

# Act No 253/2008 Coll.

June 5, 2008

## on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism

as amended by:

- Act No 227/2009 Coll., amending selected acts in relation to the adoption of the Act on Central Registers (in effect as of July 1, 2010),
- Act No 281/2009 Coll., amending selected acts in relation to the adoption of the Rules of Tax Procedure (in effect as of January 1, 2011),
- Act No 285/2009 Coll., amending selected acts in relation to the adoption of the Act on Payment Transactions (in effect as of November 1, 2009),
- Act No 199/2010 Coll., amending the Act No 586/1992 Coll., Income Tax Code, as amended, and Act No 218/2000 Coll., on Budgetary Rules and in amendments of some related acts (budgetary rules), as amended, and some other acts (in effect as of January 1, 2011),
- Act No 139/2011 Coll., amending the Act No 284/2009 Coll., Payment Transactions, as amended by Act No 156/2010 Coll. and certain other acts (in effect as of May 28, 2011),
- Act No 420/2011 Coll., amending certain acts in connection with the enactment of the Act on Criminal Liability of Legal Entities and Proceedings Against Them (in effect as of January 1, 2012),
- Act No 428/2011 Coll., amending selected acts in relation to the adoption of the Act on Retirement Savings and Act on Supplementary Pension Savings (in effect as of January 1, 2013),
- Act No 457/2011 Coll., amending selected acts in relation to the adoption of the Act on the Tax Administration of the Czech Republic (in effect as of January 1, 2013),
- Act No 18/2012 Coll., amending selected acts in relation to the adoption of the Act on Customs Administration of the Czech Republic (in effect as of January 1, 2013),
- Act No 377/2012 Coll., amending the Act No 253/2008 Coll., on Selected Measures against Legitimation of Proceeds of Crime and Financing Terrorism, as amended (in effect as of January 1, 2013),
- Act No 399/2012 Coll., on amendment of acts in relation to the adoption of the Act on Premium on Retirement Savings (in effect as of January 1, 2013),
- Act No 241/2013 Coll., amending certain acts in relation to the adoption of the Act on Investment Companies and Investment Funds and to the adoption of directly applicable European Union legislation laying down the settlement of certain derivatives (in effect as of August 19, 2013),
- Act No 303/2013 Coll., amending selected acts in relation to the adoption of civil law recodification (in effect as of January 1, 2014),
- Act No 257/2014 Coll., amending the Act No 383/2012 Coll., on Conditions of Trading with Greenhouse Gas Allowances and certain other Acts (in effect as of January 1, 2015),
- Act No 166/2015 Coll., amending the Act No 253/2008 Coll., on Selected Measures against Legitimation of Proceeds of Crime and Financing Terrorism, as amended (in effect as of October 1, 2015),
- Act No 377/2015 Coll., amending selected acts in relation to the adoption of the Act on Termination of Pension Savings (in effect as of January 1, 2017),
- Act No 188/2016 Coll., amending selected acts in relation to the adoption of the Act on Gambling and Act on Tax on Gambling (in effect as of January 1, 2017),
- Act No 243/2016 Coll., amending selected acts in relation to the adoption of the Act on Customs (in effect July 29, 2016),
- Act No 368/2016 Coll., amending the Act No 253/2008 Coll., on Selected Measures against Legitimation of Proceeds of Crime and Financing Terrorism, as amended and other related acts (in effect as of January 1, 2017), and
- Act No 183/2017 Coll., amending selected acts in relation to the adoption of the Act on Liability for Offences and Proceedings and the Act on Certain Offences (in effect as of July 1, 2017).

The Parliament of the Czech Republic has adopted this Act:

## PART ONE INTRODUCTORY PROVISIONS

### Section 1

#### Subject of Law

This Act transposes the relevant European Union legislation<sup>1)</sup> and, follows also the directly applicable European Union legislation<sup>2)</sup> shall regulate the following:

- a) selected measures against legitimisation of proceeds of crime and financing of terrorism,
  - b) selected rights and responsibilities of natural and legal persons in enforcing measures against legitimisation of proceeds of crime and financing of terrorism,
- in order to prevent abuse of the financial system for purposes of legitimisation of proceeds of crime and financing of terrorism and to create appropriate conditions to detect such activities.

### Section 2

#### Obliged Entities

(1) For the purposes of this Act, the obliged entity shall be understood as:

- a) a credit institution in a form of:
  - 1. a bank,
  - 2. a cooperative savings or credit union,
- b) a financial institution, which is an undertaking other than a credit institution, such as:
  - 1. a central depository, the entity maintaining a register related to a central register of securities maintained by a central depository, the entity maintaining an independent register of investment instruments, the entity maintaining a register related to the independent register of investment instruments<sup>4)</sup>,
  - 2. an administrator of investment tools market,
  - 3. a person licensed to provide investment services<sup>5)</sup>,
  - 4. an investment company, a self-managed investment fund, a central administrator of the investment fund and pension company,
  - 5. a payment institution, a provider of small extent payment services, an electronic money institution and an issuer of electronic money of small extent<sup>3)</sup>,
  - 6. a person authorized to provide or trade leasing, guarantees, credit or loans,
  - 7. a person authorized to broker savings, leasing, credit or loans,
  - 8. an insurance or re-insurance company, an insurance agent and an insurance settlement agent performing activities related to life insurance<sup>7)</sup>, with exception of an insurance agent whose liability for damage is borne by their contracting insurance company,
  - 9. a person authorized to buy and trade in debts and receivables,
  - 10. a person licensed to perform foreign currency exchange under the Act on Bureau-de-change Activity,

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<sup>1)</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on prevention of the use of the financial system for the purpose 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.

<sup>2)</sup> Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community.  
Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing the Regulation (EC) No 1781/2006.

<sup>4)</sup> Sections 91 to 115, Act No 256/2004 Coll., on Enterprising on the capital market, as amended.

<sup>5)</sup> Section 4, Act No 256/2004 Coll., as amended.

<sup>3)</sup> Act No 284/2009 Coll., the Act on Payment Transaction

<sup>7)</sup> Section 2, para. 1 letter v), Act No 363/1999 Coll., on Insurance industry, as amended.

11. a person not mentioned in points 1 to 10, authorized to provide or broker payment services or postal services intended to transfer funds,
  12. a person authorized to provide consultancy services to private business in matters concerning equity, business strategy, merge or acquisition<sup>9)</sup>,
  13. a person providing services of financial brokerage,
  14. a person providing services of safekeeping of valuables,
- c) a gambling operator under the Act on Gambling with exception of operator of monetary, material, immediate and/or numeral lotteries, bingos or raffles,
  - d) a person authorized to trade or broker with real estate,
  - e) an auditor, tax advisor, or chartered accountant,
  - f) a court bailiff performing other activities of an executor under the Execution Procedure Act as well as safekeeping of money, securities, or other valuables,
  - g) a public notary providing notarized safekeeping services<sup>8)</sup>, a lawyer or a public notary providing safekeeping of money, securities, or other client's assets or a lawyer or a public notary required by the client to represent them or to act on their behalf while:
    1. buying or selling real estate, business entity<sup>9)</sup> or its part,
    2. managing customer assets, such as money, securities, business shares, or other assets, including representation of the customer or acting on behalf of the customer in relation to opening bank accounts in a credit institution or foreign credit institution, or opening or managing securities accounts,
    3. establishing, managing or operating a company, business group, or any other similar entrepreneurial entity regardless of its status of a natural/legal person as well as raising and gathering money or other assets for the purpose of establishing, managing or controlling such entity, or
    4. providing services of collection, payments, transfers, deposits or withdrawals in wire or cash transactions, or any other conduct aimed at or directly triggering movement of money,
  - h) a person not mentioned by letter g), providing within its business activity or activity of a trust or activity of other legal arrangement without legal personality following services to another person:
    1. establishing legal persons,
    2. acting on behalf of legal person or other person in a similar position, should such service be only temporary and related to establishing and managing such legal person,
    3. providing registers office, business address, and possibly other related services to another legal person,
    4. acting as an appointed shareholder on behalf of another person in case this person is not a company whose securities have been accepted for trading at a regulated market and which is a subject to information disclosure requirements equivalent to those laid down by the European union law, or
    5. acting on behalf or in their name in activities set forth in letter g),
  - i) a person authorized to trade in items of cultural heritage<sup>10)</sup>, or items of cultural value<sup>11)</sup>, or to act as intermediary in such services,
  - j) a person authorized to trade in used goods, or intermediary in such trading, or receive used goods in pawn,
  - k) a national administrator of emission trading registry under the Act on conditions of trading with Greenhouse Gas allowances<sup>27)</sup> (hereinafter „national administrator“),
  - l) a person providing services connected with virtual currency, which should be for purpose of this Act understand as digitally stored unit regardless the existence of its issuer which is not a fiat currency under the Act on Payment Transactions, but it is accepted as a payment for goods or services by other person than the issuer.

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<sup>8)</sup> Section 81 and on, Act No 358/1992 Coll., on Notaries and their Activities (Notary Act), as amended.

<sup>9)</sup> Section 502, Commercial Code.

<sup>10)</sup> Section 2, Act No 20/1987 Coll., on Public Protection of Historical Heritage.

<sup>11)</sup> Section 1, para. 1, Act No 71/1994 Coll., on Sale and Exportation of Items of Cultural Value, as amended by Act No 80/2004 Coll.

<sup>27)</sup> Section 5, Act No 383/2012 Coll., on Conditions for Trading Greenhouse Gas Allowances.

(2) In addition, an obliged entity is:

- a) a foreign legal or natural person as defined in paragraph 1, operating in the territory of the Czech Republic via its branch, subsidiary or business premise; such person meets the definition of an obliged entity to the extent of activities performed by such branch, subsidiary or business premise,
- b) a foreign person operating in the territory of the Czech Republic should it perform activities set forth in paragraph 1,
- c) an entrepreneur not mentioned in paragraph 1, should they receive payments in an amount or exceeding EUR 10,000, or
- d) a legal person which is not an entrepreneur authorized to provide in a form of service activities stipulated in paragraph 1 or should it receive payments in cash in an amount of or exceeding EUR 10,000.

(3) A person is not considered an obliged entity should it not perform activities stipulated in paragraph 1 as a professional business activity, with the exception of person mentioned in paragraph 2(c) and 2(d).

### Section 3

#### Basic Definitions

(1) For the purposes of this Act, legitimisation of proceeds of crime shall mean an activity performed to conceal the illicit origin of proceeds of crime with intention to present the illicit proceeds as a legal income. The above activities should particularly be in the form of:

- a) conversion or transfer of assets, knowing that such assets come from criminal proceeds, for the purpose of concealing or disguising illicit origin of the assets or of assisting a person involved in the commission of such activity to avoid the legal consequences of such conduct,
- b) concealment or disguise of the true nature, source, location, disposition or movement of assets, or change of ownership rights with respect to assets, knowing that such assets derive from crime,
- c) acquisition, possession, use or handling of assets knowing that they originate from crime, or
- d) criminal association or any other type of cooperation serving the purpose of conduct stipulated in letter a), b), or c).

(2) Financing of terrorism shall mean:

- a) gathering or providing financial or other assets knowing that such assets will be, in full or in part, used to commit a criminal offence of terror<sup>12)</sup>, terrorist attack<sup>13)</sup>, or a criminal offence intending to facilitate or support such crime<sup>14)</sup>, or to support individuality or a group of individuals planning such criminal offence, or
- b) acting with intention to remunerate or compensate a person who has committed a criminal offence of terror, terrorist attack or a criminal offence intended to facilitate or support such criminal offence<sup>14)</sup>, or close person to perpetrator according to the Criminal Code<sup>15)</sup>, or collecting assets to pay such remuneration or compensation,
- c) for the purposes of this Act also financing of proliferation weapons of mass destruction under the Article 3.

(3) Financing of proliferation of weapons of mass destruction shall mean gathering or providing financial or other assets knowing that such assets will be, in full or in part, used by disseminator of the weapons of mass destruction or will be used to support proliferation of such weapons in contradiction to requirements of international law<sup>29)</sup>.

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<sup>12)</sup> Section 93 of the Criminal Code.

<sup>13)</sup> Section 95 of the Criminal Code.

<sup>14)</sup> Para. 1 to 4 Framework Decision of the Council of 13 June 2002 on combating terrorism (2002/475/SVV).

<sup>15)</sup> Section 89 para. 8 of the Criminal Code.

<sup>29)</sup> For example the Order of the Ministry of Foreign Affairs No 61/1974 Coll., on Treaty on the Non-proliferation of Nuclear Weapons, the Order of the Ministry of Foreign Affairs No 96/1975 Coll., on Convention on the prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and toxin Weapons and on their Destruction, the Notification of the Ministry of Foreign Affairs No 14/2009 Coll., on International Treaties, replacing Notification of the Ministry of Foreign Affairs No 94/1997 Coll., on Exception of Convention on the Prohibition of the Development, Production and Stockpiling of chemical weapons and on their Destruction.

(4) For the purposes of this Act it shall be immaterial if the activities set forth in paragraph 1 to 3 or a committing of criminal offence were realized fully or partially in the territory of the Czech Republic or abroad.

#### Section 4

##### Other Definitions

(1) For the purposes of this Act, a transaction shall mean any interaction of the obliged entity with another person should such interaction lead to attempted handling of the other person's property or providing services to such person.

(2) For the purposes of this Act, a business relationship shall mean a contractual relationship between obliged entity and other person established to handle assets of such other person or to provide services to such other person should it be evident in the time when the contractual relationship is established that such services will be provided repetitively.

(3) For the purposes of this Act, a customer's order shall mean any customer's action based on which an obliged entity shall handle the customer's assets.

(4) For the purposes of this Act, a beneficial owner shall mean a natural person having factual or legal possibility to realize directly or indirectly decisive influence in legal person, trust or other legal arrangement without legal personality. It shall be considered that according to conditions stipulated in the first sentence the beneficial owner is:

- a) for a business corporation a natural person, who:
  1. alone or in connection with other persons acting in concert with that person handle more than 25 % of voting rights of the business corporation, or has more than 25 % share in ordinary stock,
  2. alone or in connection with other persons acting in concert with the natural person controls person stipulated in point 1,
  3. should be recipient of at least 25 % of profit of business corporation, or
  4. is a member of a statutory body, representative of legal person in such body and/or in position similar to member of statutory body if there is no beneficial owner or it is not possible to determine it in accordance to points 1 to 3,
- b) for an association, public service company, owners association, church, religious society or other legal person under the Act regulating position of churches and religious society a natural person, who:
  1. handle more than 25 % of its voting rights,
  2. should be a recipient of at least 25 % of distributed funds, or
  3. is a member of a statutory body, representative of a legal person in such body and/or in position similar to a member of statutory body if there is no beneficial owner or it is not possible to determine it in accordance to points 1 and 2,
- c) for a foundation, institute, trust or other legal arrangement without legal personality a natural person or beneficial owner of a legal person, who is in a position of:
  1. a founder,
  2. a trustee,
  3. a beneficiary,
  4. a person in whose interests was the foundation, institute, trust or other legal arrangement without legal personality established or is functioning, if a beneficiary is not determined, and
  5. a persons allowed to maintain supervision on administration of the foundation, institute, trust or other legal arrangement without legal personality.

(5) For the purposes of this Act, a politically exposed person shall mean:

- a) a natural person, who is or was in a prominent public function with nation-wide or regional responsibilities, such as a head of State, a head of government, a minister and deputy or assistant minister, a member of parliament, a member of governing bodies of political parties, a leading representative of local government, a member of Supreme court, a Constitutional court and other high-level judicial body, decisions of which are not subject to further appeal, except in exceptional circumstances, a member of central bank board, high-ranking military

officer, a member or representative of a member which is a legal person of statutory body of state-owned business corporation controlled by the State, an ambassador or chargé d'affaires, and/or a natural person, who is or was in similar function in other state or in European Union body and/or in international organisation,

- b) a natural person, who is:
1. a person known to be a close associate to a person stipulated under letter a),
  2. a business partner or a beneficial owner of a legal person, a trust or any other legal arrangement without legal personality as a person stipulated under letter a) or is known to the obliged entity as a person in a close business relationship with a person under letter a), or
  3. a beneficial owner of a legal person, a trust or other legal arrangement without legal personality known to the obliged entity as a person created in favour of a person under letter a).

(6) For the purposes of this Act, a certificate of identity shall mean the card issued by a public administration authority bearing the holder's name and surname, date of birth together with image and potentially other identification features enabling identification of the bearer as the true holder.

(7) For the purposes of this Act, a correspondent banking shall mean:

- a) the provision of banking services of by one bank as the correspondent bank to another bank as the respondent bank, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services, or
- b) the relationships between credit institutions, financial institutions and/or credit and financial institutions where similar services as under letter a) are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers.

(8) For the purposes of this Act, a person providing services connected with the virtual currency shall mean a person, who within its business activity purchases, sells, stores, administrates for others or mediates purchase or sell of virtual currency or such services connected with virtual currency.

(9) For the purposes of this Act, an indirect influence shall mean an influence realized through other person or persons.

(10) For the purposes of this Act, a disposal with voting rights shall mean a possibility to enforce a voting rights based on own consideration regardless the fact if these rights are enforced and based of which legal reason or a possibility to influence the enforcement of voting rights by other person.

(11) For the purposes of this Act, a close business relationship shall mean such material interconnection within business activity, when the effect of a profit or a harm of one person can be felt as own profit or harm of the second person.

## Section 5

### Identification Data

(1) For the purposes of this Act, identification data shall mean:

- a) for a natural person all names and surnames, a birth identification number (for a person with no birth number a date of birth), and also place of birth, sex, permanent or other residence and citizenship; for a natural person as an entrepreneur it shall also mean business name including its appendices or other features, place of business and person's business identification number,
- b) for a legal person a business name including appendices or other features, company's registered office, business identification number or similar identification number given under foreign law, for a natural person which is a member of a statutory body an identification data shall mean data necessary for identification and verification of such person,
- c) for a trust or other legal arrangement without legal personality its name and identification data stipulated under letters a) and b) of its trustee, administrator or person in a similar position.

(2) Should the risk assessment under Section 21a justify it, more identification data beyond these stipulated under paragraph 1 such as telephone number, e-mail address, data about employment or employer can be obtained.

## Section 6

### **Suspicious Transaction**

(1) For the purposes of this Act, a suspicious transaction shall mean a transaction realized under the circumstances raising suspicion of legitimisation of proceeds of crime or suspicion that funds used for the transaction are determined to be used for financing terrorism or the transaction can be otherwise related or connected with financing terrorism and/or other facts that can indicate such suspicion, such as:

- a) withdrawals or transfers to other accounts followed immediately after cash deposits,
- b) a realization of numerous transactions exceeding the typical customer's activity in one day or days immediately following,
- c) a number of various accounts opened by the given customer which are in an obvious discrepancy with its business activity or financial situation,
- d) transfers of assets without obvious economic sense and/or complicated or unusually large transactions,
- e) assets, managed by the customer, are in obvious discrepancy with a nature and scope of his/her business activity or their financial situation,
- f) an account is not used for the purpose of opening,
- g) customer realize activities that can assist to conceal his/her identity or the identity of the beneficial owner,
- h) a customer or a beneficial owner who are nationals of a country which does not fully enforce, or fails to fully enforce, measures to combat legitimisation of proceeds of crime and financing terrorism, or
- i) doubts of obliged entity about the correctness of received customer's identification data.

(2) A transaction shall be perceived as suspicious, should:

- a) the customer or the beneficial owner be a person against whom the Czech Republic has imposed the international sanctions under the Act on Implementation of International Sanctions,
- b) the subject of the transaction is goods or services against which the Czech Republic has imposed sanctions under the Act on Implementation of International Sanctions, or
- c) the customer refuse to undergo the due diligence process or refuse to submit the identification data.

## PART TWO

### **BASIC RESPONSIBILITIES OF OBLIGED ENTITIES**

## CHAPTER I

### **CUSTOMER IDENTIFICATION AND DUE DILLIGENCE**

## Section 7

### **Obligation of Identification**

(1) The obliged entity, should it be a party to a transaction when it is obvious that the transaction amount exceeds EUR 1,000, shall realize the identification of the customer, unless stipulated otherwise under this Act.

(2) The obliged entity shall always identify the customer regardless the limit stipulated under paragraph 1 in case of:

- a) a suspicious transaction,
- b) an establishment of a business relationship,
- c) an agreement to rent a deposit box or a custodian contact,

- d) a purchase or reception of cultural heritage, items of cultural value, used goods or goods without a receipt of the origin to further trade of such goods and/or reception of such items as a pawn, or
- e) a withdrawal of a final balance of cancelled bearer's passbook.

(3) A person entitled to receive the life insurance settlement shall be identified by the obliged entity at the latest on the day of the payment.

(4) Based on the risk assessment under Section 21a the obliged entity shall stipulate for individual types of provided transactions not covered by paragraph 2 the amount which meeting always means obligation to identify the customer. This amount shall not exceed the amount stipulated under paragraph 1.

## Section 8

### Identification

(1) The obliged entity shall perform the initial identification of a customer who is a natural person as well as any natural person acting on behalf of a customer who is a legal person in the personal presence of identified, unless stipulated otherwise by this Act.

(2) When identifying a customer who is:

- a) a natural person, the obliged entity shall record identification data and verify them through certificate of identity, if the identity card includes them, and then record the type and number of the identity card, issuing country eventually issuing authority and the validity; simultaneously verifies if the holder matches the photo on presented identification card,
- b) a legal person, the obliged entity shall record identification data and verify them through a document on legal person's existence and perform the identification of a natural person acting on behalf of such legal person in a transaction as stipulated under letter a), if a statutory body, its member or controlling person of such legal person is other legal person, the obliged entity shall record its identification data as well.

(3) The obliged entity shall within the identification process check and record whether the customer is or is not a politically exposed person or a person against whom the Czech Republic imposes the international sanctions under the Act on Implementation of International Sanctions.

(4) Should the customer be represented based on a power of attorney, the obliged entity shall perform identification of the plenipotentiary according to paragraph 2 and then plenipotentiary shall submit the power of attorney; no power of attorney is requested should the person, who is not entitled to dispose with funds on the account, deposit cash to the customer's account and simultaneously submit to the obliged entity documents completed and signed by the authorized person allowing the realization of disposal with the funds on the account.

(5) Should the customer be represented by a statutory agent or a guardian, the obliged entity shall perform the identification of the statutory agent or guardian according to paragraph 2. The statutory agent or guardian shall submit identification data of represented; the guardian shall submit the relevant court decision.

(6) When performing other transactions with a customer who has been already identified according to paragraph 2 the obliged entity shall adequately verify the identity of particular acting natural person. This verification may be realized without physical presence of the customer who is a natural person or a natural person who is acting on behalf of a customer who is a legal person.

(7) During the business relationship or when performing other transactions the obliged entity shall control the validity and completeness of customer's identification data, information obtained within the customer due diligence (Section 9), legitimacy of simplified due diligence (Section 13) or exception from the due diligence (Section 13a) and record any changes.

(8) Should there be any suspicion when realizing the transaction that the customer is not acting on his/her behalf or conceals that he/she is acting on behalf of third person the obliged entity shall appeal to the customer for submitting the power of attorney according to paragraph 3. Everyone is obliged to grant the request unless stipulated otherwise in other act; a lawyer or



a notary may fulfil this obligation also by submitting the copies of relevant parts of documents containing the identification data to the obliged entity.

(9) The customer shall submit to the obliged entity any necessary information including submission of relevant documents. For the purposes of this Act the obliged entity may make copies or statements from submitted documents and process such information to fulfil the purpose of this Act.

## Section 9

### Customer Due Diligence

(1) The obliged entity shall perform the customer due diligence:

- a) prior the realization of a transaction out of a business relationship:
  1. when it is obvious that the transaction amounts to EUR 15,000 or more at the latest,
  2. with a politically exposed person, or
  3. with a person settled in a country which is based on a designation from the European Commission or other reason considered as high-risk,
- b) in situation connected with the obligation of identification under Section 7 para. 2 letters a) to c) prior the realization of a transaction at the latest,
- c) during the duration of the business relationship,
- d) stipulated under Section 2 para. 1 letter c) while carrying out a transaction amounting to EUR 2,000 or more, or
- e) stipulated under Section 2 para. 2 letters c) and d) while carrying out a transaction amounting to EUR 10,000 or more.

(2) The Customer due diligence process entails the following:

- a) collection of information about the purpose and intended nature of the transaction or business relationship,
- b) shall the customer be a legal person, a trust or other legal arrangement without legal personality the ascertainment/establishment of the ownership and control structure of the customer and his/her beneficial owner and the adoption of measures enabling to identify and verify the identity of the beneficial owner,
- c) ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that business relationship with the purpose of detection if these transactions consistent with the obliged entity's knowledge about the customer and business and risk profile,
- d) a scrutiny of the sources of funds or other property affected by a transaction or business relationship, and
- e) within a business relationship with politically exposed person also adequate measures for identification of the origin of his/her funds.

(3) The obliged entity shall perform the customer due diligence under paragraph 2 letters c) and d) to the extent necessary to determine the potential risk of legitimisation of proceeds of crime and financing or terrorism depending on the type of customer, business relationship, product or transaction. The obliged entity shall account persons authorized to exercise control of compliance with obligations under Section 35 for the adequacy of the extent of customer due diligence and shall also declare the way of its realization or the fulfilment of conditions for simplified customer identification and due diligence under Section 13 or for exception from the customer identification and due diligence under Section 13a, in relation with abovementioned risks.

(4) The obliged entity shall take into account the risks factors stipulated in the risk assessment under Section 21a while considering the possible risks under paragraph 3.

(5) The obliged entity shall determine for each type of provided transaction a trade value based on the risk assessment under 21a which reaching is always connected with performance of the customer due diligence. This value shall not exceed the value stipulated under paragraph 1.

(6) While performing the customer due diligence the oblige entity shall collect and record:

- a) for a beneficial owner data for verification of his/her identity and the process of collecting such data,

- b) for a trustee in a trust or other legal arrangement without legal personality who is determined based on particular characteristics or membership of particular category, the information necessary to identify the particular trustee in the moment of payment of returns or in the moment of exercise of trustee's rights,
- c) for a person authorized from life insurance, who is:
  - 1. determined as a particular person or a legal arrangement without legal personality the data about name and surname or name of the legal person,
  - 2. determined based on the characteristic of the relationship with the person insured and/or otherwise the data necessary to identify the particular authorized person in the moment of a payment performance,
  - 3. a politically exposed person all relevant circumstances and the process of the business relationship.

(7) The customer shall provide the obliged entity with information necessary for performance of the customer due diligence including submission of relevant documents.

(8) For the purpose of this Act the obliged entity can make copies or extracts from submitted documents and process such information to fulfil the purpose of this Act.

## Section 10

### **Mediated identification**

(1) The identification of the customer under Section 8 para. 1 can be performed by the notary or the public administration contact point based on a request of the customer or obliged entity.

(2) The notary or the public administration contact point shall draw up an instrument of identification, which is a public instrument and shall contain:

- a) who performed the identification, based on whose request and for which purpose,
- b) customer's identification data,
- c) a certification of identified natural person's statement, of person's acting on behalf of identified legal person statement or identified representative statement of the purpose of performed identification and certification of confirmation of the identification's accuracy or of reservations for the performed identification,
- d) a place and date of instrument's drawing up or a place and date about where and when the identification was performed if these or different from the place and date of drawing up,
- e) a signature of a person who performed the identification, official stamp imprint and serial number from the registry of instrument of identification.

(3) The attachment of the instrument of identification is composed of copies of parts of certificate of identity used for identification which are sufficient to find out the identification data and also type and number of the identity card, issuing country or issuing body, validity, copy of the request if the request was submitted in written version. If a plenipotentiary is identified in this way the attachment shall also contain the original version or authenticated copy of the power of attorney. Stated attachments shall be firmly connected into one file with the instrument of identification.

(4) The copies of documents shall be obtained in such way that relevant data are readable and the possibility of keeping such copies for a period stipulated under Section 16 is ensured. The copies shall also contain the copy of photo of identified natural person from identity card in such quality that the accuracy can be verified.

(5) The notary and the public administration contact point shall keep separate registry of instruments of identification which includes:

- a) the serial number and date of drawing up,
- b) data about identified person:
  - 1. name, surname, permanent or other residence, birth identification number (for a person with no birth number a date of birth) for identified natural persons or a natural person acting on behalf of the legal person,
  - 2. in case of identification of the legal person its business name including appendices or other features, business identification number and company's registered office,

c) the purpose of identification.

(6) The evidence of instruments of identification shall be kept for the period of one year. After the closure the evidence shall be stored for the period of 10 years.

## Section 11

### Acceptance of identification

(1) The obliged entity may decide not to identify a customer or seek information on the purpose and nature of a transaction or a business relationship under Section 9 para. 2 letter a) and not to identify an ownership and controlling structure of the customer and his/her beneficial owner under Section 9 para. 2 letter b), if such steps have already been performed by:

- a) a credit or financial institution, with the exception of a person licensed to perform foreign currency exchange under the Act on Bureau-de-change Activity, a postal services provider under the act adjusting postal services, a payment institution mostly intended to provide services related to transfers of funds when the payer neither the payee do not use an account opened with the payer's payment service provider and a provider of small extent payment services under the act adjusting payments, or
- b) a foreign credit or financial institution, with the exception of a foreign person licensed to perform foreign currency exchange, a foreign payment institutions mostly intended to transfer funds, or foreign payment services provider in similar position as a payment services provide of small extent payment services under the act adjusting payments while operating within the territory of a state should the state apply similar obligations of customer identification, due diligence and record keeping and require obligatory professional licenses and should be a subject of a supervision including control of these conditions including the possibility to control each transaction and on-site supervision.

(2) The obliged entity stipulated under Section 2 para. 1 letters e) and g) may decide not to perform identification of the customer or seek information on the purpose and nature of a transaction or a business relationship under Section 9 para. 2 letter a) and not to identify the ownership and controlling structure of the customer and his/her beneficial owner under Section 9 para. 2 letter b) if such steps have already been performed by an obliged entity of the same type acting in the territory of a state applying in the field of fight against legitimization of proceeds of crime and financing terrorism equal obligations as applied in the European Union and applying the supervision on the equal level as in the European Union.

(3) Should the obliged entity act in accordance with paragraph 1 or 2, the providing information shall be ensured including copies of relevant documents on customer's identification, purpose and intended nature of the business relationship, ownership and controlling structure of the customer and identity of the beneficial owner from credit or financial institution or from a person, which realized the identification or found out the relevant data.

(4) Should the obliged entity realize activities under paragraphs 1 and 2, it shall be kept equally responsible for this activities as if it has realized these activities itself. The obliged entity shall not accept information on the customer's identification, the purpose and intended nature of the transaction or business relationship or identification of ownership and controlling structure of the customer or customer's beneficial owner under paragraphs 1 and 2 should there raise uncertainties on accuracy or completeness of this information and the fulfilment of the conditions under paragraph 3 are not met in advance,

(5) The customer's identification, detection of the purpose and intended nature of a transaction or business relationship under Section 9 para. 2 letter a) and detection of ownership and controlling customer's structure and identity of beneficial owner under Section 9 para. 2 letter b) do not have to be realized by the credit or financial institution if these activities had been realized in advance of realization of a transaction by a person acting on behalf of such credit or financial institution and on its account and such person is bounded by its internal regulations and the credit or financial institution is responsible for any harm caused by activity of such person. The obliged entity shall keep the record of this information including copies of relevant documents if obtained.

(6) The customer's identification, detection of the purpose and intended nature of a transaction or business relationship under Section 9 para. 2 letter a) and detection of ownership and controlling customer's structure and identity of beneficial owner under Section 9 para. 2 letter b) do not have to be realized by the credit or financial institution if these activities had been realized by investment brokers in accordance with this Act and its internal regulations. The obliged entity shall be kept responsible for realization of these activities equally as if it has realized these activities itself.

(7) Should the obliged entity stipulated under Section 2 para. 1 letters a) and b) points 1 to 11, conclude a written contract on providing financial services with the customer, it may realize identification of a customer without physical presence of a customer which is a natural person, or natural person acting on behalf of a customer which is a legal person, if:

- a) the customer sent to the obliged entity copies obtained in accordance with Section 10 para. 4 of:
  1. relevant parts of certificate of identity and at least one additional supportive document which can be used to verify the identification data of the relevant natural person and the type and number of identity card, country eventually issuing authority and the validity,
  2. a document verifying the existence of the bank account in the name of the customer opened with credit institution or foreign credit institution operating in the territory of the European Economic Area,
- b) the first payment in accordance with this contract is realized through the account under letter a) point 2 and
- c) the obliged entity has no doubts about the real identity of the customer.

(8) The obliged entity can realize the customer's identification without physical presence of the customer or a natural person acting on behalf of a customer which is a legal person, if:

- a) the customer provides the obliged entity with data under Section 5 para. 1 and requested additional data for identification under Section 5 para. 2 in the way stipulated by the obliged entity,
- b) the obliged entity checks the identity of relevant natural person with qualified provider of the trust services under directly applicable European Union regulation adjusting electronic identification and trust services for electronic transaction within internal market<sup>30)</sup> and
- c) the obliged entity has no doubts about the real identity of the customer.

(9) The obliged entity shall verify in cases under paragraphs 1, 2 and 5 to 8 if the stipulated conditions are met and if under available information none of the customer, products or particular transaction represent a risk of legitimization of proceeds of crime or financing of terrorism. In case of doubts the exemption shall not be applied. The obliged entity shall take into account the risk factors stipulated in the Risk Assessment under Section 21a.

(10) The obliged entities proceeding in accordance with paragraphs 1 and 2 meeting the obligations under Section 9 may mutually exchange relevant information related to the transactions realized within their activity. The exchange and reliance on such information from other obliged entity while performing activities under paragraphs 1, 2 and 5 to 8 is not allowed for persons from the high-risk third countries with the exception of branches and subsidiaries of persons seated in any of the European Union member state meeting requirements equal to the European Union law in the field of fight against legitimization of proceeds of crime and financing terrorism.

## Section 12

### **Common Provisions on Identification under Sections 10 and 11**

In case of performance of identification and other steps under Sections 10 or 11 para. 5 to 8 the identification data and other information and documents shall be stored with the obliged entity prior to the realization of the transaction.

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<sup>30)</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

### **Simplified Identification and Customer Due Diligence**

(1) The obliged entity may perform a simplified identification and customer due diligence in relation to customers' categories with potential lower level of risk of abuse for legitimization of proceeds of crime or financing of terrorism if the customer is:

- a) a credit or financial institution,
- b) a foreign credit or financial institution operating within the territory of a country applying in relation to such institution in the field of fight against legitimization of proceeds of crime and financing of terrorism obligations equal to these requirements of the European Union law<sup>1)</sup>, and with respect to fulfilment of such obligations it also perform its supervision,
- c) a company which securities are accepted for trading on regulated market and which is a subject to the requirements for publication of information equal to the requirements of the European Union,
- d) a beneficial owner of the funds deposited on the custody account with the notary, lawyer, court bailiff or court,
- e) a central body of the State administration of the Czech Republic, the Czech National Bank or higher regional self-governing unit, or
- f) a customer:
  1. empowered with important public functions under the regulation of the European Union,
  2. whose identification data are publicly accessible and there is no need for doubts about their correctness,
  3. whose activities are transparent,
  4. whose accountancy shows accurate and honest picture of the subject of accountancy and financial situation, and
  5. who is responsible to a body of the European Union or a body of European Union member state or member state of the European Economic Area and/or who has other appropriate control procedures ensuring the control of its activity.

(2) The obliged entity can apply the simplified identification and customer due diligence also for:

- a) the contract of life insurance, pension insurance, additional insurance with state compensation or supplementary pension saving if the one-time insurance premium or deposit does not exceed EUR 2,500 or if common premiums or sum of deposits in one calendar year does not exceed EUR 1,000,
- b) the system of employees' pension insurance operated on the territory of the Czech Republic by the institutions from the European Union member states or states of European Economic Area under other laws<sup>18)</sup>, if the contributions are being paid by wage deduction and the rules of the system do not allow referring of the member's share within the system, or
- c) other products presenting low risk of abuse for legitimization of proceeds of crime or financing of terrorism which also fulfil following conditions:
  1. the contract on service providing always has a written form,
  2. payments within one product are realized only through the account opened with a name of the customer with a credit institution or foreign credit institution operating in the territory of the European Union member state or member state of the European Economic Area or operating in the territory of a state applying in the field of fight against legitimization of proceeds of crime and financing of terrorism obligations equal to these obligations applied in the European Union<sup>1)</sup> and with respect to that its activity is being supervised,
  3. neither the particular product nor the payments are anonymous and their nature allows to detect the suspicious transaction,
  4. the particular product has a predetermined limit of a transaction's maximum value which shall not exceed the amount of EUR 15,000 and in case of saving products it shall not exceed the amount of EUR 2,500 in one-time deposit or sum of regular deposits in one calendar year shall not exceed EUR 1,000,

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<sup>18)</sup> Act No 340/2006 Coll., on Activities of Institutions Employees' Pension Insurance from the European Union member states on the territory of the Czech Republic, on the Public Healthcare Insurance and on amendment of related acts, as amended.

5. payment from the particular product shall not be realized in favour of third parties apart from the cases of death, invalidity, exceeding of predetermined advanced age or similar situations,
6. for products allowing investment of funds into the financial asset or claims including insurance or other types of conditional claims the payments can be realized only in long-term periods, the particular product cannot be used for securing and accelerated payment cannot be realized, the provisions on withdraw from the contract are not used and during the business relationship the action for premature termination is not realized.

(3) In cases stipulated paragraphs 1 and 2 it is enough when the obliged entity just:

- a) verifies if the stipulated conditions are met,
- b) detects and records in appropriate way the identification data of the customer and
- c) detects based on available information, if any of the customers, provided products or particular transaction does not present higher risk of abuse for legitimization of proceeds of crime or financing of terrorism; in case of any doubts the simplifies identification and customer due diligence under paragraphs 1 and 2 shall not be applied.

(4) The simplified identification and customer due diligence shall not be applied for a customer who is a politically exposed person.

### Section 13a

#### **Exceptions from Identification and Customer Due Diligence**

(1) The obligation of identification and customer due diligence does not have to be fulfilled in case of:

- a) electronic money stored on a media that cannot be reloaded when the highest stored amount does not exceed EUR 250 or EUR 500 in case of electronic money that can be used only for domestic transactions,
- b) electronic money stored on a media that can be reloaded if it can be used just for domestic payment transactions and the overall monthly limit for outgoing payments as well as the highest stored amount does not exceed EUR 250, or
- c) the payment services provided through public mobile networks in a different way than through electronic money if the value of each transaction does not exceed EUR 250 and also the overall payments' limit realized from one phone number in one calendar year does not exceed EUR 2,500.

(2) Funds stipulated in paragraph 1 can be used only for purchase of goods and services and these funds shall not be obtained and reloaded through anonymous electronic money.

(3) The exception under paragraph 1 shall not be applied when based on a payment instrument holder's request backwards exchange of an amount of EUR 100 or higher is realized.

(4) The obliged entity shall track the transactions related to payment funds stipulated in paragraph 1 to allow the detection of suspicious transaction under Section 6.

### Section 14

#### **Exception from Obligation to State Information Accompanying Transfers of Funds**

The obligations stipulated under directly applicable Regulation of the European Union adjusting information accompanying wire transfers of funds<sup>20)</sup> shall not be applied to transfers of funds or payment services through which the payment for delivery of goods or providing services are realized if:

- a) the transfer is realized in the Czech Republic,
- b) the provider of payment services of the receiver is through the receiver of the payment always able to track the transfer of funds by using the unique transaction's identifier from natural or legal person with whom he/she entered into contractual relationship on delivery of goods or providing services, or

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<sup>20)</sup> Regulation (EU) 2015/847.

- c) the transferred amount does not exceed EUR 1,000.

## Section 15

### Rejection of Transaction

(1) The obliged entity shall refuse to realize a transaction or to establish a business relationship and/or terminate a business relationship in case of an obligation to perform the identification under Section 7 para. 1 or 2 and:

- a) the customer:
1. refuses to undergo the identification,
  2. refuses to state the power of attorney under Section 8 para. 4, or
  3. does not provide necessary cooperation within the customer due diligence process under Section 9,
- b) the identification and/or customer due diligence cannot be performed from other reason, or
- c) the person performing the identification or customer due diligence has doubts about the correctness of stated information or authenticity of stated documents.

(2) The obliged entity shall not realize a transaction with a politically exposed person, not even within a business relationship, if the origin of the property used in the transaction is not known.

(3) The approval of the statutory body of the obliged entity or person authorized by the statutory body in management of measures against legitimization of proceeds of crime and financing of terrorism is necessary for:

- a) business relationship with a politically exposed person, or
- b) even partial life insurance settlement, if there is in situation stipulated under Section 9 para. 6 letter c) point 3 detected higher risk of abuse for legitimization of proceeds of crime or financing terrorism.

## CHAPTER II RECORD KEEPING

### Section 16

#### Record Keeping by Obligated Entity

(1) The obliged entity shall store for a period of 10 years since realization of the transaction or termination of business relationship:

- a) the identification data obtained under Section 8 para. 1 to 3 or based on directly applicable Regulation of the European Union adjusting information accompanying wire transfers of funds<sup>20)</sup>,
- b) the copies of stated documents for identification, if such documents were obtained,
- c) data about the person and the date of first performed identification of a customer,
- d) information and copies of documents obtained within the customer due diligence under Section 9,
- e) documents explaining the exemption from identification and customer due diligence under Section 13a and
- f) in case of representing the original or verified copy of power of attorney or the reference number of the court decision on appointing of a guardian.

(2) Data and documents about transactions related to the obligation of identification shall be stored by the obliged entity at least for 10 years after the realization of the transaction or the termination of the business relationship.

(3) The obliged entity stipulated under Section 2 para. 1 letters i) and j) shall store the data and documents at least for a period of 10 years after termination of transaction or business relationship if the value of the transaction was or exceeded the amount of EUR 10,000; in other cases the for period of 5 years after termination of the transaction.

(4) The period stipulated under paragraphs 1 to 3 shall start with the first day of the calendar year following the year of the realization of the last transaction known to the obliged entity.

## Section 17

### **Cooperation at Record Keeping**

Should there be more obliged entities participating in a transaction with particular customer the data under Section 16 can be stored only with some of them assuming that other involved obliged entities have ensured providing of relevant information including copies of documents without undue delay.

## CHAPTER III SUSPICIOUS TRANSACTION PROCESS

## Section 18

### **Suspicious Transaction Report**

(1) Should the obliged entity detect in relation with its business activity a suspicious transaction, such detection shall be reported the Financial Analytical Office (hereinafter „Office“) without undue delay, no later than 5 calendar days from the day of such suspicious transaction detection. In certain circumstances, especially in danger of delay, the obliged entity shall report the suspicious transaction immediately after the detection.

(2) The obliged entity shall state in the suspicious transaction report the identification data of a person who is a subject of the report, identification data of all other participants of the transaction available in the moment of filing the report, information about relevant circumstances of the transaction and any other information which may relate to the suspicious transaction and are relevant for its assessment in terms of measures against legitimization of proceeds of crime or financing terrorism.

(3) The data about the employee of the obliged entity or about the person in equal position who detected the suspicious transaction shall not be mentioned in the report.

(4) The suspicious transaction report shall be received by the Office. The address and conditions for delivery and other possibilities of connection for filling the suspicious transaction reports shall be published by the Office in a way allowing remote access.

(5) Should the report under paragraph 2 also include information about property related to international sanctions announced for the purpose of maintaining or restoring international peace and security, protection of basic human rights or fight against terrorism, the obliged entity shall point out this fact in the report. The report shall also include a short description of this property, information about its location and an owner if the reporting entity has such information and information about the existence of potential immediate danger of damage, depreciation or illicit usage.

(6) The reporting entity shall also provide the Office with a name, surname and job title of the contact person (Section 22) or a person who processes the suspicious transaction report on behalf of the obliged entity and possibility of phone or other electronical connection with such person if the Office does not have the information already.

(7) Should more obliged entities detect in relation with their business activity a suspicious transaction based on exchange of information under Section 39 para. 2, the obligation to report the suspicious transaction under paragraphs 2 to 4 shall be understood as fulfilled by all obliged entities if the report is filed with one of them and it includes information about the other participating obliged entities.

## Section 19

The suspicious transaction report shall be filed in written form via recorded delivery letter or orally into the record in the place determined based on the previous agreement. The report filed via electronical technological instruments ensuring special security of transferred data shall be also understood as report in written form.



## Section 20

### **Suspension of Realization of Customer's Transaction**

(1) Should there be a suspicion that the immediate realization of the customer's transaction could thwart or significantly hinder the seizure of proceeds of crime or funds determined for financing of terrorism, the obliged entity shall be allowed to realize the customer's transaction not earlier than 24 hours since the Office received the suspicious transaction report. The asset related to that order shall be seized against manipulation contrary to the purpose of this Act in a proper way. The obliged entity shall notify the Office about the suspension of realization of customer's transaction in the suspicious transaction report.

(2) The procedure under paragraph 1 shall not be applied in cases when the suspension of realization of customer's transaction is not possible or when the obliged entity knows that such suspension could thwart or otherwise jeopardize the investigation of suspicious transaction; the obliged entity shall immediately inform the Office of realization of the customer's transaction.

(3) Should there be a danger described under paragraph 1 and the investigation of the suspicious transaction takes longer, the Office shall decide:

- a) on the time extension of the suspension of realization of customer's transaction, but for additional 2 working days for a maximum, or
- b) on the suspension of realization of customer's transaction or on seizure of assets which should be a subject of the suspicious transaction at the obliged person having the asset, for a period of 3 working days.

(4) The decision on the suspension of the realization of the customer's transaction or on seizure of assets under paragraph 3 shall become effective by its announcement. The announcement can be realized orally, by phone, by fax or electronically; a written copy shall always follow. An appeal against the decision on the suspension of the realization of the customer's transaction or seizure of assets shall not be allowed. While deciding about such measure, the party of the proceeding shall be only the obliged entity reporting the suspicious transaction or having the asset which is the subject of the proceeding.

(5) The obliged entity shall immediately inform the Office of the performance of the decision under paragraph 3 letter b) and notify the time when the time limit under paragraph 3 letter b) begin to run. The Office shall then continuously provide information of any substantial facts related to the asset stipulated in the decision.

(6) The obliged entity shall realize the customer's transaction if the Office does not inform it of lodging the criminal complaint until the end of the time limit stipulated in paragraph 3.

(7) Should the Office within the time limit stipulated in paragraphs 1 or 3 lodge a report to the law enforcement authority under Section 32 para. 1, the suspension of the realization of the customer's transaction or seizure of asset under paragraphs 1 or 3 shall be extended for 3 working days beginning with the day of lodging the criminal complaint if the law enforcement authority does not decide on confiscation or seizure of the suspicious transaction's subject until the end of the time limit. The Office shall inform the obliged entity of lodging the criminal complaint prior the end of the time limit under paragraphs 1 or 3.

## CHAPTER IV OTHER OBLIGED ENTITIES' OBLIGATIONS

### Section 21

#### **System of Internal Rules**

(1) The obliged entity shall introduce and apply adequate strategies and procedures of internal control and communication to mitigate and effectively manage the risks of legitimization of proceeds of crime and financing of terrorism identified in risk assessment under Section 21a and to fulfil other obligations stipulated in this Act.

(2) The obliged entity stipulated in Section 2 para. 1 letters a) to d) and h) shall elaborate based on the risk assessment under Section 21a and in the extent of its performance of activities covered under this Act in 60 days since becoming an obliged entity a written system of internal rules, procedures and control measures to fulfil the obligations stipulated in this Act (hereinafter the system of internal rules). A part of the written system of internal rules shall also be a written risk assessment under Section 21a para. 2. The system of internal rules as well as the risk assessment shall be approved by the statutory body of the obliged entity.

(3) Should not the obliged entity employ other persons in activities covered under this Act or should not these persons be working based on other relationship, the obliged entity stipulated under Section 2 para. 1 letters b) to d) and h) does not have to elaborate the system of internal rules in written form.

(4) The obliged entity stipulated under Section 2 para. 1 letters b) to d) and h) performing up on contract an activity covered under this Act only for one other obliged entity shall not elaborate own system of internal rules if it is governed by the system of internal rules of the other obliged entity which adequately describes its activity.

(5) The system of internal rules under paragraph 2 shall cover:

- a) detailed demonstrative list of suspicious transaction's features which may occur within the activity of the obliged entity,
- b) the way of customer's identification including measures how to detect politically exposed person and subject against which the Czech Republic applies international sanctions under the Act on Implementation of International Sanctions,
- c) the procedures of customer due diligence and determining the extent of customer due diligence corresponding with the risk of legitimization of proceeds of crime and financing of terrorism in relation with type of a customer, business relationship, product or transaction,
- d) reasonable and appropriate methods and procedures of risk assessment, risk management, internal control and ensuring of the control on fulfilment of the obligation stipulated in this Act,
- e) the procedure for disclosure of stored data under the second part of the Chapter II to the relevant authorities,
- f) the procedure of the obliged entity since the detection of the suspicious transaction until the delivery of the suspicious transaction report to the Office in such way, that the time limit stipulated under Section 18 para. 1, rules for processing the suspicious transaction and determination of a person processing the suspicious transaction are met,
- g) the procedures and rules which shall be followed when offering services or products of the obliged entity to the third party acting on behalf or on the account of the obliged entity,
- h) measures excluding thwarting or substantial hindering of seizure of proceeds of crime via immediate realization of customer's order,
- i) technical and personal measures ensuring the realization of suspension of realization of customer's order under Section 20 and in stipulated time limit for fulfilment of the obligation under Section 24,
- j) description of additional measures for effective managing of the risks of legitimization of proceeds of crime or financing terrorism.

(6) The credit institution, payment institution, electronic money institution, financial institution stipulated under Section 2 para. 1 letter b) point 11 and obliged entity stipulated under Section 2 para. 1 letter c) shall deliver to the Office the system of internal rules until 60 days after becoming an obliged entity; the report about changes in the system of internal rules including its updated wording shall be delivered to the Office until 30 days after its approval. The obliged entity stipulated under Section 2 para. 1 letter b) points 1 to 4 shall have this obligation towards the Czech National Bank.

(7) The foreign credit institution or financial institution operating on the territory of the Czech Republic through its branches or premises does not have to elaborate for its activity special system of internal rules if its activity is covered under similar internal regulation of such foreign credit or financial institution and this internal regulation meets the requirements at least equal to the requirements of this Act. This internal regulation shall be available in Czech language.

(8) Should the Office or the Czech National Bank find out any deficiencies in the system of internal rules delivered in accordance with paragraph 6, it shall stipulate the time limit for their elimination. The obliged entity shall provide with written information in stipulated time limit about the way of deficiencies elimination.

(9) Should it be effective for the purpose of fulfilment of the requirements of this Act, the Czech National Bank may within the limits of the paragraph 5 letters c) and d) stipulates in an order the requirements for introducing and applying of the system of internal rules and risk assessment under Section 21a by some obliged entities supervised by the Czech National Bank<sup>21)</sup>.

## Section 21a

### **Risk Assessment**

(1) The obliged entity shall identify and assess the risks of legitimization of proceeds of crime and financing of terrorism that can occur within its activity and which are subjects of this Act. While assessing the risks the obliged entity shall also take into consideration the factors of potential higher risk stipulated in Annex No 2 of this Act.

(2) The obliged entity stipulated under Section 2 para. 1 letters a) to d) and h) shall no later than 60 days after becoming an obliged entity elaborate a written assessment of risks of legitimization of proceeds of crime and financing of terrorism related to the types of provided transactions and business relationships to the extent in which it performs activities under this Act. It shall take into account the risk factors, particularly a type of customer, purpose, regularity and duration of a business relationship or transaction out of business relationship, a type of a product, value and way of realization of a transaction and risk profile of a country or geographical areas related to the transaction.

(3) A part of the risk assessment under paragraphs 1 and 2 shall also be measures for internal control, control of compliance with laws and security screening of obliged entity's employees and in accordance with the extent and nature of obliged entity's activities also the establishment of an independent unit for testing of these measures, strategies and procedures under Section 21 para. 1.

(4) The obliged entity shall regularly update the risk assessment under paragraph 2 in particular prior initiation of new products providing.

(5) The obliged entities that are part of a group shall apply group strategies and procedures for fight against legitimization of proceeds of crime and financing of terrorism including procedures for data protection in the scope allowed by the law of third country, and strategies and procedures for information sharing within the group. These strategies and procedures shall also be applied in branches and subsidiaries in other member states and third countries.

## Section 22

### **Contact Person**

(1) The obliged entity shall designate a contact employee for fulfilment of reporting obligation under Section 18 and also for ensuring continuous contact with the Office if these activities are not ensured directly by the statutory body. The credit or financial institution and obliged entity stipulated under Section 2 para. 1 letters c), d), and h) shall immediately inform the Office of determination of such person and about any changes together with the name, surname, job title and contact information including phone number and electronic address.

(2) A member of a statutory body of a credit or financial institution shall not be a contact person unless it is necessary with regard to the size of the institution, type of management or number of employees.

(3) A contact person of a credit or financial institution shall not be an employee responsible for closing or dealing with its deals and/or person participating in internal audit performance.

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<sup>21)</sup> For instance Section 44 of the Act No 6/1993 Coll., on the Czech National Bank, as amended.

(4) Should not the activity of a contact person be realized directly by the statutory body, the obliged entity shall ensure to the contact person the possibility of direct communication with the statutory body and supervisory body of the obliged entity.

## Section 23

### **Employees' Training**

(1) The obliged entity shall at least once in 12 calendar months ensure the training on employees who can within their work activity encounter suspicious transactions as well as training of these employees prior putting them in the job title.

(2) The obliged entity shall ensure the training under Section 1 also for persons participating on the subject of obliged entity's activity based on other form of contract if these persons can within their work activity encounter suspicious transactions.

(3) The training shall include mainly typologies and features of suspicious transactions, requirements stipulated by the obliged entity for performance of identification and customer due diligence and procedures for detecting customer's risk factors and suspicious transaction. The obliged entity shall continuously supplement and update the content of the training.

(4) The obliged entity shall maintain the evidence on attendance and content of the training at least for a period of 5 years after its realization.

## Section 24

### **Obligation to Inform**

(1) Based on a request the obliged entity shall provide in stipulated term the Office with data about transactions related to the identification obligation or Offices' investigation, submit documents related to these transactions or allow access to the authorized employees of the Office while checking the suspicious transaction report and performing administrative supervision and provide with information about persons participating in any way on such transactions.

(2) The obliged entities shall provide the customers prior the establishment of a business relationship or realization of a transaction out of business relationship with information required based on the act on personal data protection<sup>31)</sup>. This information shall include mainly general notice related to the obligation of the obliged entities based on this Act to process the personal data for the purpose of prevention the legitimization of proceeds of crime and financing terrorism as stipulated under Section 1.

## Section 24a

(1) The obliged entity in its branches and subsidiaries<sup>32)</sup> operating in states outside European Economic Area shall apply measures for customer due diligence and record keeping at least equal to the requirements of the European Union law<sup>1)</sup>. For this purpose it provides them with relevant information on applied methods and procedures.

(2) Should the obliged entity shall its branch or subsidiary in a country which regulations do not allow the application of equal measures under paragraph 1, it shall inform the Office and apply reasonable additional measures for effective risk management for legitimization of proceeds of crime and financing of terrorism and for prevention of transfer of these risks into the territory of the Czech Republic and other European Economic Area member states.

(3) The obliged entity having a branch (or business premises in other European Union member state shall ensure that such branch or business premises follows the domestic regulation in the field of fight against legitimization of proceeds of crime and financing of terrorism of that other member state.

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<sup>31)</sup> Section 11 of the Act No 101/2000 Coll., on Personal Data Protection and on amendment of selected acts, as amended.

<sup>32)</sup> Section 74 para. 2 Act No 90/2012 Coll., on Business Companies and Cooperatives (Act on Business Corporations).

(4) Based on the request the obliged entity shall provide in stipulated term the Office with information if there has been maintained a business relationship within last 10 years with a particular natural or legal person covered with the obligation of identification and about the nature of the relationship. The obliged entity shall establish an effective system for this purpose corresponding with the size and the business activity of this obliged entity.

## CHAPTER V SPECIAL PROVISIONS RELATED TO SELECTED OBLIGED ENTITIES

### Section 25

#### **Special Provisions on Credit and Financial Institutions**

(1) A credit or financial institution shall not enter into the correspondent relationship with foreign credit, financial or similar institution (hereinafter „respondent institution“):

- a) registered in the business or similar register in a country, where it is not factually presented not even its real management and which is not affiliated to any regulated financial group,
  - b) which is known to enable usage of its accounts by an institution stipulated under letter a), or
  - c) which is not applying measures against legitimization of proceeds of crime and financing of terrorism at least equal to European Union law's requirements<sup>1)</sup>,
- and if it already entered into such relationship it shall terminate it in the shortest possible time.

(2) A credit or financial institution shall prior establishment of a correspondent relationship with respondent institution:

- a) gather enough information about respondent institution and the nature of its business and other risk factors,
- b) detect based on publicly available information the quality of supervision under which the institution comes, and
- c) detect and assess the measures applied by the respondent institution against legitimization of proceeds of crime and financing of terrorism including process and quality of performed identification and customer due diligence and ability to provide this information upon request as well as ability to provide information about payer in case of transfers of funds.

(3) The statutory body of credit or financial institution or branch manager of the foreign credit or financial institution operating in the territory of the Czech Republic shall agree with establishment of correspondent relationship.

(4) Rights and obligations stipulated by this Act for credit institution shall be applied also to the Czech National Bank while managing accounts and providing other bank services.

### Section 26

#### **Special Provisions on Auditors, Accountants, Court Bailiff and Tax Advisors**

(1) Provisions stipulated under Section 18 para. 1 and Section 24 para. 1 shall not be applied to an auditor, accountant, court bailiff or tax advisor in relation with information obtained from the customer or about the customer while analysing his/her legal position, during representation in a court proceedings and/or in relation with such proceedings including consultancy regarding initiation of such proceedings or avoiding such proceedings regardless of whether such information are obtained prior, during or after the proceeding.

(2) Should the auditor, accountant, court bailiff or tax advisor think, that the customer ask for legal advice for the purpose of legitimization of proceeds of crime or financing of terrorism the paragraph 1 shall not be applied.

(3) The report under Section § 18 shall be filled by:

- a) an auditor to the Chamber of Auditors of the Czech Republic,
- b) a court bailiffs to the Bailiff Chamber of the Czech Republic,
- c) a tax advisor to the Chamber of Tax Advisors of the Czech Republic.

(4) Relevant professional chamber shall analyse the report received in accordance with paragraph 3 in the point of consistency with paragraph 1 or Section 18 para. 1 and check if it

includes all requirements stipulated in this Act. If report does not meet all requirements stipulated in the Act the chamber shall notify the reporting entity. If the report meets all the requirements stipulated in the first sentence the chamber shall refer the report to the Office without undue delay, but no later than 7 calendar days from the detection of the suspicious transaction.

## Section 27

### **Special Provisions on Lawyers and Notaries**

(1) Provisions stipulated in Sections 9, 18 para. 1 and Section 24 para. 1 shall not be applied to a lawyer in terms of information about the client obtained from the client or in any other way during or in relation with:

- a) providing legal consultations or subsequent verification of legal position of the client,
- b) defense of the client in criminal proceeding,
- c) representation of a client in court proceedings, or
- d) providing any legal consultancy regarding proceedings under letters b) and c) regardless of whether these proceedings have been initiated or not or terminated.

(2) Provisions stipulated in Sections 9, 18 para. 1 and Section 24 para. 1 shall not be applied to a notary in terms of information about the client obtained from the client or in any other way during or in relation with:

- a) providing legal consultations or subsequent verification of legal position of the client<sup>22)</sup>,
- b) representation of the client at the court in the extent of his/her authorization stipulated in other law<sup>23)</sup>, or
- c) providing any legal consultancy regarding proceedings under letters b) regardless of whether these proceedings have been initiated or not or terminated.

(3) The report under Section 18 shall be filed by a lawyer to the Czech bar Association and by a notary to the Notary Chamber of the Czech Republic. The Czech Bar Association or the Notary Chamber of the Czech Republic (hereinafter „chamber“) shall analyse the report of the lawyer or notary in the terms of consistency with paragraphs 1 or 2, Section 2 para. 1 letter g) and/or Section 18 para. 1 and if there are included all requirements stipulated in this Act. Should the suspicious transaction report not contain all the information required by this Act, the Chamber shall notify the disclosing lawyer or notary. If the report meets all the requirements stipulated in the first sentence the chamber shall refer the report to the Office without undue delay, but no later than 7 calendar days from the detection of the suspicious transaction.

(4) The Office shall require the providing of data, stating documents or providing of information under Section 24 para. 1 from the lawyer or the notary through the chamber. The lawyer or notary shall provide the Office with required information or state required documents in requested term through the chamber.

(5) For the purposes of this Act the European lawyer under the act on advocacy shall be understood as a lawyer.

## Section 28

### **Special Provisions on Cash Payments**

An entrepreneur and a legal person stipulated under Section 2 para. 2 letter d) becoming an obliged entity only when realizing transaction in cash in amount or exceeding EUR 10,000 shall within this transaction:

- a) perform the identification of the customer under Section 8 or replace it with the identification under Section 10 or 11 if for the transaction the simplified procedure under Section 13 or exceptions under Section 13a cannot be applied,
- b) refuse to realize the transaction if there are doubts about correctness of obtained identification data about the customer, if the customer refuse to undergo the identification or refuse to state the power of attorney under Section 8 para. 4; the Office shall be informed of this situation,

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<sup>22)</sup> Section 3 para. 1 letter a) of the Act No 358/1992 Coll.

<sup>23)</sup> Section 3 para. 1 letter b) of the Act No 358/1992 Coll.

- c) to perform the customer due diligence under Section 9 para. 2,
- d) to store information under Section 16 para. 1 and 2,
- e) to file a suspicious transaction report under Section 18,
- f) to inform under Section 24,
- g) to maintain confidentiality under Section 38.

## Section 29

### **Special Provisions on Operation Money Postal Services**

(1) A holder of an attestation certificate issued by the Office can perform an activity with the purpose of delivery of ordered cash amount based on the postal contract while fulfilling the conditions stipulated in the Act on Postal Services. The certificate shall be issued based on the request of a person who will perform the activity.

(2) The Office shall issue certification under paragraph 1 if the applicant, a person who is a partner of the applicant, statutory body of the applicant, member of a statutory body of the applicant, person controlling the business of the applicant and the beneficial owner of the applicant are impeccable persons.

(3) For the purposes of this Act an impeccable person shall be understood as a person which has never been lawfully convicted for a criminal offence committed:

- a) intentionally, or
- b) by negligence when the facts of the case relate with the subject of the business, if such person is not understood as not convicted.

(4) The impeccability shall be proved by the statement from the evidence of Criminal Records not older than 1 month. The impeccability shall also be proved:

- a) in case of the natural person with permanent residence or other residence out of the territory of the Czech Republic who within the last 5 years continuously stayed out of the territory of the Czech Republic for a period longer than 3 months by a document similar to the statement from the evidence of Criminal Records not older than 3 months issued by authorized office of the country of the permanent residence or other residence of such person and countries where the person continuously stayed within the last 5 years for a period longer than 3 months; if the country of permanent residence or other residence of this person is not the same as the country whose citizen it is, the person shall also state document issued by the country whose citizen it is,
- b) in case of legal person seated out of the Czech Republic territory by a document similar to statement from the evidence of Criminal Records not older than 3 months issued by authorized body from the country where the person is seated, or
- c) by the affidavit as stipulated under paragraph 3 not older than 3 months performed at administrative or court body of relevant country's body if such country does not issue the document stipulated under letters a) and b).

## Section 29a

### **Special Provisions on National Administrator**

(1) National administrator shall keep in the Registry of trading Greenhouse Gas allowances information on subjects holding the account including the contract and documents submitted in the time of the opening the account and information relating to the customer due diligence for the period of 10 years after having terminated a relevant business relationship.

(2) National administrator furthermore shall:

- a) perform the customer due diligence under Section 9 to the extent adequate to activities performed when establishing an account,
- b) file suspicious transactions reports under Section 18,
- c) establish and enforce the system of internal control and communication under Section 21 para. 1,
- d) designate a contact person under Section 22,
- e) organize a training of its employees under Section 23,

- f) fulfil the obligation to inform under Section 24,
- g) comply with the obligation of confidentiality under Section 38.

#### Section 29b

### **Record Keeping on Beneficial Owner**

(1) A legal person shall keep and continuously record the current data to determine and verify the identity of its beneficial owner including the details of the fact which is the basis for its status of the beneficial owner or another justification why is the particular person considered as the beneficial owner.

(2) A trustee or a person in a similar position towards another legal arrangement without legal personality shall record the data to determine and verify the identity of a beneficial owner of a trust or of a legal arrangement within the meaning of the Section 4 para. 4 letter d).

(3) A trustee or a person in a similar position towards another legal arrangement without legal personality shall keep records of the data to determine and verify the identity of the beneficial owner under paragraphs 1 and 2 at least since the given person is in the position of the beneficial owner and for the period of 10 years after termination of such relationship.

(4) The data on beneficial owner of a legal person, a trust or another legal arrangement without legal personality shall be registered in the Register of Beneficial Owners in a way and to the extent stipulated by the Act on Public Registries of Legal and Natural Persons.

(5) Unless it is recorded in the Register of Beneficial Owners or in case of doubts about correctness of information kept in this Register a legal person, a trustee or a person in a similar position towards another legal arrangement without legal personality up on a request of an obliged entity, the Office, court, law enforcement body, authority of the Tax Administration or the Customs Administration shall state who is or who was its beneficial owner and a data to determine and verify his/her identity; a legal person shall also inform of details of the beneficial interest held or another justification why is the particular person considered as a beneficial owner.

## PART THREE

### **ACTIVITY OF THE OFFICE AND OTHER AUTHORITIES**

#### CHAPTER I

### **ACTIVITY OF THE OFFICE AND OTHER AUTHORITIES**

#### **The Office**

#### Section 29c

(1) The Office is established as the administrative office seated in Prague, which fills duties of the financial intelligence unit of the Czech Republic and it is subordinated to the Ministry of Finance.

(2) The Office operates in the areas of activities regulated by this Act and by other laws, including decision-making as regards initiating and the way of conclusion of investigation, gathering, processing and sharing of information and conducting of controls.

(3) In the course of its activity the Office applies such organizational, personnel and other measures guaranteeing that an unauthorized person do not come into contact with information gathered during its activity under this Act.

(4) The activity of the Office is materially, administratively and financially ensured by the Ministry of Finance. The Office is the accounting unit; its revenues and expenses are part of the budget section of the Ministry of Finance.



## Section 29d

- (1) The Office is managed by the director.
- (2) Selection, appointment and dismissal of the director follows the Act on State Service.

## Section 30

### Obtaining Information

(1) The Office may request information necessary for the compliance with the obligations under this Act from the Police of the Czech Republic, intelligence services and other public authorities.

(2) When investigating a suspicious transaction, the Office may, pursuant to the Tax Administration Act, request from the authorities competent under other laws governing tax administration information obtained in the course of tax administration; the authorities shall inform the Office immediately of any suspicion that a taxpayer is exploiting the tax administration system for the legitimisation of proceeds of crime or financing of terrorism.

(3) The Office may to the extent necessary for investigation of a suspicious transaction request from the processor or the administrator of records provision of information from the registers referred to in paragraph 4. The processor or the administrator of records provides information free of charge, unless other legislation sets otherwise. The processor or the administrator of records is obliged to grant the request without undue delay.

(4) The Office may to the extent necessary for the investigation of a suspicious transaction and the performance of the administrative supervision request from the processor or the administrator of records provision of information in a form allowing to remote and continual access from the information system of the register of identity cards<sup>32)</sup>, the information system of the register of passports<sup>33)</sup>, the information system of the register of diplomatic and service passports<sup>33)</sup>, the information system of foreigners, the information system of the register of inhabitants<sup>34)</sup>, the land register<sup>35)</sup>, the basic register of inhabitants<sup>36)</sup>, the central register of legal persons, entrepreneurs and public administration<sup>36)</sup>, the central register of territorial identification, addresses and real estates<sup>36)</sup>, the central register of public administration agendas and certain rights and obligations<sup>36)</sup>, the information system of territorial identification<sup>36)</sup>, the vehicle register<sup>37)</sup>, the central vehicle register<sup>37)</sup>, the register of historical vehicles and sports cars<sup>37)</sup>, the register of drivers<sup>38)</sup> and the central register of drivers<sup>38)</sup>.

(5) The Office shall request provision of information under paragraphs 3 and 4 only in a way that allows it to keep identification data of employee who requested for information and data on purpose for which the information was required for the period of 5 years at least. The processor or the administrator of records is obliged to keep confidentiality about these facts.

(6) Based on a suspicious transaction report from an intelligence service, the Office shall initiate the investigation of the suspicious transaction; the Office shall notify the intelligence service of the conclusion.

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<sup>32)</sup> Act. No 328/1999 Coll., on Identity Cards, as amended.

<sup>33)</sup> Act. No 329/1999 Coll., on Passports and on the amendment of Act No 283/1991 Coll., on the Police of the Czech Republic, as amended (Act on Passports), as amended.

<sup>34)</sup> Act No 133/2000 Coll., on Population Records and Personal Identification Numbers and on amendments to certain related acts (Act on Population Records), as amended.

<sup>35)</sup> Act No 256/2013 Coll., on Land Register (Cadastral Law).

<sup>36)</sup> Act No 111/2009 Coll., on Basic Registers, as amended.

<sup>37)</sup> Act No 56/2001 Coll., on Conditions of Operation of Vehicles on Road Communications and on the amendment to Act. No 168/1999 Coll., on liability insurance for damage caused by operation of vehicle and on amendments to certain related acts (The Motor Third-Party Liability Insurance Act), as amended by Act No 307/1999 Coll., as amended.

<sup>38)</sup> Act No 361/2000 Coll., on Operation of Roads Communications and on amendments certain related acts (Act on Road Traffic), as amended.

## Section 30a

### **Risk Assessment at the Level of the Czech Republic**

(1) The Office shall coordinate the process of the assessment of the risks of money laundering and terrorist financing at the level of the Czech Republic (hereinafter „National Risk Assessment“). Obligated entities, the Czech National Bank, law enforcement agencies, other interested state authorities and another institutions shall participate in the process of the National Risk Assessment likewise.

(2) The risk assessment under paragraph 1 shall take into account the factors of potentially higher risk set out in Annex 2 of this Act, risk assessments conducted by the EU authorities and another supranational and international institutions.

(3) National Risk Assessment shall be primarily an instrument towards improvement of the anti-money laundering and financing of terrorism measures at the level of the state administration and by obliged entities.

(4) National Risk Assessment shall be kept up to date particularly with regard to the development of the risks of money laundering and terrorist financing and the activities of the EU authorities.

(5) On the basis of the partial risk assessment provided by the individual subjects under paragraph 1 the Office shall elaborate and submit to the government for the approval of the final version of the National Risk Assessment as well as its updates.

## Section 31

### **Processing of Information**

(1) The Office shall collect and analyse information obtained in the course of performing its tasks under this Act. It is entitled to store information obtained in the course of performing its tasks under this Act in the information system, under the conditions stipulated by the Personal Data Protection Act. The Office is entitled to collate information and information systems serving for different purposes.

(2) The Office shall not provide to the affected person information under the Personal Data Protection Act in respect of the information kept about the person in the information system maintained under this Act.

(3) The Office shall store data and documents relating to received reports and the investigation of the suspicious transactions for a period of 10 years, from the end of the year when the investigation was concluded. Should new report or a renewal of an investigation pertaining to the same matter or the same person or entity be received, the period referred to in the first sentence shall be suspended pending the conclusion of the new investigation.

(4) The Office shall maintain and publish at least once a year on its website statistical reports on the effectiveness and the results of measures against the legitimisation of proceeds of crime and financing of terrorism. Law enforcement authorities shall provide the Office with summary statistics on matters relating to the legitimisation of proceeds of crime and financing of terrorism on a regular basis.

## Section 31a

***Cancelled***

### **Control of the Activity of the Office**

## Section 31b

(1) The control of the activity of the Office shall be performed by the Chamber of Deputies, which establishes for this purpose permanent commission under the Act regulating rules of procedure of the Chamber of Deputies (thereinafter „the Permanent Commission“) and by the government.

(2) The Permanent Commission shall consist of seven members. The member of the Permanent Commission may only be the Member of the Parliament.

(3) The Permanent Commission shall not be authorized to intervene to the personnel powers of the director of the Office and to replace its managing competencies.

#### Section 31c

(1) The Office shall submit to the Permanent Commission and to the government an annual report for the last calendar year by 31 March of the following year.

(2) The Office shall provide the Permanent Commission upon request with information on its activity.

(3) The report under paragraph 1 and information under paragraph 2 shall not mention neither personal identification data nor information covered by the confidentiality according to another law and cannot contain information on pending investigation carried on under this Act or on investigation carried on under Section 30 para. 6 or passed under Section 32 as far as such data could endanger activity of the law enforcement agency or intelligence service.

(4) The report under paragraph 1 and information under paragraph 2 may be discussed only at non-public session of the Permanent Commission or at closed governmental meeting; the Permanent Commission shall discuss it with the participation of the representative of the Office.

(5) Members of the Permanent Commission may enter into the premises of the Office accompanied by the director or the authorized employee.

#### Section 32

##### **Handling of Investigation Results**

(1) Should the Office ascertain facts suggesting that a crime has been committed it shall lodge a criminal complaint under the Criminal Procedure Code and provide the law enforcement authority with all information found by the Office in the course of its investigation.

(2) Should the Office ascertain facts that may be of importance to the Police of the Czech Republic, authorities of the Tax Administration or the Customs Administration, it shall inform the Police of The Czech Republic, the General Financial Directorate or the General Directorate of Customs of these facts, and provide these authorities with the results of its investigation, unless the disclosure of information is contrary to the purpose of this Act.

(3) Should the Office ascertain facts important for the protection of significant economic or financial interest of the Czech Republic or the European Union it shall inform of these facts relevant institution unless the disclosure of such information is contrary to the purpose of this Act. It shall apply protection of legitimate interest of other persons under Section 39 para. 4 at the same time.

#### Section 33

##### **International Cooperation**

(1) In the scope set out by an international treaty by which is bounding for the Czech Republic, or based on the principle of reciprocity, the Office shall co-operate with foreign authorities and international organisations of the same scope of competence, in particular in providing and obtaining information to deliver on the purpose of this Act.

(2) Should the information be used exclusively for the purpose of this Act and be protected at least in the scope laid down in this Act, the Office may co-operate also with other international organisations.

#### Section 34

##### **Granting of Exemptions**

(1) Upon request, the Office may decide that a financial institution performing any of the activities listed in Section 2 para. 1 letter b) only occasionally or in a very limited scope, and in a way that precludes or significantly reduces the risk of such person being exploited for the legitimisation of proceeds of crime and financing of terrorism, it shall not be considered as an obliged entity under this Act.

(2) The exemption as per paragraph 1 shall be granted on the condition when:

- a) the activity is an additional activity directly relating to the core activity of the obliged entity, which otherwise under the exemption according to Section 2 para. 2 letter d) is not an obliged entity under this Act, and the activity is provided only in relation to the main activities of the obliged entity,
- b) the total annual revenue from this activity does not exceed 5 % from the total annual revenue of the obliged entity, and at the same time does not exceed the limit determine by the Office in its decision with regard to the type of activity in question,
- c) it is ensured that the value of an individual transaction or of multiple transactions of one customer in the period of 30 consecutive days in the framework of the activity referred to in letter a) does not exceed the amount of EUR 1,000.

(3) The obliged entity shall evidence in writing a proof of compliance with the conditions set in paragraphs 1 and 2 to the application under paragraph 1.

(4) An exemption as per paragraph 1 may be granted only for a definite period of time. In its decision, the Office shall specify any other obligations within the scope of obligations of obliged entities, in order to prevent the exploitation of the exemption for the legitimisation of proceeds of crime or financing of terrorism.

(5) The Office shall grant the exemption only under the condition that the risk of exploitation of the exemption for the legitimisation of proceeds of crime or financing of terrorism on the part of the obliged entity is eliminated or significantly reduced.

(6) For the period of validity of the exemption as per paragraph 1, the obliged entity shall enable the supervisory authority (Section 35 para. 1) to control the compliance with the specified conditions, and to control that the exemption is not exploited for activities that would facilitate legitimisation of proceeds of crime or financing of terrorism. Supervisory authorities hold the same powers in this respect as when supervising obliged entities.

(7) The obligation of the obliged entity stipulated in Section 18, and the steps taken by the Office with respect of the obliged entity under Section 24 during an investigation of a suspicious transaction shall not be affected by the decision to grant an exemption stipulated under paragraph 1.

(8) The Office shall revoke the exemption granted under Section 1 when:

- a) the risk of exploitation of the activity for the legitimisation of proceeds of crime or financing of terrorism has significantly changed, or
- b) the holder of the exemption has violated specified conditions.

(9) An appeal lodged against the decision in paragraph 8 shall not suspend the given decision.

## CHAPTER II ADMINISTRATIVE SUPERVISION

### Section 35

#### **Discharge of Administrative Supervision**

(1) The Office shall act as the supervisory authority performing the administrative supervision of the compliance with obligations set out in this Act on the part of the obliged entities; the Office shall, at the same time, control whether obliged entities do not legitimize the proceeds of crime or finance terrorism. Control of compliance with obligations set out in this Act shall in addition be controlled by

- a) the Czech National Bank in respect of obliged entities that are subjects to its supervision<sup>21)</sup>,

- b) administrative authorities with powers to supervise the compliance with the legislation regulating gambling services in respect of holders of permission for placement of gambling space listed in Section 2 para. 1 letter c),
- c) the Czech Trade Inspection in respect of persons listed in Section 2 para. 1 letters i) and j).

(2) The Office shall also exercise the control of the compliance with obligations according to the directly applicable European Union regulation on information accompanying transfers of funds<sup>20)</sup>; the Czech National Bank shall exercise the control of the compliance with obligations under this regulation in respect of obliged entities subject to its supervision<sup>21)</sup>.

(3) The Office shall provide information about its own activities, in the scope necessary for the performance of administrative supervision or supervision, to other supervisory authorities.

(4) At the Office's request, the other supervisory authorities shall provide their written opinions or any other co-operation as requested.

(5) Should the supervisory authority under paragraph 1 letters a) to c) find facts that may relate to the legitimisation of proceeds of crime or financing of terrorism, it shall immediately inform the Office of these findings and provide it with all information in the scope as per Section 18 para 2.

(6) The supervisory authority as per paragraphs 1 letters a) to c) applies in the course of the performance of administrative supervision under this Act their control competencies under laws regulating their activity.

#### Section 36

##### **Motion to Revoke a Business Licence or a Licence to Perform another Independent Gainful Activity**

Should the Office learn that a legal or a natural person with an income from business or other independent gainful activity has materially, grossly or repeatedly violated any of its obligations stipulated by this Act or in a decision issued under this Act, the Office shall lodge a motion to terminate or revoke a licence for business or other gainful activity to the authority, which, under another law, has the power to decide on the revocation. This authority is obliged to notify the Office of the measures taken and the methods of execution within 30 days from making of the motion.

#### Section 37

##### **Special Provisions Relating to Administrative Supervision of a Lawyer, Notary, Auditor, Court Bailiff, or a Tax Advisor**

(1) Provisions of this Chapter shall not apply to lawyers, notaries, auditors, court bailiffs, and tax advisors.

(2) Based on a written initiative from the Office, the relevant professional chamber shall be obliged to check compliance with obligations imposed by this Act on a lawyer, notary, auditor, court bailiff or a tax advisor, and notify the Office of the results within the deadline specified by the Office.

### **PART FOUR CONFIDENTIALITY**

#### Section 38

##### **Obligation of Confidentiality**

(1) Unless set otherwise in this Act, the obliged entities and their employees, employees of the Office, employees of other supervisory authorities as well as natural persons working for an obliged entity, the Office or another supervisory authority on a basis of a contract other than an employment contract shall be obliged to keep confidential facts relating to suspicious transaction reports and their investigation, steps taken by the Office or the obligation to inform as stipulated by Section 24 para. 1 or Section 31c.

(2) Should the persons referred to in paragraph 1 be transferred to another job, their employment or other contractual relationship to the obliged entity, the Office or another supervisory authority terminates, or should the obliged entity cease to perform activities listed in Section 2, the obligation of confidentiality shall not expire.

(3) Any person who may learn facts referred to in paragraph 1 shall be obliged to keep them confidential.

(4) The prime minister or in single cases the authorized member of government shall be authorized to relieve persons referred to in paragraphs 1 to 3 of the confidentiality in justified cases.

## Section 39

### Exemptions from Confidentiality

- (1) The obligation of confidentiality stipulated in Section 38 cannot be invoked in respect of:
- a) a law enforcement authority if it is conducting criminal proceeding related to the legitimisation of proceeds of crime or financing of terrorism, or if the matter concerns the compliance with the reporting obligation in connection with any such crime,
  - b) specialised Police units involved in searching for the legitimization of proceeds of crime and financing of terrorism, if it relates to the information which has been obtained under Section 42 para. 3,
  - c) a foreign authority referred to in Section 33 in the process of provision of information intended for the purpose stipulated by this Act, unless prohibited by another law,
  - d) the Police of the Czech Republic, the General Financial Directorate or the General Directorate of Customs in relation to facts which are a part of information referred to in Section 32 para. 2,
  - e) the supervisory authorities referred to in Section 35 para. 1 and the competent bodies of professional chambers of lawyers, notaries, auditors, court bailiffs or tax advisors,
  - f) the administrative authority performing tasks in the system of certification of raw diamonds according to another law,
  - g) the administrative authority entitled to perform state control or conduct a proceeding on offence in the area of implementation of international sanctions,
  - h) the authority entitled by another law to decide on the revocation of a licence for business or other independent gainful activity upon the lodging of a motion filed by the Office,
  - i) the financial arbitrator deciding, according to another law, in a dispute of the claimant against an institution,
  - j) a person who could raise a claim for damages incurred as a result of the implementation of this Act, provided facts conclusive for the making of the claim are communicated ex post; the obliged entity may, in this instance, inform the customer that steps had been taken under this Act, but only after the day when the decision of the competent law enforcement authority to secure or seize the subject of the suspicious transaction has been executed, or after the day when the period stipulated in Section 20 para. 7 had expired; in all other instances only after the Office has granted its written consent,
  - k) the court adjudicating civil law disputes concerning a suspicious transaction or a claim for compensation for damages incurred as a result of complying with obligations under this Act,
  - l) the National Security Office, the Ministry of Interior or the intelligence service in the process of a security procedure according to another law<sup>24)</sup>,
  - m) the competent intelligence service if the information is meaningful for the fulfilment of its tasks in the areas specified by the law regulating intelligence services.

(2) Should the disclosed information be used exclusively for the prevention of legitimisation of proceeds of crime and financing of terrorism, the obligation of confidentiality stipulated in Section 38 shall not be invoked to the sharing of information between:

- a) credit or financial institutions, including foreign credit and financial institutions, if they operate in the territory of a state undertaking them to comply with requirements in the area of legitimisation of proceeds of crime and financing of terrorism equal to the requirements of the

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<sup>24)</sup> Act No 412/2005 Coll., on Protection of Classified Information and on Security Capability, as amended.

European Union law, provided these institutions are part of the same group pursuant to the act on financial conglomerates<sup>25)</sup>,

- b) obliged entities referred to in Section 2 para. 1 letters e) and f), or persons of the same type, which operate in the territory of a state undertaking them to comply with requirements in the area of legitimisation of proceeds of crime and financing of terrorism, which are equal to the requirements of the European Union law, provided these persons carry out their profession as employees or in a similar relationship within the same legal person and between legal persons which are interconnected, either on the basis of a contract, or through persons, or
- c) credit or financial institutions, or between obliged entities referred to in Section 2 para. 1 letters e) and f), or persons of the same type, which operate in the territory of a state undertaking them to comply with requirements in the area of legitimisation of proceeds of crime and financing of terrorism equal to the requirements of the European Union law, in cases related to the same customer and the same transaction, when two or more persons of the same professional category are participating in and these persons are bound by equal requirements to keep a professional secrecy and protect personal data.

(3) The obligation of confidentiality cannot be invoked in a procedure under the Act on Implementation of International Sanction.

(4) Exemptions stated in paragraph 1 letters c) to m):

- a) may be applied only in the extent strictly necessary according to the purpose of provided information and especially with regard to the protection of information on notifiers of suspicious transactions,
- b) may not be applied where providing of information could frustrate or endanger investigation of suspicious transaction or ongoing criminal proceeding or where providing of information would be clearly disproportionate to legitimate interests of a person to whom the information relates or to a purpose for which a request was made.

#### Section 40

### **Special Provisions Relating to Confidentiality by a Lawyer, Notary, Auditor, Court Bailiff and a Tax Advisor**

(1) Provisions of this Part except Section 39 para. 1 letter e) shall not apply to lawyers and notaries.

(2) Provisions of this Part except Section 39 para. 1 letter e) and para. 2 shall not apply to auditors, court bailiffs and tax advisors.

(3) A lawyer, notary, auditor, court bailiff and a tax advisor shall be obliged, also with respect of the customer, to keep confidential the facts referred to in Section 38 para. 1; it does not apply if the facts shall be disclosed to the customer in an effort to prevent him/her from involvement in a criminal activity.

(4) Paragraphs 1 to 3 shall apply also to other persons who are obliged by other laws to keep the same confidentiality as lawyers, notaries, court bailiffs and tax advisors.

## PART FIVE **CROSS-BORDER TRANSIT**

#### Section 41

### **Obligation to Declare in Cross-border Transit**

(1) When entering the territory of the Czech Republic from a third country which is not the territory of the European Communities, and when exiting the Czech Republic to any such territory,

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<sup>25)</sup> Act No 377/2005 Coll., on Supplementary Supervision over Banks, savings and Credit Cooperatives, Electronic Money Institutions, Insurance Companies and Securities Brokers in Financial Conglomerates and on amendment of certain related acts (Financial Conglomerate Act), as amended.

a natural person shall be obliged to declare to the customs authority in writing any export or import of currency of the Czech Republic or another country, travel cheques or money orders convertible into cash, bearer or registered securities or any other investment instruments which are signed, but do not contain the name of the recipient, in the value of EUR 10,000 or higher.

(2) The obligation under paragraph 1 shall apply also to a legal person or natural person as an entrepreneur exporting or importing any of the items referred to in paragraph 1. The natural person bearing these items upon crossing of the border of the European Communities shall be liable to make the declaration on behalf of the relevant legal person or natural person as an entrepreneur.

(3) Any person sending a postal or other consignment from the Czech Republic to a third country outside the territory of the European Communities, or accepting a postal or other consignment therefrom, which contains items referred to in paragraph 1 in the value of EUR 10,000 or higher, shall declare the consignment to the customs authority and make it available for inspection by the customs.

(4) The obligation to declare stipulated in paragraphs 1 to 3 shall also be binding for a person who imports to the territory of the European Communities or exports therefrom, or receives or sends in consignment during a period of 12 consecutive months, items referred to in paragraph 1 in the value of EUR 10,000 or higher. The obligation to declare shall begin to apply as of the person learning that the aforementioned limit will be reached.

(5) The declaration under paragraphs 1 to 4 shall contain the declarant's identification data, the identification data of the owner and the intended recipient of the transported item, if known to the declarant, a description of the transported item, information on the origin of the item and the purpose of the export or import and the route and means of transport.

(6) The declaration shall be made via a Common Declaration Form of the EU specimen of which is given in Annex to this Act. The Common Declaration Form of the EU shall be available at the customs authority; the Office shall also publish the Common Declaration Form of the EU including all its language versions published by the European Commission in a way which allows for remote access. The declarant shall be liable for the accuracy and completeness of the declared information.

(7) The exchange rate published by the Czech National Bank as valid on the penultimate Wednesday of the previous calendar month, shall be used for the following whole calendar month for conversion of another currency to Euro for the purpose of paragraphs 1, 3 or 4. Upon verbal request, the customs authority shall inform potential declarants of the applicable exchange rate for the purpose of compliance with the obligation to declare under paragraphs 1 to 4. The value of securities shall be construed as their fair market value, or the value determined based on official market rates.

## Section 42

### **Activities of Customs Authorities**

(1) Customs authorities shall supervise the compliance with the obligation to declare under Section 41.

(2) Customs authorities shall record and process declarations referred to in Section 41, including personal data contained therein. For the purposes of performance of control under paragraph 1 customs authorities may record and process also information concerning the transport or sending of an item referred to in Section 41 para. 1, whose value is lower than EUR 10,000.

(3) Customs authorities via the General Directorate of Customs shall immediately forward to the Office information concerning the compliance with the obligation to declare under Section 41, including all cases of violation of this obligation.

(4) The customs authority may, upon detection of a violation of obligations set out in Section 41 para. 1 to 4, freeze items concerned by the violation. No appeal is permitted against the decision on items freezing made by the customs authority; the decision is enforceable at the moment of its verbal promulgation to the person bearing the items. A written execution of the



decision shall be delivered to the bearer from whom the items were frozen; items freezing shall also be notified by the way of an original counterpart of the decision sent to the importer or exporter and the owner, provided these persons are different from the bearer and are known to the customs authority.

(5) The person who receives the decision on items freezing under paragraph 4 shall submit the items to the customs authority. Should the items not be submitted on demand, they shall be seized. The customs authority shall issue a receipt to that effect to the person who has submitted the items or from whom they were seized.

(6) Should the frozen items not be required for further procedure, a forfeiture or expropriation order is not issued in respect of them, and they cannot be used for the payment of a fine, cost of the procedure or enforcement, the customs authority shall return them without undue delay to the person who has submitted them or from whom they were seized.

## **PART SIX OFFENCES**

### Section 43

#### **Violation of the Obligation of Confidentiality**

(1) An obliged entity, an employee of an obliged entity, employee of the Office or other supervisory authority, or a natural person who, based on other than an employment contract with an obliged entity, the Office or another supervisory authority, shall commit an offence by violation of the obligation of confidentiality under Section 38 para. 1 or 2.

(2) A natural person who is not a person under paragraph 1 shall commit an offence by violation of the obligation of confidentiality under Section 38 para. 3.

(3) A fine up to CZK 200,000 may be imposed for committing an offence under paragraphs 1 and 2.

(4) A fine up to CZK 1,000,000 may be imposed for committing an offence under paragraph 1, if the violation has made impossible or more difficult the freezing or seizure of proceeds of crime, or made the financing of terrorism possible.

### Section 44

#### **Failure to Comply with the Obligation to Perform Customer Identification and Due Diligence**

(1) An obliged entity commits an offence by:

- a) failing to perform the obligation of identification under Section 7,
- b) repeatedly failing to perform the customer's due diligence obligation under Section 9
- c) violate the prohibition to make a transaction or to enter into a business relationship under Section 15, or
- d) failing to perform the obligation of record keeping under Section 16.

(2) A fine up to CZK 1,000,000 may be imposed for an offence stipulated under paragraph 1 letters a) and b).

(3) A fine up to CZK 10,000,000 may be imposed for an offence stipulated under paragraph 1 letters c) and d).

### Section 45

#### **Failure to Perform the Obligation to Inform**

(1) An obliged entity commits an offence by:

- a) failing to perform the obligation to inform under Section 24 para. 1 or Section 24a para. 4,
- b) failing to forward relevant information to its branch or subsidiary under Section 24a para. 1,
- c) failing to adopt appropriate complementary measures in order to effectively manage risks of misuse under Section 24a para. 1, or

d) contrary to Section 24a para. 3 failing to ensure compliance with laws of another member state in the area of combating legitimization of proceeds from crime and financing of terrorism in its branch or subsidiary operating in this member state.

(2) A fine up to CZK 10,000,000 may be imposed for an offence under paragraph 1.

#### Section 46

##### **Failure to Comply with the Obligation to Report a Suspicious Transaction**

(1) An obliged entity commits an offence by failing to report to the Office suspicious transaction under Section 18 para. 1.

(2) A fine up to CZK 5,000,000 may be imposed for an offence under paragraph 1.

#### Section 47

##### **Failure to Comply with the Obligation to Suspend a Transaction**

(1) An obliged entity commits an offence by violation of obligation to suspend a transaction stipulated in Section 20 para. 1.

(2) An obliged entity commits an offence by failing to perform the obligation to suspend a transaction of a customer or to seize assets based on a decision issued by the Office under Section 20 para. 3.

(3) A fine up to CZK 1,000,000 may be imposed for an offence under paragraph 1.

(4) A fine up to CZK 10,000,000 may be imposed for an offence under paragraph 2.

#### Section 48

##### **Failure to Comply with the Obligation of Prevention**

(1) An obliged entity referred to under Section 21 para. 2 to elaborate in writing a system of internal rules and not exempted under Section 21 para. 3 or Section 21 para. 4 commits an offence by failing to elaborate a system of internal rules under Section 21 para. 5 within 60 days since it has become an obliged entity at the latest.

(2) An obliged entity referred to under Section 21 para. 6 to deliver in writing its system of internal rules or notification on any changes thereto to the Office or to the Czech National Bank commits an offence by failing to deliver the system of internal rules or notification on any changes thereto under Section 21 para. 6, or by failing to notify in writing of the implementation of remedies to issues found under Section 21 para. 8.

(3) An obliged entity referred to under Section 21a para. 2 to elaborate in writing risk assessment commits an offence by:

- a) failing to elaborate risk assessment in stipulated range or stipulated term, or
- b) failing to update risk assessment regularly.

(4) An obliged entity commits an offence by:

- a) failing to have in place and apply adequate policies and procedures of internal controls and communication to mitigate and manage effectively the risks of money laundering and terrorist financing identified in the risk assessment and to fulfil other requirements stipulated by this Act, contrary to the Section 21 para. 1, or
- b) failing to ensure that its employees undergo training under Section 23.

(5) A credit or financial institution commits an offence by violating the obligations in the course of entering in a correspondent banking relationship under Section 25 para. 1, 2 or 3.

(6) An obliged entity referred to in Section 29 para. 1 commits an offence by carrying out activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money and are carried out without an authorization under Section 29.

(7) A fine up to CZK 1,000,000 may be imposed for an offence under paragraphs 1 to 3.

(8) A fine up to CZK 5,000,000 may be imposed for an offence under paragraphs 4 to 6.

#### Section 49

##### **Failure to Comply with Obligations Relating to a Transfer of Funds**

(1) An obliged entity, being a provider of payment services or an agent provider of payment services, commits an offence when transferring funds if, in contravention to a directly applicable European Union regulation regulating information accompanying wire transfers of funds<sup>20</sup>):

- a) fails to ensure that the information on the payer and the recipient accompany the transfer,
- b) has not implemented effective procedures for identification of missing or incomplete information on the payer and the recipient,
- c) fails to take action against the provider of payment services of the payer who has failed to ensure that a transfer of funds is accompanied with information on the payer and on the recipient, or
- d) fails to present upon request of the provider of payment services of the recipient information on the payer and of the recipient in cases when the transfer of funds does not include full information on the payer and the recipient.

(2) A fine up to CZK 10,000,000 may be imposed for an offence under paragraph 1.

#### Section 50

##### **Failure to Comply with the Obligation to Declare a Cross-border Transport of Cash**

(1) A natural person commits an offence by:

- a) failing to comply with the obligation to declare when entering the Czech Republic from countries outside the European Communities, or when exiting the Czech Republic to such countries under Section 41 para. 1 or para. 4, or
- b) failing to comply with the obligation to declare a postal or other consignment from the Czech Republic to countries outside the European Communities, or from the Czech Republic to such countries under Section 41 para. 3 or para. 4.

(2) A legal person commits an offence by:

- a) failing to comply with the obligation to declare on entry to the Czech Republic from countries outside the European Communities, or on exit from the Czech Republic to such countries under Section 41 para. 2 or para. 4, or
- b) failing to comply with the obligation to declare a postal or other consignment from the Czech Republic to countries outside the European Communities, or from the Czech Republic to such countries under Section 41 para. 3 or para. 4.

(3) A fine up to CZK 10,000,000 or a forfeiture of the item may be imposed for an offence under paragraphs 1 or 2.

#### **Common Provisions Relating to Offences**

##### Section 51

***Cancelled***

##### Section 51a

(1) For a committing of an offence according to Sections 43 to 49 by an obliged entity administrative authority referred to in Section 35 para. 1 may impose an administrative penalty of the publication of the decision on offence taking into account the nature and the relevance as well as other circumstances of the offence committed.

(2) An administrative penalty of the publication of the decision on offence consists in the publication of the statement part of the powerful decision on offence on websites of the Office for five years.

(3) An administrative penalty of the publication of the decision on offence cannot be imposed if it is considered to jeopardise the stability of financial markets.

## Section 52

(1) Offences under this Act shall be decided upon by the authority which has discovered violation of the Act, with the exception of offences under Section 50.

(2) Offences under Section 50 shall be decided upon by the customs authority. An offence according to Section 50 para. 1 may competent customs authority hand over for decision to customs authority competent on the basis of the offender's permanent residence.

(3) Should a fine be overdue, the competent customs authority may use for payment the seized items under Section 41 para. 1, 3 and 4, should any such items have been seized.

## Section 52a

(1) The Office keeps register of initiated and terminated proceedings on offences under Sections 43 to 49 (hereinafter „register“).

(2) The competent supervisory authority which has initiated a proceeding on an offence under Sections 43 to 49 shall for the purpose of entry in the register communicate to the Office following:

- a) data of initiating of a proceeding on an offence,
- b) identification data of suspected of committing an offence,
- c) legal designation of an offence,
- d) description of the act in which the offence is seen and
- e) designation of an authority leading a proceeding on an offence.

(3) After powerful termination of proceeding on an offence under Sections 43 to 49 competent supervisory authority shall for the purpose of entry in the register communicate to the Office an indication of the method of termination of a proceeding and shall send a copy of powerful decision on an offence.

(4) The register is kept electronically. The Office shall provide on request or by the way of remote access to the supervisory authority specified in the Section 35 para. 1 data from the register for the purpose of fulfilment of the tasks arising from the subject matter of its activities.

(5) The Office monitors continuously individual proceedings on offences under Sections 43 to 49 and on request informs supervisory authorities on previous proceedings regarding the same subject and on proceedings regarding similar subject matter.

## Section 53

Actions taken by a lawyer, notary, auditor, court bailiff or a tax advisor in the capacity of an obliged entity, which bear the elements of an offence under Sections 43 to 48, shall be decided upon according to another law<sup>26)</sup>. The supervisory authority referred to in Section 35 para. 1 shall immediately refer the matter to the authority competent under such other legal instrument, and shall take all necessary steps to secure evidences, as instructed by such competent authority.

## PART SEVEN COMMON AND FINAL PROVISIONS

## Section 54

(1) The obligations imposed by this Act on the obliged entities shall concern only activities that are at the scope of their business or of the services they provide.

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<sup>26)</sup> Act No 85/1996 Coll., on the Legal Profession, as amended.  
Act No 358/1992 Coll., on Notaries and their Activities, as amended.  
Act No 254/2000 Coll., on Auditors and on the amendment of Act No 165/1998 Coll., as amended.  
Act No 120/2001 Coll., on Court Executors and Execution (Enforcement Procedure) and on the amendments to certain related acts, as amended.  
Act No 253/1992 Coll., on Advice on Tax and Chamber of Tax Advisers of the Czech Republic, as amended.

(2) Unless otherwise stipulated in this Act, obliged entities referred to in Section 2 para. 2 letters a) and b) shall be bound by the obligations under this Act for the relevant type of obliged entity according to Section 2 para. 1.

(3) Unless otherwise stipulated in this Act (Section 41 para. 7), the amount in Euro shall, for the purposes of this Act, be computed as an equivalent amount in any currency based on an exchange rate published by the Czech National Bank for the day when the obligation under this Act is being complied with; if the exchange rate is not available for the day in question, the exchange rate valid on the day preceding shall be used.

(4) If a payment is divided into several instalments, the value of the transaction shall be the sum of these instalments, provided they are related.

(5) Payment in commodities of high value, especially precious metals or precious stones, shall be regarded as payment in cash.

(6) An obliged entity under whose name or on whose account products or services are marketed by third parties shall ensure that these third parties observe all the procedures against the legitimisation of proceeds of crime and financing of terrorism in the same scope as the obliged entity.

(7) For the purposes of this Act an account contract, one-off deposit, an insurance contract and providing of payment services through electronic money or public mobile network shall be always considered as a business relationships.

(8) Obligations and limitations related to politically exposed persons shall be applied by obliged entities within 12 months since the day when politically exposed person terminates to perform a relevant position at least; but always until obliged entity will eliminate on the basis of the risk assessment risk specific for the politically exposed persons for the customer. During this time obliged entity will apply these measures in the same range also towards a client whose beneficial owner is a politically exposed person and towards a person which is known to be acting on behalf of a politically exposed person.

(9) Provisions relating to a customer will adequately apply to a person acting on behalf of a customer.

(10) Rules according to the Data Protection Act will apply to activities of obliged entities according to this Act within the scope of the duties of an administrator when processing personal data for the purpose of prevention, search and detection of criminal activity and prosecution of criminal acts<sup>39)</sup>.

## Section 55

(1) Proceedings conducted under this Act shall always be closed to the public.

(2) Based on a received suspicious transaction report or another motion, the Office shall investigate without undue delay.

(3) Upon the conclusion of the investigation, the Office shall, without undue delay, notify the person who reported the suspicious transaction in a suitable manner. No other person shall be notified of the investigation and its conclusions.

(4) In the course of their activities under this Act, authorised employees of the Office identify themselves with a service card the pattern of which is laid down by the Ministry of Finance's Decree.

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<sup>39)</sup> Section 3 para. 6 letter d) of the Act No.101/2000 Coll.

§ 56  
**Cancelled**

§ 57

**Interim Provisions**

(1) Proceedings initiated prior to this Act coming into effect shall be concluded according to this Act, with the exception of proceedings concerning an offence or another administrative offence committed prior to this Act coming into effect, if the earlier statute is more favourable for the offender.

(2) A person who, on the day of this Act coming into effect, performs activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money, may continue to perform these activities without an authorisation under Section 29 for a maximum period of 6 months after this Act becomes effective.

(3) An obliged entity referred to in Section 2 para. 1 letters a) to d), h) and i), who has a system of internal rules, procedures and controls compliant with the legislation valid to date, shall elaborate a system of rules, procedures and controls under Section 21 para. 2 within 60 days after this Act becomes effective

(4) A credit institution, financial institution referred to in Section 2 para. 1 letter b) points 5, 6, 10 and 11, and an obliged entity referred to in Section 2 para. 1 letter c), which has a system of internal rules, procedures and controls compliant with the legislation valid to date, shall deliver to the Ministry a system of rules, procedures and controls under Section 21 para. 2 within 60 days after this Act becomes effective.

Section 58

**Repealing Provisions**


The following are repealed:

1. Act No 61/1996 Coll., on Certain Measures against Legitimation of Proceeds of Crime and on the amendment and supplementation of related laws.
2. Decree No 343/2004 Coll., prescribing the format of the form according to Section 5 para. 5 of the Act No 61/1996 Coll., on Certain Measures against Legitimation of Proceeds of Crime and on the amendment and supplementation of related laws.
3. Decree No 344/2004 Coll., on Compliance with the Obligation to Report according to Act No 61/1996 Coll., on Certain Measures against Legitimation of Proceeds of Crime and on the amendment and supplementation of related laws;
4. Decree No 283/2006 Coll., amending the Regulation No 344/2004 Coll., on Compliance with the Obligation to Report according to Act No 61/1996 Coll., on Certain Measures against Legitimation of Proceeds of Crime and on the amendment and supplementation of related laws

Section 59

**Effectiveness**

This Act becomes effective as of the first day of the second calendar month following the day of its promulgation.

	Vzor č.	Národní vlajka	<b>FORMULÁŘ PRO OHLÁŠENÍ PENĚŽNÍ HOTOVOSTI</b> <sup>CS</sup>	Referenční číslo
			Před vyplněním formuláře si přečtěte poznámky na zadní straně formuláře VYPLŇTE HŮLKOVÝM PÍSMEM / ZAŠKRTNĚTE ODPOVÍDAJÍCÍ ÚDAJ	

<b>1. Prohlášení vyplňuji</b>	<input type="checkbox"/> Při vstupu do EU <i>/*</i>	<input type="checkbox"/> Při opuštění EU <i>/*</i>
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<b>2. Vyplňte své osobní údaje</b>	<input type="checkbox"/> Muž <input type="checkbox"/> Žena	Místo vydání	
Příjmení		Datum vydání	D D M M R R R R
Jméno (jména)		Osobní (rodné) číslo	
Státní příslušnost		Adresa	
Datum narození	D D M M R R R R	(Ulice, číslo)	
Místo narození		Město	
Průkaz totožnosti	<input type="checkbox"/> Cest. pas <input type="checkbox"/> Občanský průkaz <input type="checkbox"/> Ostatní	PSC	
Číslo průkazu totožnosti		Země	

<b>3. Jsem vlastníkem</b>	<input type="checkbox"/> Ano (přejděte k bodu 4)	Ne, vlastníkem je:	<input type="checkbox"/> Právnícká osoba
		(vyplňte údaje o vlastníkovi)	<input type="checkbox"/> Fyzická osoba
Právnícká osoba		Adresa	
		(Ulice, číslo)	
DIČ		Město	
Příjmení		PSC	
Jméno (jména)		Země	

<b>4. Údaje o peněžní hotovosti / peněžních nástrojích</b>		
	Částka	Měna
Bankovky, mince		
Jiné (uvedte)		

<b>5. Původ a zamýšlené použití peněžní hotovosti / peněžních nástrojů</b>			
Původ			
Zamýšlené použití			
Jsem zamýšleným příjemcem	<input type="checkbox"/> Ano (přejděte k bodu 6)	Ne, příjemcem je:	<input type="checkbox"/> Právnícká osoba
		(vyplňte údaje o příjemci)	<input type="checkbox"/> Fyzická osoba
Právnícká osoba		Adresa	
		(Ulice, číslo)	
DIČ		Město	
Příjmení		PSC	
Jméno (jména)		Země	

<b>6. Údaje o dopravě</b>			
Druh dopravy	<input type="checkbox"/> Letecká <input type="checkbox"/> Námořní <input type="checkbox"/> Silniční <input type="checkbox"/> Železniční <input type="checkbox"/> Ostatní		
Dopravní společnost		Referenční číslo	
Země zahájení přepravy		Datum odjezdu	D D M M R R R R
Přes (tranzitní země)		Datum tranzitu	D D M M R R R R
Země určení		Datum příjezdu	D D M M R R R R

<b>7. Podpis ohlašovatele</b>	<b>Podpis a razítko příslušného orgánu</b>	<b>Vyplní příslušný úřad</b>
Prohlašuji, že veškeré výše uvedené údaje jsou správné. Beru na vědomí, že v případě nepravdivého, nesprávného nebo neúplného prohlášení může příslušný orgán udělit sankce nebo může dojít k zadržení nebo propadnutí peněžní hotovosti.		Záznam <input type="checkbox"/> ano <input type="checkbox"/> ne
Datum:		Sankce <input type="checkbox"/> ano <input type="checkbox"/> ne
D D M M R R R R		Výše sankce .....





		<b>БЛАНК ДЕКЛАРАЦИИ НАЛИЧНЫХ ДЕНЕЖНЫХ СРЕДСТВ</b> <b>RU</b>	Номер для ссылок
<p align="center"><i>Перед заполнением бланка прочтите примечания на обороте</i></p> <p align="center"><b>ЗАПОЛНИТЕ ЗАГЛАВНЫМИ БУКВАМИ / ОТМЕТЬТЕ НУЖНОЕ</b></p>			

<b>1. Вы</b>	<input type="checkbox"/> въезжаете в ЕС	<input type="checkbox"/> выезжаете из ЕС
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<b>2. Укажите личные данные</b>	<input type="checkbox"/> М <input type="checkbox"/> Ж	Место выдачи	
Фамилия		Дата выдачи	Д Д М М Г Г Г Г
Имя		Личный код	
Гражданство		Адрес	
Дата рождения	Д Д М М Г Г Г Г	(Улица / № дома)	
Место рождения		Город	
Документ	<input type="checkbox"/> Паспорт <input type="checkbox"/> Удостоверение <input type="checkbox"/> Иное	Почтовый индекс / код	
Паспорт / документ №		Страна	

<b>3. Владелец – Вы</b>	<input type="checkbox"/> Да (переходите к п. 4)	Нет, владельцем является:	<input type="checkbox"/> Юридическое лицо
		(укажите данные владельца)	<input type="checkbox"/> Физическое лицо
Юрид. Лицо		Адрес	
		(Улица / № дома)	
Номер НДС		Город	
Фамилия		Почтовый индекс / код	
Имя		Страна	

<b>4. Сведения о наличных денежных средствах / денежных инструментах</b>		
	<b>Сумма</b>	<b>Валюта</b>
Банкноты, монеты		
Иное (укажите)		

<b>5. Происхождение и предназначение наличных денежных средств / денежных инструментов</b>			
Происхождение			
Предназначение			
Назначенным получателем является Вы	<input type="checkbox"/> Да (переходите к п. 6)	Нет, получателем является:	<input type="checkbox"/> Юридическое лицо
		(укажите данные получателя)	<input type="checkbox"/> Физическое лицо
Юрид. Лицо		Адрес	
		(Улица / № дома)	
Номер НДС		Город	
Фамилия		Почтовый индекс / код	
Имя		Страна	

<b>6. Сведения о транспорте</b>			
Вид транспорта	<input type="checkbox"/> воздушный <input type="checkbox"/> морской <input type="checkbox"/> автомобильный <input type="checkbox"/> железнодорожный <input type="checkbox"/> иное		
Транспорт. компания		Номер для ссылок	
Страна отбытия		Дата отбытия	Д Д М М Г Г Г Г
Страна транзита		Дата транзита	Д Д М М Г Г Г Г
Страна назначения		Дата прибытия	Д Д М М Г Г Г Г

<b>7. Подпись декларанта</b>	Подпись и печать компетентного органа	Только для служебного пользования	
Заявляю, что все вышеуказанные сведения верны. Мне известно о том, что недостоверное, неточное или неполное заполнение декларации влечет наложение штрафов, задержание или конфискацию наличных денежных средств компетентным органом.		На учете	<input type="checkbox"/> да <input type="checkbox"/> нет
Дата:		Штраф	<input type="checkbox"/> да <input type="checkbox"/> нет
Д Д М М Г Г Г Г		Сумма штрафа	.....

**Non-exhaustive list of factors and types of evidence of potentially higher risk referred to in Section 21a para 1 and Section 30a para 2**

1. Customer risk factors:
  - a) the business relationship is conducted in unusual circumstances,
  - b) customers that are resident in geographical areas of higher risk as set out in point (3),
  - c) legal persons or arrangements that are personal asset-holding vehicles,
  - d) companies that have nominee shareholders or shares in bearer form,
  - e) businesses that are cash-intensive,
  - f) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business.
2. Product, service, transaction or delivery channel risk factors:
  - a) private banking,
  - b) products or transactions that might favour anonymity,
  - c) non-face-to-face business relationships or transactions, without certain safeguards, such as electronic signatures,
  - d) payment received from unknown or unassociated third parties,
  - e) new products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products.
3. Geographical risk factors:
  - a) without prejudice to Article 9, countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems,
  - b) countries identified by credible sources as having significant levels of corruption or other criminal activity,
  - c) countries subject to sanctions, embargos or similar measures issued by, for example, the Union or the United Nations,
  - d) countries providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.

### **Interim provisions according to the Article II of the Act No 368/2016 Coll. :**

1. An obliged entity under Section 2 para. 1 letters a) to d) and h) of the Act No 253/2008 Coll., in the version effective after this Act becomes effective shall according to the Section 21 para. 2 of the Act No 253/2008 Coll., in the version effective after this Act becomes effective ensure that its managing authority authorizes according to the Section 21 para. 2 of the Act No 253/2008 Coll., in the version effective after this Act becomes effective, written risk assessment elaborated under Section 21a of the Act No 253/2008 Coll., in the version effective after this Act becomes effective, within 6 months after this Act becomes effective at the latest.
2. A credit institution, payment institution, an electronic money institution, financial institution under Section 2 para. 1 letter b) point 11 of the Act No 253/2008 Coll., in the version effective after this Act becomes effective and obliged entity under Section 2 para. 1 letter c) of the Act No 253/2008 Coll., in the version effective after this Act becomes effective shall deliver the risk assessment under the point 1 to the Financial Analytical Office within 30 days after its authorization according to point 1. An obliged entity under Section 2 para. 1 letter b) points 1 to 4 of the Act No 253/2008 Coll., in the version effective after this Act becomes effective has this obligation towards the Czech National Bank.
3. Proceedings and procedures which had not been concluded by the Ministry of Finance before this Act becomes effective will be concluded by the Financial Analytical Office under the Act No 253/2008 Coll., in the version effective before this Act becomes effective.
4. Exercise of rights and obligations from labour relations in relation to employees of the Czech Republic assigned in the Financial Analytical Unit of the Ministry of Finance goes by the day of this Act becoming effective on the Financial Analytical Office.
5. A civil servant in a service relationship according to the Act No 234/2014 Coll., on the state service, as amended, who is by the day of this Act becoming effective assigned on the service place in the Financial Analytical Unit of the Ministry of Finance becomes by the day this Act becomes effective a civil servant in a service relationship assigned in the Financial Analytical Office; director of the Financial Analytical Office decides within 10 days after this Act becomes effective on an assignment of a civil servant to a civil place; a salary remains the same.
6. A civil servant in a service relationship according to the Act No 234/2014 Coll., who is by the day of this Act becomes effective appointed on a senior civil place in the Financial Analytical Unit of the Ministry of Finance becomes since the day of this Act becomes effective a state servant and a senior in a service relationship assigned to a senior civil place in the Financial Analytical Office; director of the Financial Analytical Office decides within 10 days after this Act becomes effective on an appointment of a state servant to a senior service place; a salary remains the same.
7. A civil servant in a service relationship according to the Act No 234/2014 Coll., who is by the day of this Act becoming effective appointed on the civil place as the director of the Financial Analytical Unit of the Ministry of Finance becomes since the day of this Act becomes effective the director of the Financial Analytical Office; a salary remains the same. A civil servant stated in the first sentence may exercise as a director of the Financial Analytical Office but no longer until this service place will be occupied on the basis of the tender awarded by the State Secretary of the Ministry of Finance within 6 months after this Act becomes effective; provision of the Section 186 para. 4 second sentence of the Act No 234/2014 Coll., as amended, will be applied similarly.
8. An competency to manage a property of the Czech Republic, including rights and other property values with whom the Ministry of Finance was competent to manage to the extent necessary to the activity of the Financial Analytical Unit of the Ministry of Finance goes by the day this Act becomes effective to the Financial Analytical Office.

9. Liabilities and receivables of the state as well as rights and obligations arising from another legislation relating to the Financial Analytical Unit of the Ministry of Finance shall by the date this Act becomes effective perform and exercise the Financial Analytical Office.
10. A legal person registered in the business register shall within 1 year after this Act becomes effective report to the Register Court data on its beneficial owner according to the Section 188e of the Act No 304/2013 Coll., on public registers of legal and natural persons, as amended by this Act. Other registered legal persons shall report data on their beneficial owners according to the Section 118f of the Act No 304/2013 Coll., on public registers of legal and natural persons, as amended by this Act, within 3 years after this Act becomes effective.