profession as a self-employed person, to the exclusion of any relationship of subordination.

CHAPTER III.3 Relationships with the Bar Council authorities

Section III.3.1 Correspondence with the chairman

Article 143 (art. III.3.1.1)

Correspondence and discussions between a lawyer and the chairman, and between a lawyer and the chairman of the disciplinary tribunal, are confidential. Unless the chairman and/or the chairman of the disciplinary tribunal decide(s) otherwise, such correspondence and discussions may not be referred to or used before the courts or in dealings with third parties.

Section III.3.2 Obligation to pay contributions to the Bar Council

Article 144 (art. III.3.2.1)

Each lawyer must pay a contribution to his local Bar Council. The contribution is determined by each board of the Bar Council. The Bar Council also determines how the contribution must be paid.

Article 145 (art. III.3.2.2)

A trainee lawyer must pay the bar contribution to the Bar Council where he is registered on the list of trainee lawyers.

If the trainee lawyer transfers to another bar during the course of the calendar year, the bar contribution will accrue fully to the Bar Council that he has left and he will pay no contribution in that same calendar year to the Bar Council where he registers.

Article 146 (art. III.3.2.3)

A lawyer must pay the bar contribution to the Bar Council where he is registered on the lawyers' roll.

If the lawyer who is registered on the lawyers' roll transfers to another bar during the course of the calendar year, the bar contribution will accrue fully to the Bar Council that he has left and he will pay no contribution in that same calendar year to the Bar Council where he registers.

The above arrangement also applies if a lawyer who is registered on the lawyers' roll of several Bar Councils transfers during the course of the calendar year from a bar where he has paid half of the annual contribution (in accordance with Article 187, Section V.3.1 Establishing several offices or branches) to another bar.

Article 147 (art. III.3.2.4)

A lawyer or trainee lawyer who transfers from one bar to another must attach proof of payment of all bar contributions due to the bar he is leaving to his application to register at the new bar.

Article 148 (art. III.3.2.5)[1]

[1] deleted at the GM of 24/06/2015

Article 149 (art. III.3.2.6)

An honorary lawyer who loses his title or resigns is not entitled to a full o partial refund of the contribution.

Article 150 (art. III.3.2.7)

A lawyer who is suspended is not entitled to a reduction of his bar contribution.

Article 151 (art. III.3.2.8)

The chairman may exempt a lawyer under certain circumstances from paying all or part of his bar contribution. He may also allow the bar contribution amount to be paid in instalments.

Chapter III.4 Relationships with courts of appeal, district courts, arbitration tribunals, general meetings, etc.

Section III.4.1 Proceedings against magistrates, civil-law notaries and judicial officers

Article 152 (art. III.4.1.1)

§1 A lawyer that wishes to institute legal action, lay a criminal complaint, or take precautionary measures in his capacity as a lawyer against a magistrate, civil-law notary, or judicial officer must give prior notice thereof to his chairman, except in cases of urgency. The draft initiating summons or complaint must accompany this notice.

A lawyer may not institute the above proceedings until one month has passed since the notification to the chairman.

§2 In case of reasoned urgency, the notice is given at the same time as the above proceedings are instituted.

§3 As soon as a lawyer wishes to defend the interests of a party that has already submitted a complaint or instituted legal action against a magistrate, civil-law notary, or judicial officer without a lawyer, he must immediately notify his chairman thereof.

Section III.4.2 Attending management board meetings and general meetings

Article 153 (art. III.4.2.1)

A lawyer may assist or represent his client at the general meetings of a company or association. He may assist his client at a management board meeting. He must advise the chairman of the management board or the chairman of the general meeting of his presence in advance, if possible, as well as any directors, shareholders, bondholders, or partners with whom the client has a dispute, so their lawyer or the lawyer of the company or association can also attend the board meeting or general meeting.

CHAPTER III.5 Relationships with third parties

[Section III.5.1 Contact of a lawyer with witnesses][1]

[1] revoked at the GM of 28/03/2018– BOJ 30/04/2018

Article 154 (art. III.5.1.1)

[...]

Article 155 (art. III.5.1.2)

[...]

Section III.5.2 Media

Article 156 (art. III.5.2.1) - **General**

156.1 Subject to the regulations on advertising, a lawyer may under all circumstances, including in public gatherings and in the media, make public use of his title and right to freedom of expression.

156.2 He must also uphold the principles of dignity, righteousness, and discretion that form the basis of his profession.

156.3 He is aware of his special capacity as a lawyer, as a result of which he occupies a central role in the administration of justice.

156.4 He must also ensure that he does not come across as a party or witness, or give the impression that he speaks for third parties by whom he is not authorized, especially not for the Bar Council or one its bodies.

156.5 He must ensure that his actions do not compromise the rules of collegiality and loyalty.

156.6 A lawyer must always provide correct information and explain such information calmly.

156.7 A lawyer must duly observe the presumption of innocence, the rights of defense, the right to protection of privacy, dignity, and the rules of his profession.

156.8 Before cooperating with the written press, a lawyer must first read the text for publication. He must also try to make similar arrangements for other media.

156.9 A lawyer may not give any interviews outside the court building in his toga.

156.10 A lawyer is responsible for his statements in the media.

He must take into account that he does not enjoy immunity from statements made in pleadings in this context.

156.11 In cases in which a lawyer acts or has acted as counsel, he must observe his professional privilege and the confidentiality of his statements.

156.12 The obligations that are imposed on a lawyer also apply to his colleagues.

Article 157 (art. III.5.2.2) - **Acting as a commentator**

Subject to the rules described under Article 1, a lawyer may provide information, commentary, and explanations in relation to cases in which he has not been personally involved and about social events and issues in public and to the media.

Article 158 (art. III.5.2.3) - **Acting as counsel**

158.1 A lawyer may not conduct his case in the media and must refrain from all commentary, except if the principle of equality of arms makes a response necessary following statements by the public prosecution service, the judge responsible for briefing the press, or third parties in the media.

158.2 A lawyer must ensure that he has prior consent from his client to make public statements.

158.3 He must also bear the interests of his client and a just case in mind.

158.4 His involvement must show care, including with regard to the justified interests of third parties.

158.5 A lawyer must, where possible, consult his chairman in advance, obtain his opinion and follow his guidelines. He must do this in any case when he must take over from a predecessor or give commentary on his activity in the case.

158.6 If lawyers from different bars are involved, the chairman of the place where the case is being handled has the right to make decisions, regardless of the number of lawyers involved and the bars to which they belong.

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Article 159 (art. III.5.2.4) - **Acting after succession**

After a lawyer has been succeeded by another lawyer, he must refrain from making any commentary in the media.

Section III.5.3 Recording of discussions or other forms of contact

Article 160 (art. III.5.3.1)

A lawyer may not directly or indirectly record or arrange for the recording of discussions, meetings, or hearings on sound or image recording media without prior notice.

[CHAPTER III.6 Insolvency][1]

[1] Introduced at the GM of 28/03/2018 – BOJ 30/04/2018 - entry into force 30/04/2018

Art. 160*bis*

The lawyer shall immediately inform the chairman and at the same time send him a copy of all relevant documents on every occasion when the lawyer or the company within which he practises his profession as lawyer is the subject of a measure or application in the context of the provisions of Book XX of the Belgian Economic Law Code and implementation decrees.

Art. 160*ter*

A lawyer who is declared bankrupt shall be officially removed from the roll or the list of trainees or the list referred to in Article 58 from the date of the judgment declaring him bankrupt.

The lawyers who are partners in an alliance of lawyers as referred to in Article 170, to the exclusion of networks, that is declared bankrupt and the lawyers who are members of a de facto association that is declared bankrupt, shall be officially removed from the roll or the list of trainees or the list referred to in Article 58 from the date of the judgment declaring the alliance or the de facto association of which he forms part bankrupt.

Art. 160*quater*

An appeal or objection to the disciplinary appeal board against the removal due to bankruptcy does not suspend the removal.

Art. 160*quinquies*

A lawyer who is declared bankrupt may immediately after he has been declared bankrupt ask the board of the Bar Council to be registered on the roll or the list of trainees or the list referred to in Article 58.
The lawyer will assume the ranking on the roll or the list of trainees or the list referred to in Article 58 on the date of the new registration.

Art. 160*sexies*

The chairman of every bar shall annually draw up a list of insolvency practitioners in the meaning of Article XX.20 §1 final paragraph of the Belgian Economic Law Code, stating at least the following information:

1) name and professional contact details of the candidate;
2) the insolvency procedures to which the candidacy applies;
3) the areas of law to which the candidacy applies.

The chairman shall send this list every year at the latest by 30 November to the Flemish Bar Council, so that the Flemish Bar Council can fulfil its legal obligation to file the list with the Central Solvency Register at the latest by 31 December.

Art. 160*septies*

Notwithstanding the application of Article 109, the lawyer who is appointed an insolvency practitioner must also inform the chairman of his appointment and of the existence of the procedure in the context of the provisions of Book XX of the Belgian Economic Law Code at the expense of the lawyer or the company within which he exercises his profession as a lawyer.

Art. 160*octies*

These chapter shall enter into effect on the day they are announced in the Belgian Official Journal.

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PART IV

LAWYER ACTING IN ANOTHER CAPACITY

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CHAPTER IV.1 Lawyer/legal mandatary

Article 161 (art. IV.1.1)

A lawyer may not accept any legal mandate if performing that mandate will mean he is confronted by any conflict of interests or breach of professional privilege.

[Art. 161*bis*

Notwithstanding the authority of the chairman to make an exception in this regard, the provisions of Section I.2.5 do not apply to legal mandataries.

Art. 161*ter*

As soon as a lawyer is included on a list of legal mandataries, he must report that fact to the chairman. If this involves a mandate with no list of mandataries, the lawyer must make the report on the first inclusion of such a mandate and for each type of mandate.][12]

Article 162 (art. IV.1.2)

A lawyer entrusted with a legal mandate remains subject to the ethics of a lawyer, unless an ethical rule is incompatible with that mandate.

CHAPTER IV.2 Lawyer/building administrator

Article 163 (art. IV.2.1)

Lawyers may act as building administrators for a co-owners' association under Article 577, 2-577, 14 of the Belgian Civil Code in accordance with the rules of principles of dignity, righteousness, and discretion that form the basis of their profession.

Article 164 (art. IV.2.2)

A lawyer that wishes to act as a building administrator must notify his chairman and produce appropriate, special liability insurance. A lawyer remains subject to the disciplinary authority of his chairman and Bar Council in respect of his professional acts as a building administrator.

Article 165 (art. IV.2.3)

A lawyer must at all times maintain the independence that is characteristic of his profession in his relationship with the general meeting of co-owners, the management board, and third parties, and in the duties he performs as building administrator. He must reconcile that independence with the statutory powers that are granted to the management and supervisory bodies of the co-owners' association. He must give up his mandate as building administrator if that independence is not adequately guaranteed.

[12] approved by the general meeting of the Flemish Bar Council on 28/06/2017 – BS 31/7/2017 - enters into force on 1/11/2017

Article 166 (art. IV.2.4)

A lawyer/building administrator may stipulate a limitation on his liability for the performance of his duties to the amount of the special insurance that he takes out for his mandates.

Article 167 (art. IV.2.5)

A lawyer/building administrator may act, in principle, before the courts as representative of the co-owners' association in accordance with Article 577, 8, § 4 of the Belgian Civil Code. He does not do this as a lawyer but as a mandatary under general law and must prove his mandate, if necessary, including to his colleagues.

He must not act in his toga and must avoid any confusion between his special mandate and his mandate *ad litem*.

He should preferably arrange to be represented in court by a colleague.

He does not act in any case for the community and must not argue when he is or may be personally involved in the case.

That is specifically the case:

- if his personal liability as a building administrator is at issue;
- if he was present at the negotiations, discussions, or agreements relating to the community or drew these up himself, if he took minutes of meetings or resolutions, or participated in the consultations on votes or resolutions and the role that he played therein formed the subject of a dispute or was exposed during the process;
- if he can be called as a witness or has advised the co-owners in the disputed matter.

Where applicable, the lawyer will withdraw and arrange for a colleague to handle the proceedings further.

Article 168 (art. IV.2.6)

The lawyer/building administrator cannot act for a party that is or becomes an opposing party of the community of co-owners for which he is a building administrator.

If his mandate as building administrator ends, he may also not act for or against the community, or one or more of its members, if he could be confronted with a conflict of interests in relation to his earlier mandate or a possible suspected breach of his professional privilege.

Those prohibitory provisions also apply to lawyers that have any permanent or externalized form of alliance with the lawyer/building administrator, or who have received any remuneration from the lawyer/building administrator. This is however possible if the clients were informed of the nature and scope of the cooperation or connection between the lawyers, and still wished for them to defend their interests.

Article 169 (art. IV.2.7)

A lawyer/building administrator must handle all money for the co-owners' association that he represents as a building administrator through accounts opened specially for that purpose. These accounts must be separated from his personal accounts and those of his law firm, including the

third-party accounts. Special third-party accounts for mandates as building administrators are subject to the authority and audits of the Bar Council, in accordance with Section III.2.8 (Third-party funds).

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PART V

ORGANISATION OF THE OFFICE

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CHAPTER V.1 Alliances among lawyers and sole shareholder companies of lawyers

Section V.1.1 Alliances among lawyers

Article 170 (art. V.1.1.1) - **Definitions**

170.1. An alliance is a long-term cooperation among lawyers for the purpose of practicing the profession of lawyer and supporting that practice and requires a joint undertaking among its members.

170.2. An association is an alliance to which the members have fully or partially transferred their practice of the profession of lawyer and have contractually set out how the profits or losses of the alliance will be divided among them.

In case of a full transfer to an association, the members of the alliance contractually determine that they will practice the profession of lawyer exclusively in the alliance.

In case of partial transfer to an association, the members of the alliance contractually determine which part of the practice of the profession of lawyer will be practiced in the alliance.

170.3. A grouping is an alliance whose members have only contractually determined how they will organize common services to support the practice of the profession by its members and how the costs thereof will be shared.

170.4. A network is an alliance whose members practice the profession of lawyer separately from each other but recommend other members of the network to their clients.

170.5. For the purpose of these regulations, Flemish lawyers are lawyers within the meaning of Article 498 of the Belgian Judicial Code.

170.6. For the purpose of these regulations, the Flemish territorial jurisdiction is the portion of Belgian territory that is formed by the judicial districts covered by the bars that belong to the Flemish Bar Council.

170.7. For the purpose of these regulations, documents are all possible papers and documents with which an alliance works publicly, regardless of the document carrier and the media used for their distribution.

Article 171 (art. V.1.1.2) – **General rules**

171.1. An alliance that displays characteristics of more than one of the following types of alliances is subject to the most restrictive provisions that are applicable under these regulations, regardless of how that alliance is classified by its members or how the alliance or its members present themselves publicly.

171.2. Every alliance must have a civil purpose.

171.3. Flemish lawyers may enter into an alliance by entering into agreements in accordance with Belgian or foreign law, or by incorporating or joining a legal entity in accordance with Belgian or foreign law.

171.4. Flemish lawyers may enter into alliances with other Flemish lawyers, with lawyers at the Court

of Cassation, with one or more domestic or foreign lawyers, or with their respective alliances. They may also join an existing alliance, without that provision compromising the provisions of other regulations.

171.5. Insofar as other professional rules do not preclude it, a Flemish lawyer or his sole shareholder company may join alliances that are incorporated outside the Flemish territorial jurisdiction and whose shares are also held by non-lawyers. Such an alliance and its members must always comply with Article 171.6.

171.6.If Flemish lawyers participate in an alliance with other lawyers, the Flemish lawyers must ensure that the alliance and its other members only perform activities that are compatible with the profession of lawyer in the Flemish territorial jurisdiction and comply with the professional rules which Flemish lawyers are subject to in that jurisdiction.

171.7. All the shares of an alliance with legal personality must always be entered in the shareholders' names in the share register.

171.8. An alliance may be affiliated with another alliance within the meaning of Article 11(1) of the Belgian Companies Code. In that case, the conflicts of interest within an alliance or of the members of that alliance extend to the other affiliated alliances or their members.

171.9. Resolutions and measures that are adopted in accordance with these regulations by the various boards of the Bar Council, chairmen, or corresponding foreign authorities are definitive only if they are adopted by the ordinal bodies or authorities.

If the ordinal bodies or authorities as referred to in the previous paragraph have imposed different conditions, all the conditions will apply cumulatively.

If the ordinal bodies or authorities as referred to in the previous paragraph have imposed conflicting conditions, the most restrictive condition will apply.

Any resolution or measure that is adopted by a board of the Bar Council or a chairman is always deemed to have been adopted, where applicable, under the condition precedent of approval by, or no objections from, the other competent authorities.

171.10. The incorporation, alteration, dissolution, or termination of an alliance, as well as joining or leaving an alliance, is done in writing.

171.11. The agreement, internal regulations, deed of incorporation, or articles of association of an alliance stipulate that they are subject to the provisions of these regulations and the ethical rules of the profession, and must be interpreted accordingly.

171.12. The members within an association or grouping must not represent any interests that are contrary to those represented by the other members of the same association or grouping.

171.13. If statutory and ethical rules or rules of incompatibility within an association or grouping lead to a member of that association or grouping not being able to act in a certain matter, another member of that association or grouping may likewise also not act in that matter.

171.14. Lawyers that create the impression that they belong to an association or grouping without there being any written contractual arrangements for this, are regarded for the purpose of these regulations as members of an association or grouping, as the case may be.

171.15. If an alliance uses the name of a member of that alliance in its name or logo, the alliance and its members must immediately ensure that the name of that member is removed from the name and logo of the alliance and that the documents of the alliance are adapted if:

a) the lawyer concerned leaves in order to practice the profession outside that alliance;
b) the lawyer concerned is struck off the roll by a definitive disciplinary ruling;
c) the lawyer concerned is excluded from the alliance;
d) the lawyer concerned no longer practices the profession and the alliance has not entered into any agreement with him or his legal successors for the further use of his name;
e) the lawyer concerned is omitted in order to practice a profession that is incompatible with that of a lawyer as referred to in Article 437 of the Belgian Judicial Code.

171.16. The documents of the alliance must accurately state the nature and form of the alliance and that it is an alliance of lawyers.

171.17. The front or reverse of the alliance's stationery that is used in the Flemish territorial jurisdiction and, where relevant, the website must at least state the names of the lawyers that are members of the alliance and practice the profession of lawyer in that jurisdiction.

If the stationery mentions the names of members other than the Flemish lawyers of the alliance, this must include or make reference each time to the bar or professional organization of those members.

If the alliance has members other than those who must be listed on the stationery, the stationery must state that the names of the unlisted members will be provided to any client or interested third party immediately on request.

All members of an association or grouping must use the same stationery for their activity within the association or grouping.

171.18. Regardless of whether the articles of association provide for dispute resolution, the members of the alliance must observe professional privilege in the resolution of disputes among themselves.

With a view to protecting professional privilege, only lawyers may act as liquidators of an alliance.

Notwithstanding any provisions of the Belgian Companies Code, an alliance will not be dissolved by operation of law upon the death or resignation of one of its members for any reason.

The dissolution or disengagement of alliances that have in turn entered into other alliances will not lead to the dissolution of that latter alliance.

If an alliance is dissolved or a member resigns, the files will be divided in accordance with arrangements that are made, which may not compromise the free choice of the client.

171.19. These regulations do not affect the ethical obligations of a lawyer.

Article 172 (art. V.1.1.3) – **Special rules with regard to associations**

172.1. Agreements or written arrangements regarding the incorporation of a new association or alterations to an existing association may be entered into only after approval by the chairman/chairmen, regardless of their form or heading.

172.2. A lawyer that joins an existing association that has been approved previously by his chairman/chairmen and whose articles of association are not amended by him joining must notify the chairman/chairmen that he has joined that association.

172.3. A lawyer that joins an existing association that has not been previously communicated to his chairman/chairmen must provide both the membership agreement and all existing agreements to the chairman/chairmen in advance.

172.4. A lawyer may not practise the profession of lawyer as a member of more than one association.

172.5. The articles of association of an association incorporated under Belgian law must provide for the following:

a) Only lawyers that are employed within the association or within affiliated law firms within the meaning of Article 11 of the Belgian Companies Code may serve on its management bodies.
b) The loss of the capacity of lawyer implies an obligation on him by operation of law to resign as director and to transfer his shares or rights either to the other shareholders, the company, or another lawyer within the conditions laid down by the articles of association.
c) The death, definitive ban on practicing the profession, suspension, statutory incapacity to act, manifest inability, exclusion, or resignation of a shareholder does not result in the dissolution of the company unless the law or articles of association prescribe otherwise.
d) The articles of association determine the rights and obligations of the former shareholder or his legal successors in case of the loss of capacity of shareholder for any reason.
e) Flemish lawyers who join associations that have not been incorporated under Belgian law must ensure that the association observes the rules that apply to associations incorporated under Belgian law in the Flemish territorial jurisdiction.

172.6. A lawyer who works in an association may not act in court as a lawyer for members of that association or as a lawyer for that association.

Article 173 (art. V.1.1.4) - **Special rules with regard to groupings**

173.1 Agreements or written arrangements regarding the incorporation of a new grouping that operates publicly under a common name or alterations to such an existing grouping may be entered into only after approval by the chairman/chairmen, regardless of their form or heading.

173.2 Agreements or written arrangements regarding the incorporation of a new grouping that does not operate publicly under a common name or alterations to such an existing grouping must be

communicated to the chairman/chairmen, regardless of their form or heading. The chairman may impose amendments.

173.3 A lawyer that joins an existing grouping that has been approved previously by his chairman/chairmen and whose articles of association are not amended by him joining must notify the chairman/chairmen that he has joined that grouping.

173.4 A lawyer that joins an existing grouping that has not been previously communicated to his chairman/chairmen must provide both the membership agreement and all existing agreements to the chairman/chairmen in advance.

173.5 The grouping must list all of its members on its stationery.

173.6 A lawyer may be a member of only one grouping.

173.7 A lawyer who works in a grouping may not act in court as a lawyer for members of that grouping or as a lawyer for that grouping.

Article 174 (art. V.1.1.5) - **Special rules with regard to networks**

174.1 Agreements or written arrangements regarding the incorporation, joining of, or alteration of a network must be communicated immediately by the lawyers involved to their chairman/chairmen, regardless of their form or heading. The chairman may impose amendments.

174.2 A lawyer that joins an existing network that has not been previously communicated to his chairman/chairmen must provide both the membership agreement and all existing agreements to his chairman/chairmen in advance.

174.3 Members of a network may use each other's infrastructure only on an occasional basis.

174.4 If the members of a network refer to their participation in that network on their stationery, they must do so in such a way that the public is not left with the impression that they are working within an association or grouping.

Section V.1.2 Sole shareholder companies of lawyers

Article 175 (art. V.1.2.6) - **The sole shareholder company**

175.1 A lawyer may be a shareholder of one or more professional sole shareholder companies.

175.2 The lawyer concerned must immediately communicate the deed of incorporation or the deed of amendment of a sole shareholder company to his chairman/chairmen. The chairman may impose amendments.

175.3 A sole shareholder company may be a member of an alliance.

175.4 The lawyer/shareholder of one or more sole shareholder companies may not practice the profession of lawyer in more than one association or grouping.

175.5 The articles of association of a sole shareholder company must contain the following clauses or comply with the following conditions:

a) The purpose of a sole shareholder company may consist solely of practicing the profession of lawyer, either alone or with others, and all related activities that are compatible with the status of lawyer, such as acting as an arbitrator, legal mandatary, director, liquidator and receiver, performing legal mandates, giving courses and lectures, and publishing articles and books, to the exclusion of any commercial activity.
b) A sole shareholder company may invest its capital in movable or immovable property, although without this constituting a commercial activity.
c) A sole shareholder company must comply with the rules for practicing the profession of lawyer in the performance of its activities.
d) The business manager of a sole shareholder company must be the sole shareholder.
e) The articles of association must determine the rights and obligations of the former shareholder or his legal successor in case of the loss of capacity of shareholder for any reason.
f) The stationery that a sole shareholder company uses for practicing the profession of lawyer must always state the shareholder's first name, surname, and capacity as a lawyer.

CHAPTER V.2 Cooperation between lawyers and non-lawyers

Article 176 (art. V.2.1)

A lawyer must ensure his independence, partiality, protection of his professional privilege, and avoid any possible conflict of interests in his professional cooperation with non-lawyers.

Article 177 (art. V.2.2)

A lawyer may not tolerate any suggestion or allegation that he belongs to an unauthorized group or alliance and must respond adequately thereto.

Article 178 (art. V.2.3)

These regulations do not prevent a lawyer from forming groups or alliances with lawyers in other EU countries, who observe the statutory and ethical rules applicable to nationals in that country, and who observe the laws and ethical rules applicable in Belgium during the performance of their activities in Belgium.

Article 179 (art. V.2.4)

Article 8 of the regulations on 'Practicing the profession of lawyer in cooperation with others' of 8 March 1990 of the general board of the National Bar Council is revoked for all lawyers of the bars that belong to the Flemish Bar Council.

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CHAPTER V.3 The office and branches

Section V.3.1 Establishing several offices or branches

Article 180 (art. V.3.1.1)

A lawyer who is registered on the lawyers' roll may establish several offices in one or more judicial districts, within Belgium or abroad.

The head office of a lawyer who has several offices is at the office where he mainly practices his profession. Notwithstanding the provisions of Article 430(2) of the Belgian Judicial Code, a trainee lawyer may, in addition to the office that he [normally][1] has with his supervising principal, establish only one office which must be in the same judicial district.

[1] amended at the GM of 23/09/2015

Article 181 (art. V.3.1.2)

Alliances of lawyers may have several branches in one or more judicial districts, within Belgium or abroad. At least one member of the alliance must have an office in every branch of the alliance.

Article 182 (art. V.3.1.3)

A lawyer who is a member of an association with partial contribution or of a grouping that operates publicly under a joint name may only have an individual office outside of this association or grouping for the practice of activities that have not been placed within the association or that are not practiced under the joint name of the grouping. The stationery that a lawyer uses for this purpose must mention the association or grouping of which he is also a member.

If a lawyer who is a member of a full association or grouping has his own office, he may mention this office only on the stationery of the alliance. He may not have his own stationery.

An employee, who is not a member of an alliance, but has an office at the address of the lawyer or the alliance with which he cooperates, may additionally have his own office and own stationery, but must mention the name of the lawyer or law firm where he is also employed on this stationery.

Article 183 (art. V.3.1.4)

A lawyer must register on the lawyers' roll of every Bar Council where he has an office.

A lawyer is a full member of every Bar Council where he is registered and has the right to vote and be elected there.

Notwithstanding the disciplinary powers of all chairmen involved, the following rules apply to the resolution of a problem or dispute between lawyers:

- only the common chairman of the Bar Council where all lawyers involved in the dispute or problem are registered is competent to act;
- if the lawyers involved do not have a common chairman, only the chairman of the judicial district where the lawyer has his head office is competent to act with regard to this lawyer, notwithstanding existing rules of conflict between chairmen.

Article 184 (art. V.3.1.5)

A lawyer must inform the chairmen of the bars concerned where his head office is located, failing which he will be deemed to have his head office at the address of the oldest registration on the lawyers' roll of a bar council which forms part of the Flemish Bar Council.

A lawyer who opens an additional office or changes an office address must communicate the details thereof to the chairman of every Bar Council where he is registered.

Article 185 (art. V.3.1.6)

A lawyer must provide the details of his head office and any branches in a transparent and accurate manner in his written communications. References in electronic correspondence may be limited to the details of his head office insofar as the other prescribed details are stated on a website mentioned in that correspondence.

The stationery of an alliance must clearly state the bar(s) at which each lawyer is registered.

Article 186 (art. V.3.1.7)

A lawyer must have the necessary infrastructure in each office to support the proper practice of his profession.

Article 187 (art. V.3.1.8)

A lawyer who is registered at several Bar Councils that are registered at the Flemish Bar Council pays the full annual contribution to the Bar Council of his head office. He pays half of the annual contribution that he would have been obliged to pay if his head office had been located there to the other Bar Councils where he is registered.

The situation on 1 December prior to the calendar year for which the annual contribution is collected is taken into account for the application of the first and second paragraph.

Only lawyers who have their head office in a specific Bar Council are taken into account for bar contributions to the Flemish Bar Council and for calculating the number of members which that bar may have elected in the general meeting of the Flemish Bar Council.

Section V.3.2 Choice of address for service and office of a lawyer

Article 188 (art. V.3.2.1)

§1 A lawyer may agree with his client that the client chooses his address for service at the lawyer's office if circumstances require this or if the law or practices permit or require this. Both the client and the lawyer are entitled to unilaterally and immediately end the choice of the address for service. The lawyer must immediately give the client and any third parties involved written notice thereof.

§2 A lawyer may not allow the client to use his office address as a reference address.

Article 189 (art. V.3.2.2)

For the purpose of communication to and from the board of the Bar Council, the Bar Council, and the chairman, each lawyer is deemed to have chosen his address for service at his most recent office address that has been communicated to the Bar Council.

CHAPTER V.4 Employees

Article 190 (art. V.4.1)

An employee within the meaning of this Code is a lawyer who works together on a permanent or at least regular basis with another lawyer who is not his supervising principal and with whom he has no alliance, even though he handles cases on his behalf and at his expense.

Article 191 (art. V.4.2)

If his office is located at the same address, the lawyer and his lawyers are bound by the provisions of Article 11 of this Code.

CHAPTER V.5 Identification of signatories of correspondence

Article 192 (art. V.5.1)

Letters and other documents must clearly state who is the sender and, if this person does not act as a lawyer, his specific capacity.

A lawyer who signs on behalf of another lawyer who is unable to act must state his name and capacity alongside his signature.

Article 193 (art. V.5.2)

The signatory of a lawyer's correspondence and electronic messages must be identifiable by stating his name.

Article 193*bis*[13]

The lawyer must have the electronic CCBE lawyer card for his identification and authentication.

[13] approved by the general meeting of the Flemish Bar Council on 22/02/2017 – enters into force on 1/06/2017

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PART VI

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Article 194 (art. VI.1.1)

Every board of the Bar Council may organize how its chairman is to be replaced in case of a statutory incapacity to act or temporary unavailability and to whom his duties are to be temporarily transferred.

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Article 195 (art. VI.2.1)

A lawyer may act against a lawyer who is a member of the same bar.

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PART VII

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CHAPTER VII.1 The board of the Bar Council acting as a disciplinary committee

Article 196 (art. VII.1.1)

In the following cases, the board of the Bar Council follows the procedure as laid down in this chapter.

§1 If the chairman or board of the Bar Council establishes that there may be reasons to refuse a person registering or re-registering on the lawyers' roll, the list of lawyers that practice their profession under the professional title of another EU Member State, or the list of trainee lawyers pursuant to Articles 432 or 472, §1 of the Belgian Judicial Code;

§2 If the chairman or the board of the Bar Council establishes that there may be reasons to omit a lawyer, who has not requested such omission, from the lawyers' roll, the list of lawyers that practice their profession under the professional title of another EU Member State, or the list of trainee lawyers pursuant to Articles 432, 435 (last paragraph) or 437 of the Belgian Judicial Code;

§3 If the chairman or the board of the Bar Council establishes that there may be reasons not to include a lawyer, who has requested such inclusion, on the list of lawyers that wish to perform services relating to primary legal assistance within the meaning of Article 508/5, §1 of the Belgian Judicial Code;

§4 If the chairman or the board of the Bar Council establishes that there may be reasons to strike a lawyer off the list of lawyers that wish to perform services relating to primary legal assistance in accordance with Article 508/5, §4 of the Belgian Judicial Code;

§5 If the chairman or the board of the Bar Council establishes that there may be reasons not to include a lawyer, who has requested such inclusion, on the list of lawyers that wish to perform services relating to secondary legal assistance within the meaning of Article 508/7, §1 of the Belgian Judicial Code;

§6 If the chairman or the board of the Bar Council establishes that there may be reasons to strike a lawyer off the list of lawyers that wish to perform services relating to secondary legal assistance in accordance with Article 508/8, of the Belgian Judicial Code.

Article 197 (art. VII.1.2)

The chairman may give the person concerned notice by registered letter to appear before the board of the Bar Council at a hearing that he determines. He must observe a notice period of at least 15 days for this purpose. The letter must state the purpose of the notice and any reasons that have given rise to the institution of the proceedings.

Article 198 (art. VII.1.3)

The person concerned will be heard at the board of the Bar Council's hearing. He may arrange to be assisted or represented by a lawyer. The board of the Bar Council may always order him to appear in person.

Article 199 (art. VII.1.4)

If the person involved has been given valid notice in accordance with Article 197 and does not enter an appearance or arrange to be represented by a lawyer, the case may be dealt with in his absence.

Article 200 (art. VII.1.5)

The board of the Bar Council will handle the case in an open hearing, except in the cases referred to in Article 459 of the Belgian Judicial Code.

Article 201 (art. VII.1.6)

The board of the Bar Council gives its decision in a reasoned ruling.

Article 202 (art. VII.1.7)

The secretary of the board of the Bar Council notifies the person concerned of the decision within eight days of the ruling by registered letter, and mentions the remedies therein.

Article 203 (art. VII.1.8)

The person concerned may make application to set aside the default ruling. This is done by sending a letter by registered post to the secretary of the board of the Bar Council within 15 days of the notice of the ruling.

A late application to set aside the default ruling will not be admissible unless the board of the Bar Council excuses the applicant's late application. The board of the Bar Council decides independently and there is no legal remedy available against this decision.

The secretary of the Bar Council gives the person involved notice to appear before the board of the Bar Council in the manner as referred to in Article 197. If he fails to appear again, the board of the Bar Council will give its ruling as in a defended action.

Article 204 (art. VII.1.9)

An appeal may be lodged against the rulings referred to in Article 196, §§1, 2, 3 and 5 in accordance with Article 432*bis* of the Belgian Judicial Code.

An appeal may be lodged against the rulings referred to in Article 196, §§4 and 6 in accordance with Article 463 of the Belgian Judicial Code.

The secretary of the disciplinary appeal tribunal immediately notifies the secretary of the relevant board of the Bar Council of the appeal. The latter sends the inventoried file without delay to the secretary of the disciplinary appeal tribunal.

Article 205 (art. VII.1.10)

An admissible application to have a default ruling set aside and an appeal have suspensory effect and any omission from the lawyers' roll, the list of lawyers that practice their profession under the professional title of another EU Member State, or the list of trainee lawyers, or being struck off from the list of lawyers that wish to perform services relating to primary or secondary legal assistance

will take effect from the day following the expiry of the periods for applications to set aside default rulings or appeals, unless the board of the Bar Council decides otherwise.

Article 206 (art. VII.1.11)

This chapter applies to every request for registration, re-registration, or inclusion as referred to in Article 196, §§1, 3 and 5 made after 4 March 2008 (date of the entry into force of Chapter VII.1 The board of the Bar Council acting as a disciplinary committee, old FBC regulation of 21.11.2007).

This chapter applies to every procedure for omission or striking off as referred to in Article 196, §§2, 4 and 6 instituted after 4 March 2008 (date of the entry into force of Chapter VII.1 The board of the Bar Council acting as a disciplinary committee, old FBC regulation of 21.11.2007).

CHAPTER VII.2 Witnesses taking the oath

Article 207 (art. VII.2.1)

The board of the Bar Council may request a witness, without being able to oblige him, to take the statutory oath, i.e. to swear under oath that he is telling the truth.

Article 208 (art. VII.2.2)

The secretary of the Bar Council records the taking of the oath, done at the board's request, in the minutes. If the witness refuses to take the oath, the secretary will take formal notice of the refusal and any motivation for it.

The secretary then takes down the statements. These are given to the witness in any event, after having been read out, for signature. If the witness refuses to sign, the secretary will take formal notice of the refusal and any motivation for it.

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PART VIII

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CHAPTERVIII.1 Authority with regard to disputes between lawyers, members of bars that belong to the Flemish Bar Council

Article 209 (art. VIII.1.1)

The ethical authority over lawyers registered on the lawyers' roll, the list of trainee lawyers, or the EU list of a bar that belongs to the Flemish Bar Council vests in the chairman of that bar, notwithstanding the provisions of Articles 455, 456, 458 and 477 *bis* et seq. of the Belgian Judicial Code.

Article 210 (art. VIII.1.2)

If a conflict arises between lawyers that have a common chairman of a bar that belongs to the Flemish Bar Council, that common chairman will have authority to act.

Article 211 (art. VIII.1.3)

§ 1 If there are several common chairmen of bars that belong to the Flemish Bar Council, the decision of the chairman of the bar of the place of the legal proceedings, the arbitration, mediation, negotiation, or professional activity to which the dispute relates will be decisive, provided that place is located in the area of authority of one of those chairmen.

§ 2 If there are several common chairmen of bars that belong to the Flemish Bar Council, but the place of the legal proceedings, the arbitration, mediation, negotiation, or professional activity to which the dispute relates is located outside the area of the authority of the respective chairmen of the lawyers, the common shareholders will remain jointly authorized.

If the chairmen cannot reach consensus, they will jointly designate a third chairman or former chairman to make the decision. If they cannot reach consensus on which third chairman or former chairman to designate, the chairmen will apply to the president or a director of the Flemish Bar Council who will designate a third chairman or former chairman within five calendar days to make a decision.

Article 212 (art. VIII.1.4)

If the lawyers concerned do not have a common chairman, the chairman of the bar where each lawyer is registered has authority to act.

Article 213 (art. VIII.1.5)

§ 1 If there is any disagreement between the chairmen of bars that belong to the Flemish Bar Council, the decision of the chairman of the bar of the place of the legal proceedings, the arbitration, mediation, negotiation, or professional activity to which the dispute relates will be decisive, provided that place is located in the area of authority of one of those chairmen.

§ 2 If the dispute relates to legal proceedings, arbitration, mediation, negotiation, or a professional activity located outside the area of the authority of the respective chairmen of the lawyers concerned, the respective shareholders will remain jointly authorized, except for procedural issues in hearings.

If the chairmen cannot reach consensus, they will jointly designate a third chairman or former chairman to make the decision. If they cannot reach consensus on which third chairman or former chairman to designate, the chairmen will apply to the president or a director of the Flemish Bar Council who will designate a third chairman or former chairman within five calendar days to make a decision.

Article 214 (art. VIII.1.6)

The chairman of the place where the hearing is taking place has authority to deal with a procedural issue relating to that hearing, regardless of the bar to which the lawyers concerned belong.

The chairman of the Dutch Language Bar Council in Brussels has sole authority to deal with a procedural issue relating to a hearing in the judicial district of Brussels-Halle-Vilvoorde involving lawyers of a bar that belong to the Flemish Bar Council, regardless of the language in which the proceedings are conducted.

Article 215 (art. VIII.1.7)

Article 116 of this Code applies exclusively to disputes concerning the production of correspondence between lawyers.

Article 216 (art. VIII.1.8)

If one of the lawyers involved in a dispute that is not already resolved transfers to another bar, the chairman of his new bar has authority to act in his case.

If the chairman of the old bar has already made a decision, the chairman of the new bar will be bound by that decision.

CHAPTER VIII.2 Local regulations

Article 217 (art. VIII.2.1)

Local regulations of Bar Councils apply only to disputes involving only lawyers of that bar.

If lawyers of several bars are involved in the dispute, only the regulations of the Flemish Bar Council will apply.

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[CHAPTER VIII.3 Ombudsman Service for Consumer Disputes relating to the Legal Profession][1]

[1] introduced at the GM of 24/06/2015

Article 218 (art. VIII.3.1)

An 'Ombudsman Service for Consumer Disputes relating to the Legal Profession' (abbreviated in Dutch as the OCA) is being established within the Flemish Bar Council. As a qualified entity for the extrajudicial resolution of consumer disputes, as referred to in Book XVI of the Belgian Economic Law Code, it is competent to hear disputes between consumers and their lawyers.

Article 219 (art. VIII.3.2)

The procedures of the OCA are laid down in procedural regulations and internal regulations that are submitted for approval to the general meeting of the Flemish Bar Council.

Article 220 (art. VIII.3.3)

Each board of the Bar Council puts forward a list every three years containing the names of at least three lawyers who are eligible to deal with consumer disputes. The list is to be submitted for the first time by 1 June 2015 and then every three years by 1 June. The board of the Bar Council decides on any payment for the mandates itself. Such payment may not depend on the outcome of the extrajudicial dispute resolution.

When performing their mandate, the lawyers on the above list must comply with the procedures and periods that apply to consumer disputes.

Article 221 (art. VIII.3.4)

The lawyer is not obliged to use the OCA for the purpose of a consumer dispute with a client. Participation in the proceedings does not preclude legal action from being instituted.

The lawyer may always withdraw from the proceedings.

Article 222 (art. VIII.3.5)

A lawyer who organizes a department as referred to in Part 2, Book XVI of the Belgian Economic Law Code, within his firm must include at least the following provisions in his general terms and conditions and website:

1. The consumer may submit a complaint or ask questions directly to the lawyer concerning an agreement for services that has already been concluded between the lawyer and consumer.
2. The lawyer must respond as quickly as possible to any complaints and make every effort to find a satisfactory solution.
3. The lawyer must include all useful information relating to the competent department, including its telephone and fax numbers and electronic address, notwithstanding reference to the other information required by law. The department's name may not refer to the terms 'ombudsman', 'mediation', 'reconciliation', 'arbitration', 'qualified entity' or 'extrajudicial dispute resolution'.

4. The lawyer must state whether he will refer the matter to the OCA if a compromise is not reached with the consumer within a reasonable period. Where applicable, he must provide the consumer with the information prescribed by law.

Article 223 (art. VIII.3.6)

A lawyer who is involved in a consumer dispute must immediately inform his chairman and, where appropriate, his insurer of that dispute.

Article 224 (art. VIII.3.7)

This regulation enters into effect on the day that the OCA is recognized as a qualified entity.[14]

[14] 1 January 2016

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PART IX

APPLICATION OF THE CODE

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CHAPTER IX.1 Application of the Code

Article 225 (art. IX.1.1)

If there is any doubt or dispute about the application of a provision of this Code, the lawyer must consult his chairman.

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PART X

CODE OF CONDUCT FOR EUROPEAN LAWYERS

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CHAPTER X.1 Introduction

Section X.1.1 The task of a lawyer

Article 226 (art. X.1.1.1)

In a society that is built on respect for the law, lawyers play a pivotal role. A lawyer's task is not limited to conscientiously performing an instruction within the parameters of the law. A lawyer must have due respect for the rule of law and the interests of those whose rights and freedoms he defends. It is a lawyer's duty to not only defend his client's case but to also be his counsel. Respect for the task of a lawyer is an essential condition for the rule of law and a democratic society.

A lawyer's task therefore imposes a wide range of obligations and duties on him, which sometimes seem to be contradictory, in relation to:

- the client;
- the judicial and other bodies before which a lawyer assists or represents his client;
- his professional group in general and any colleague in particular;
- the public, for which a free and independent profession, bound by the observance of the rules which the professional group has imposed on itself, is an essential means to guarantee human rights against the power of the State and others in positions of authority in society.

Section X.1.2 The nature of the rules of conduct

Article 227 (art. X.1.2.1)

By means of their voluntary acceptance, the rules of conduct aim to guarantee the proper performance of a lawyer's task, a task that is recognized as being indispensable for the proper functioning of any society. The failure of a lawyer to comply with these rules may lead to disciplinary measures.

Article 228 (art. X.1.2.2)

Each bar has its own specific rules that are rooted in its own traditions. They are adapted both to the organization and area of activity of the lawyer in the relevant Member State, as well as the legal and administrative procedures and national legislation. It is neither possible nor advisable to create distance from those rules or to try and generalize rules that are not suited to generalization. The special rules of each bar nevertheless do relate to the same values and seem to mostly have a common basis.

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Section X.1.3 Objectives of the code of conduct

Article 229 (art. X.1.3.1)

The progressive integration of the European Union and the European Economic Area, and the intensification of cross-border activities of lawyers within the European Economic Area have made it necessary in the general interest to adopt uniform rules that apply to the cross-border activities of every lawyer in the European Economic Area, regardless of the bar that he belongs to. The adoption of such rules are mainly aimed at reducing the problems that arise from applying two sets of rules of conduct, specifically as referred to in Articles 4 and 7.2 of Directive 77/249/EEC and Articles 6 and 7 of Directive 98/5/EC.

Article 230 (art. X.1.3.2)

The professional organizations of lawyers in the CCBE have expressed the wish that the following adopted rules:

- will henceforth be recognized as the expression of consensus among all bars of the European Union and the European Economic Area;
- will be declared applicable to the cross-border activities of lawyers in the European Union and the European Economic Area as soon as possible in accordance with national procedures and/or procedures of the European Economic Area;
- will be taken into consideration for every revision of internal rules of conduct with a view to their gradual harmonization.

They have further expressed the wish that their internal rules of conduct will be interpreted and applied as far as possible in accordance with this code of conduct.

If the rules of this code of conduct are declared applicable to the cross-border activities of lawyers, a lawyer will remain subject to the rules of conduct of his bar, insofar as those rules are in keeping with the rules of this code of conduct.

Section X.1.4 Scope of application ratione personae

Article 231 (art. X.1.4.1)

This Code applies to lawyers within the meaning of Directive 77/249/EEC and Directive 98/5/EC and for lawyers of the acting members of the CCBE.

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Section X.1.5 Scope of application ratione materiae

Article 232 (art. X.1.5.1)

Notwithstanding the aim of gradually harmonizing the rules of conduct, which are applicable only at national level, the following rules will apply to the cross-border activities of lawyers within the European Union and the European Economic Area.

The term 'cross-border activities' means:

a) All professional contact with lawyers from other Member States;
b) The professional activities of a lawyer in another Member State, even if he does not proceed to this state.

Section X.1.6 Definitions

Article 233 (art. X.1.6.1)

In this Code:

- 'Member State means an EU Member State or any other State where the profession of lawyer is practiced in accordance with Article X.1.4.1;
- 'home Member State' means the Member State where a lawyer earned the right to use his professional title;
- 'host Member State' means any other Member State in which a lawyer performs cross-border activities;
- 'competent authority' means the professional organization(s) or authority of the Member State concerned that is authorized to determine professional rules and/or rules of conduct and to carry out the disciplinary supervision of lawyers;
- 'Directive 77/249/EEC' means Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services;
- 'Directive 98/5/EC' means Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained.

CHAPTER X.2 General principles

Section X.2.1 Independence

Article 234 (art. X.2.1.1)

The many obligations to which a lawyer is subject require his absolute independence, free from all pressure, especially of his own interests or outside influence. This independence is just as necessary for trust in the administration of justice as the impartiality of the court. A lawyer must therefore

avoid any impairment of his independence and may not disregard professional ethics to please the client, the judge or third parties.

Article 235 (art. X.2.1.2)

This independence is necessary both in advisory and judicial work. The advice that a lawyer gives his client is worthless if the lawyer gives it only to be popular, in his own interests, or because of outside pressure.

Section X.2.2 Trust and personal integrity

Article 236 (art. X.2.2.1)

A relationship of trust cannot exist if there is any doubt about the honor, righteousness, or integrity of the lawyer. These traditional virtues are professional obligations of the lawyer.

Section X.2.3 Professional privilege

Article 237 (art. X.2.3.1)

The essence of a lawyer's duties is that clients entrust secrets and make confidential statements to him. There can be no trust if there is no guarantee of professional privilege. Professional privilege is therefore recognized as a lawyer's essential and fundamental right and obligation.

A lawyer's obligation with regard to professional privilege serves both the interests of the administration of justice and the interests of the client. It should accordingly enjoy special protection from the State.

Article 238 (art. X.2.3.2)

A lawyer must observe the confidentiality of every privileged statement made to him in relation to his professional activities.

Article 239 (art. X.2.3.3)

The obligation to maintain professional privilege lasts indefinitely.

Article 240 (art. X.2.3.4)

A lawyer must ensure that his personnel and all people that work with him in a professional capacity uphold professional privilege.

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Section X.2.4 Observing the rules of conduct of other bars

Article 241 (art. X.2.4.1)

When performing cross-border activities, a lawyer of another Member State is obliged to observe the professional rules and rules of conduct of the host Member State. The lawyer is obliged to ascertain which rules of conduct apply to a specific activity.

Organizations that are members of the CCBE are obliged to file their rules of conduct with the secretariat of the CCBE so each lawyer can obtain a copy thereof from the secretariat.

Section X.2.5 Incompatibility

Article 242 (art. X.2.5.1)

In order to enable a lawyer to practice his profession with the required independence and in a way that is compatible with his obligation to cooperate in the administration of justice, he may be prohibited from practicing or holding certain professions or offices.

Article 243 (art. X.2.5.2)

A lawyer that represents or defends a client before a court or authority of a host Member State must comply there with the incompatibility rules that are applicable to lawyers of that host Member State.

Article 244 (art. X.2.5.3)

A lawyer based in a host Member State who wishes to engage there directly in commercial dealings, or any other activity that is not part of the profession of lawyer, is obliged to comply with the incompatibility rules as these apply to lawyers of that Member State.

Section X.2.6 Personal advertising

Article 245 (art. X.2.6.1)

A lawyer may inform the public about his services on condition that the information is accurate and not misleading, while duly observing professional privilege and the other core values of the profession.

Article 246 (art. X.2.6.2)

Personal advertising by the lawyer in any media, such as the press, radio, television, electronic commercial communication, or otherwise is permitted, provided that the requirements of Article X.2.6.1 are fulfilled.

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Section X.2.7 Interests of the client

Article 247 (art. X.2.7.1)

A lawyer is always obliged, with due observance of statutory rules, professional rules, and rules of conduct, to protect his client's interests as well as possible and must even place them above his own interests or those of other lawyers.

Section X.2.8 Limitation of a lawyer's liability towards a client

Article 248 (art. X.2.8.1)

Insofar as the law of both the home Member State and host Member State permit this, a lawyer may limit his liability towards a client with due observance of the professional rules and rules of conduct to which he is subject.

CHAPTER X.3 Relationship with a client

Section X.3.1 Beginning and end of a relationship with a client

Article 249 (art. X.3.1.1)

A lawyer acts only when he has received an instruction to do so from his client. However, a lawyer may act in a case if he receives an instruction from another lawyer that represents the client or a competent authority.

A lawyer must make reasonable efforts to establish the identity, competence, and powers of the person from whom or organization from which he receives the instruction, if specific circumstances indicate that the stated identity, competence, and powers are not clearly defined.

Article 250 (art. X.3.1.2)

A lawyer must advise and defend his client quickly, conscientiously, and diligently. He personally accepts responsibility for the task entrusted to him and must keep the client informed of progress in that case.

Article 251 (art. X.3.1.3)

A lawyer must not accept a case if he knows or should know that he does not have the necessary ability to handle it, unless he handles it in cooperation with a lawyer that does have that ability.

A lawyer may not accept a case if he is unable to deal with it quickly, taking his other obligations into consideration.

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Article 252 (art. X.3.1.4)

A lawyer may not make use of his right to withdraw from a case in a manner or under circumstances in which the client would be unable to obtain legal assistance in due time, in order to prevent the client from suffering damage.

Section X.3.2 Conflict of interests

Article 253 (art. X.3.2.1)

A lawyer must not be the counsel, representative, or defender of more than one client in the same case, if there is a conflict of interests or a substantial threat that such a conflict will arise between these clients.

Article 254 (art. X.3.2.2)

A lawyer must refrain from handling the cases of two clients or of all the clients involved if a conflict of interests arises among these clients, if professional privilege could be breached, or if his independence could be compromised.

Article 255 (art. X.3.2.3)

A lawyer may not accept any case from a new client if there is a threat of breach of the confidentiality of the information that he has received from a previous client, or if the knowledge that he obtained from the previous client would unjustly favor the new client.

Article 256 (art. X.3.2.4)

If a lawyer practices in a group, Articles X.3.2.1. to X.3.2.3 will apply, both to the group in its entirety and its individual members.

Section X.3.3 Pactum de quota litis

Article 257 (art. X.3.3.1)

A lawyer may not set his fee on the basis of a '*pactum de quota litis*'.

Article 258 (art. X.3.3.2)

A '*pactum de quota litis*' means an agreement that is entered into between a lawyer and client before the end of the case, by which the client undertakes to pay the lawyer a specific portion of the proceeds of the case either in cash or in other assets or securities.

Article 259 (art. X.3.3.3)

An agreement in which the fee is determined on the basis of the interest involved in the dispute that the lawyer is handling, if that fee is in accordance with an official rate or is permitted by the competent authority under whose jurisdiction the lawyer falls, is not considered to be such a pactum.

Section X.3.4 Setting the fee

Article 260 (art. X.3.4.1)

A lawyer must give his client the necessary information relating to the fee charged. The amount of this fee must be fair and justified and in accordance with the law, professional rules, and rules of conduct to which the lawyer is subject.

Section X.3.5 Advances on fees and disbursements

Article 261 (art. X.3.5.1)

If a lawyer requires an advance on fees and disbursements, that advance may not exceed a reasonable estimate of the fee, expenses, and disbursements that the case is likely to cost. If an advance is not paid, a lawyer may decide not to act or withdraw from the case, subject to the provisions of Article 252.

Section X.3.6 Sharing fees with someone who is not a lawyer

Article 262 (art. X.3.6.1)

A lawyer is prohibited from sharing his fee with someone who is not a lawyer, unless an association between the lawyer and this other person is permitted by law and the professional rules and rules of conduct to which the lawyer is subject.

Article 263 (art. X.3.6.2)

The provisions of Article 3.6.1. do not apply to amounts or fees that are paid by a lawyer to the heirs of a deceased lawyer or to a lawyer, who has left his profession, for an introduction to the clients as that lawyer's successor.

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Section X.3.7 Procedural costs and legal aid

Article 264 (art. X.3.7.1)

A lawyer must try at all times to find a solution for his client's dispute, which is appropriate to the importance of the case, and must expressly advise his client at the right time about the desirability of reaching a settlement or using means of alternative dispute resolution.

Article 265 (art. X.3.7.2)

If the client qualifies for free legal aid or legal aid at a reduced rate, the lawyer is obliged to inform him thereof.

Section X.3.8 Third-party funds

Article 266 (art. X.3.8.1)

Lawyers that receive funds from their clients or third parties (hereinafter: 'third-party funds') are obliged to deposit these funds in an account at a bank or similar institution, which is subject to supervision by the authorities (hereinafter: the 'third-party account'). The third-party account must be kept separate from any other account of the lawyer. All third-party funds that a lawyer receives must be deposited in such an account, unless the owner of those funds agrees for the funds to be given a different use.

Article 267 (art. X.3.8.2)

A lawyer must keep full and accurate records of all transactions that are performed with third-party funds, making a distinction between third-party funds and other amounts in his possession. These records must be kept for a certain period in accordance with national rules.

Article 268 (art. X.3.8.3)

A third-party account may not have a debit balance, other than in exceptional circumstances that are expressly permitted in the national rules or due to bank costs over which the lawyer has no influence. This account cannot be given as a guarantee or serve as security for any purpose. Set off between or merging the funds of a third-party account and other bank account is not permitted. Likewise, third-party funds cannot be used to pay amounts that the lawyer owes to his bank.

Article 269 (art. X.3.8.4)

Third-party funds must be paid to the entitled parties without delay or under other conditions that they have approved.

Article 270 (art. X.3.8.5)

A lawyer is prohibited from transferring funds that are deposited in a third-party account to his own account as payment for fees and disbursements without notifying the client thereof in writing.

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Article 271 (art. X.3.8.6)

The competent authorities of the Member States are entitled to check and examine every document that relates to third-party funds, with due observance of the professional privilege that may apply to such documents.

Section X.3.9 Professional liability insurance

Article 272 (art. X.3.9.1)

A lawyer must take out professional liability insurance within reasonable limits, taking into account the nature and extent of the risks that he runs as a result of his practice.

Article 273 (art. X.3.9.2)

If this is not possible, the lawyer must inform his client about this situation and the consequences thereof.

CHAPTER X.4 Relationship with judges

Article 274 (art. X.4.1)

A lawyer that appears before a judge or acts in proceedings must comply with the rules of conduct that apply there.

Article 275 (art. X.4.2)

A lawyer must take into consideration the adversarial nature of the proceedings under all circumstances.

Article 276 (art. X.4.3)

Without compromising the respect and loyalty that a lawyer must show the judge, a lawyer must defend the interests of his client in good faith and without fear, regardless of his own interests, and regardless of any consequences for himself or any other person.

Article 277 (art. X.4.4)

A lawyer may never intentionally provide incorrect or misleading information to a judge.

Article 278 (art. X.4.5)

The rules that apply to the relationship between a lawyer and a judge also apply to his relationship with arbitrators and any other person who, even occasionally, fulfils a judicial or quasi-judicial function.

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CHAPTER X.5 Relationships between lawyers

Section X.5.1 Collegiality

Article 279 (art. X.5.1.1)

Collegiality requires a relationship of trust between lawyers in the interests of the client and to avoid unnecessary proceedings, as well as any other form of conduct that could harm the reputation of the profession of lawyer. However, collegiality may never put a lawyer's interests opposite to those of the client.

Article 280 (art. X.5.1.2)

A lawyer must recognize any lawyer of another Member State as a professional colleague and act towards him in a collegial and loyal manner.

Section X.5.2 Cooperation between lawyers of different Member States

Article 281 (art. X.5.2.1)

Any lawyer who is approached by a lawyer from another Member State must refrain from accepting a case for which he does not have the ability to act. In such a case, the lawyer must help that lawyer to obtain all the information needed to approach another lawyer who is able to provide the expected services.

Article 282 (art. X.5.2.2)

If lawyers from two different Member States cooperate, both are obliged to take into consideration the differences that may exist between their legal systems and professional organizations, powers, and professional obligations in the Member States concerned.

Section X.5.3 Correspondence between lawyers

Article 283 (art. X.5.3.1)

A lawyer that wishes to communicate with a lawyer of another Member State and keep it 'confidential' or 'without prejudice' must make this intention very clear before sending the first of these communications.

Article 284 (art. X.5.3.2)

If the future addressee of these communications cannot treat them as 'confidential' or 'without prejudice' he must immediately inform the sender thereof.

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Section X.5.4 Fee for introductions

Article 285 (art. X.5.4.1)

A lawyer may not ask another lawyer or any third party for or accept any fee, advance, or other form of payment for recommending another lawyer to a client or for sending a client to another lawyer.

Article 286 (art. X.5.4.2)

A lawyer may not pay anyone a fee, advance, or other form of payment as consideration for introducing a client.

Section X.5.5 Contact with the opposing party

Article 287 (art. X.5.5.1)

A lawyer may not make direct contact with anyone in relation to a specific case whom he knows is represented or assisted by another lawyer, unless that other lawyer has given consent for this purpose (and on condition that the latter is kept updated).

Section X.5.6 Financial liability

Article 288 (art. X.5.6.1)

In professional relationships between lawyers of the bars of different Member States, a lawyer that entrusts a case to a correspondent or consults that correspondent, unless he limits himself to recommending another lawyer or introduces this lawyer to a client, is personally obliged to pay the fees, expenses, and disbursements that are due to the foreign correspondent, even if the client is insolvent. However, the lawyers involved may make a special arrangement in this regard at the outset of their cooperation. An instructing lawyer may moreover limit his personal liability at all times to the amount of fees, expenses, and disbursements that are due before he gives notice to the foreign lawyer that he rejects any further liability for the future.

Section X.5.7 Continuous professional development

Article 289 (art. X.5.7.1)

Lawyers must maintain the level of and develop their knowledge and professional skills taking into account the European dimension to their profession.

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Section X.5.8 Disputes between lawyers of different Member States

Article 290 (art. X.5.8.1)

If a lawyer is of the opinion that a lawyer of another Member State has breached a rule of conduct, he must draw his professional colleague's attention to this breach.

Article 291 (art. X.5.8.2)

If any personal dispute of a professional nature arises between lawyers of different Member States, they must first try to settle that dispute out of court.

Article 292 (art. X.5.8.3)

Before initiating proceedings against a lawyer from another Member State in relation to a dispute as referred to in Articles 290 and 291, a lawyer must inform the bars to which both lawyers belong, in order to enable the bars to bring about an out-of-court settlement.

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PART XI

ENTRY INTO FORCE

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CHAPTER XI.1 Entry into force

Article 293 (art. XI.1.1)

This Code enters into force on 1 January 2015.[15]

Article 294 (art. XI.1.2)

- Regulations of the Belgian National Bar Council of 10 January 1992 in relation to garnishment at a lawyer were included in this Code in Part I Essential duties of a lawyer, Chapter I.3 Professional privilege, Section I.3.2 Garnishment at a lawyer.

- Regulations on the traineeship, approved by the general meeting of the Flemish Bar Council on 7 May 2008, were included in this Code in Part II Access to the profession, traineeship and training, Chapter II.1 Traineeship.

- Regulations on professional training, approved by the general meeting of the Flemish Bar Council on 25 March 2009, were included in this Code in Part II Access to the profession, traineeship and training, Chapter II.2 Professional training.

- Regulations on continuous professional development, approved by the general meeting of the Flemish Bar Council on 16 June 2010, were included in this Code in Part II Access to the profession, traineeship and training, Chapter II.3 Continuous professional development.

- Regulations on a mandate that a lawyer does not receive directly from his client, approved by the general meeting of the Flemish Bar Council on 14 March 2007, were included in this Code in Part III Practising the profession of lawyer, Chapter III.1 Relationships with clients, Section III.1.1 Mandate that a lawyer does not receive directly from his client.

- Regulations on money-laundering, approved by the general meeting of the Flemish Bar Council on 30 December 2011, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.1 Relationships with clients, Section III.1.2 Prevention of money-laundering.

- Regulations on advertising, approved by the general meeting of the Flemish Bar Council on 18 September 2002, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.1 Relationships with clients, Section III.1.7 Advertising.

- Regulations on the procedures relating to collegiality, approved by the general meeting of the Flemish Bar Council on 31 January 2007, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.2 Relationships with lawyers, Section III.2.1 Collegiality.

- Regulations of the Belgian National Bar Council of 6 June 1970, 6 March 1980, 8 May 1980 and 22 April 1986 on the production of correspondence between lawyers were included in this Code in Part III Practicing the profession of lawyer, Chapter III.2 Relationships with lawyers, Section III.2.4 Production of correspondence between lawyers.

- Regulations of the Belgian National Bar Council of 10 March 1977 on the production of correspondence between lawyers and legal mandataries-lawyers were included in this Code in Part

[15] The content of the Codex in the original numbering. The - unchanged - content with the adjusted numbering enters into force on 1 September 2016.

III Practicing the profession of lawyer, Chapter III.2 Relationships with lawyers, Section III.2.5 Production of correspondence between lawyers and legal mandataries.

- Regulations on succession, approved by the general meeting of the Flemish Bar Council on 3 November 2004, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.2 Relationships with lawyers, Section III.2.6 Succession.

- Regulations on the certification of documents to be appended to appeals in cassation as true copies; approved by the general meeting of the Flemish Bar Council on 30 January 2008, were included in this Code

in Part III Practicing the profession of lawyer, Chapter III.2 Relationships with lawyers, Section III.2.7 Certification of documents to be appended to appeals in cassation as true copies.

- Regulations on the handling of clients' or third-party funds, reporting and audits, approved by the general meeting of the Flemish Bar Council on 21 November 2012, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.2 Relationships with lawyers, Section III.2.8 Third-party funds.

- Regulations on the status of lawyers, approved by the general meeting of the Flemish Bar Council on 8 June 2005, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.2 Relationships with lawyers, Section III.2.10 Status of lawyers.

- Regulations on financial arrangements when transferring to another bar, approved by the general meeting of the Flemish Bar Council on 4 June 2003, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.3 Relationships with the Bar Council authorities, Section III.3.2 The obligation to pay contributions to the Bar Council.

- Regulations on lawyers and the media, approved by the general meeting of the Flemish Bar Council on 4 June 2003, were included in this Code in Part III Practicing the profession of lawyer, Chapter III.5 Relationships with third parties, Section III.5.2 Media.

- Regulations on the acceptance of legal mandates, approved by the general meeting of the Flemish Bar Council on 21 November 2007, were included in this Code in Part IV Lawyer acting in a different capacity, Chapter IV.I Lawyer/legal mandatary.

- Regulations on the lawyer/building administrator of a co-owners' association, approved by the general meeting of the Flemish Bar Council on 18 September 2002, were included in this Code in Part IV Lawyer acting in a different capacity, Chapter IV.2 Lawyer/building administrator.

- Regulations on alliances among lawyers and on sole shareholder companies of lawyers, approved by the general meeting of the Flemish Bar Council on 8 November 2006, were included in this Code in Part V Organization of the firm, Chapter V.1 Alliances among lawyers and sole shareholder companies of lawyers, Section V.1.2 Sole shareholder companies of lawyers.

- Regulations on professional cooperation with non-lawyers, approved by the general meeting of the Flemish Bar Council on 22 January 2003, were included in this Code in Part V Organization of the office, Chapter V.2 Cooperation between lawyers and non-lawyers.

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- Regulations on establishing several offices or branches, approved by the general meeting of the Flemish Bar Council on 12 May 2010, were included in this Code in Part V Organization of the office, Chapter V.3 The office and branches, Section V.3.1 Establishing several offices or branches.

- Regulations on the procedure that applies before the board of the Bar Council for disciplinary proceedings, approved by the general meeting of the Flemish Bar Council on 21 November 2007, were included in this Code in Part VII Disciplinary proceedings, Chapter VII.1 The board of the Bar Council acting as a disciplinary committee.

- Regulations of the Belgian National Bar Council of 25 May 1972 on disciplinary proceedings – witnesses taking the oath, were included in this Code in Part VII Disciplinary proceedings, Chapter VII.2 Witnesses taking the oath.

- Regulations on applying the code of conduct for European lawyers, approved by the general meeting of the Flemish Bar Council on 31 January 2007, were included in this Code in Part X Code of conduct for European lawyers.
