

**Law on the Prevention of Money Laundering and Terrorist Financing  
(Official Gazette of Montenegro, No. 033/14 dd 04.08.2014, 044/18 dd  
06.07.2018, 73/19 dd 27.12.2019)**

**I. GENERAL PROVISIONS**

**Subject Matter of the Law  
Article 1**

This Law shall regulate measures and actions undertaken for the purpose of detecting and preventing money laundering and terrorist financing, as well as affairs, powers and manner of work of the organisational unit of the administrative authority competent for police affairs caring out activities of the prevention of money laundering and terrorist financing (hereinafter: financial intelligence unit) and other issues significant for prevention of money laundering and terrorist financing.

**Money Laundering  
Article 2**

- (1) For the purposes of this Law, money laundering shall, in particular, mean the following:
- 1) the conversion or transfer of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or assisting any person involved in the commission of such activity in order to evade the legal consequences of his action;
  - 2) the concealment or disguise of the true nature, source, location, movement, disposition or ownership of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity;
  - 3) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;
  - 4) participation in, association to commit, attempt to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in Items 1, 2 and 3 of this Paragraph.
- (2) Activities from Paragraph 1 of this Article carried out on the territory of another country shall also be considered as money laundering.

**Terrorist Financing  
Article 3**

In the context of this Law, the following shall, in particular, be considered as terrorist financing:

- 1) providing or collecting or an attempt of providing or collecting funds or property, in any way, directly or indirectly, with the intention or with the knowledge that they may be used, in their entirety or in part:
  - for preparing or committing terrorist act;
  - by terrorists;
  - by terrorist organizations.

- 2) encouraging or assisting in providing or collecting the funds or property from Item 1 of this Article.

### **Reporting entities**

#### **Article 4**

- (1) Measures for detecting and preventing money laundering and terrorist financing shall be taken before, during and after the conduct of any business of receiving, investing, exchanging, keeping or other form of disposing of money or other property, or any transactions for which there are reasons to suspect of money laundering or terrorist financing.
- (2) Measures from Paragraph 1 of this Article shall be undertaken by business organizations, legal persons, entrepreneurs and natural persons conducting activities (hereinafter referred to as: reporting entities), as follows:
  - 1) banks and other credit institutions and branches of foreign banks;
  - 2) financial institutions that perform the following activities:
    - a) sale and purchase of claims;
    - b) financial leasing;
    - c) provision of safe deposit boxes;
    - d) factoring;
    - e) issuance of guarantees and other assurances;
    - f) crediting and credit mediation;
    - g) exchange services.
  - 3) payment service providers and institutions dealing with electronic money seated in Montenegro;
  - 4) Post of Montenegro;
  - 5) companies for the management of investment funds, branches of foreign companies for the management of investment funds and companies from EU member states that are authorised to be directly engaged in the management of investment funds on the territory of Montenegro;
  - 6) companies for the management of pension funds;
  - 7) investment companies and branches of foreign investment companies whose business activities are prescribed by the law that defines the capital market and that provide:
    - a) investment services on the capital market in Montenegro which include: the reception and transmission of orders in relation to one or more financial instruments; the execution of orders on behalf of clients; dealing on own account; portfolio management; investment advice; underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; placing of financial instruments without a firm commitment basis; operation of multilateral trading facility (hereinafter referred to as: MTF); operation of organised trading facility (hereinafter referred to as: OTF);
      - ancillary services on the capital market in Montenegro which include: safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management; granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, in case the

## UNOFFICIAL TRANSLATION

transaction involves the company which grants credit or loan; providing general recommendations on capital structure, business strategy and related matters and services relating to merger and acquisition of parts in undertakings; foreign exchange services where these are connected to the provision of investment services; research and financial analysis or other forms of general recommendations related to transactions in financial instruments; services related to underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; investment services and activities, as well as ancillary activities related to the underlying assets contained in the financial derivatives, if related to investment and ancillary services.

- 8) life insurance companies and branches of foreign life insurance companies;
  - 9) insurance mediation companies and insurance representation companies, and insurance mediators and insurance representatives in the part related to life insurance;
  - 10) organisers of lottery and special games of chance and online games of chance or games of chance which use other telecommunications means;
  - 11) pawnshops;
  - 12) legal persons, business organizations and natural persons engaged in activity or affairs of issuance and management of virtual currencies, including the services of exchanging virtual currencies into conventional currencies and vice versa;
  - 13) other business organizations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:
    - forfeiting;
    - auditing, independent auditor, accounting and providing tax counselling;
    - providing services of founding legal persons and other business organizations, as well as business and fiduciary services;
    - management of property for third persons;
    - issuance and management of payment instruments (e.g. checks, traveller's checks, credit card, bank promissory notes, payment orders, debit cards), which are not considered payment services in accordance with the law governing payment operations;
    - granting loans and mediation in contracting granting loans activities;
    - investment, trade and mediation in real estate trade;
    - trade of motor vehicles if the payments are made or received in cash in the amount of €10,000 or more, regardless of whether it is one or several linked transactions;
    - trade of vessels and aircraft if the payments are made or received in cash in the amount of €10,000 or more regardless of whether it is single or several linked transactions;
    - organising and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made or received in cash in the amount of at least €10,000, in single or several linked transactions.
- (3) The Government of Montenegro (hereinafter: the Government) may, by a regulation, define other reporting entities that shall undertake the measures from Paragraph 1 of this Article if, considering the nature and manner of carrying out activities or business, there is a higher risk of money laundering or terrorist financing.

- (4) The Government may define, by a regulation, reporting entities that are not obliged to undertake the measures and actions prescribed by this Law when performing certain part of business or activity, when they carry out certain financial activities on an occasional or limited basis, and that are related to lower risk of money laundering and terrorist financing.

### **Definition of Terms**

#### **Article 5**

The terms used in this Law have the following meaning:

- 1) terrorist act means an act defined in the Protocols from the Annex to the International Convention for the Suppression of Financing of Terrorism, as well as any other act intended to cause death or serious body injury to a civilian or any other person that does not actively participate in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government of a state or an international organization to do or to abstain from doing any act;
- 2) terrorist means a person who:
  - alone or with other persons attempts to commit or commits a terrorist act by any means, directly or indirectly;
  - alone or with other persons encourages or assists in the commission of a terrorist act;
  - knowing for the intention of a terrorist or a group of terrorists to commit a terrorist act, contributes to the commitment or assist a terrorist or a group of terrorists to continue committing terrorist act with common purpose;
- 3) terrorist organization means a group of persons, i.e. terrorists that:
  - intentionally attempts to commit or commits a terrorist act by any means, directly or indirectly;
  - encourages or assists in the commission of a terrorist act;
  - knowing for the intention of a terrorist or a group of terrorists to commit a terrorist act, contributes to the commitment or assist in continuing the commission of terrorist act with common purpose;
- 4) predicate offence” means any criminal offence as a result of which proceeds were generated that may become the subject of criminal offence of money laundering;
- 5) customer means a domestic or foreign legal person, business organization, natural person, entrepreneur, foreign trust and other person, or an entity equal to it, carrying out transactions or establishing business relationship with a reporting entity;
- 6) other person, or an entity equal to it, means a person that joins or will join money or any other property for a certain purpose;
- 7) compliance officer, or his deputy is a person designated by a reporting entity, authorised and responsible for implementing measures and activities undertaken for the purpose of detecting and preventing money laundering or terrorist financing;
- 8) credit institution means a legal person performing activities of receiving deposits and other repayable funds and granting credits for its own account;
- 9) financial institutions mean:
  - a) institutions dealing with: sale and purchase of claims; financial leasing; provision of safe deposit boxes; factoring; issuance of guarantees and other assurances; crediting and credit mediation; provision of loans and mediation in the process of the provision of loans; exchange services;

## UNOFFICIAL TRANSLATION

- b) provision of payment services and institutions dealing with electronic money seated in Montenegro;
  - c) companies for the management of investment funds, branches of foreign companies for the management of investment funds and companies from EU member states that are authorised to be directly engaged in the management of investment funds on the territory of Montenegro;
  - d) companies for the management of pension funds;
  - e) investment companies and branches of foreign investment companies whose business activities are prescribed by the law that defines the capital market and that provide: investment services on the capital market in Montenegro which include: the reception and transmission of orders in relation to one or more financial instruments; the execution of orders on behalf of clients; dealing on own account; portfolio management; investment advice; underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; placing of financial instruments without a firm commitment basis; operation of a MTF; operation of an OTF; ancillary services on the capital market in Montenegro which include: safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management; granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, in case the transaction involves the company which grants credit or loan; providing general recommendations on capital structure, business strategy and related matters and services relating to merger and acquisition of parts in undertakings; foreign exchange services where these are connected to the provision of investment services; research and financial analysis or other forms of general recommendations related to transactions in financial instruments; services related to underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; investment services and activities as well as ancillary services related to underlying assets contained in financial derivatives, if connected with investment and ancillary services;
  - f) life insurance companies and branches of foreign life insurance companies;
  - g) insurance mediation companies and insurance representation companies in the part related to life insurance;
  - h) issuance and management of virtual currencies, including the services of exchanging virtual currencies into conventional currencies and vice versa;
  - i) issuance of payment and credit cards and performance of business through such cards;
  - j) other business organizations, legal persons, entrepreneurs and natural persons engaged in an activity or business of: forfeiting; management of property for third persons; issuance and management of payment instruments (e.g. checks, traveller's checks, credit card, bank promissory notes, payment orders, debit cards), which are not considered payment services in accordance with the law governing payment operations; granting loans and mediation in contracting granting loans activities;
- 10) transaction means receiving, investing, exchanging, keeping or other form of disposing of money or other property;
- 11) cash transaction means any transaction in which a reporting entity receives cash from a customer or hands over cash to the customer for his possession and disposal;

## UNOFFICIAL TRANSLATION

- 12) suspicious transaction means any transaction of funds which are deemed, based on indicators for recognising suspicious transactions and customers in accordance with this Law, bylaws adopted pursuant to this Law and internal procedures of reporting entities, or based on other circumstances and facts, to represent material gain obtained through a criminal act, or that there are reasons to suspect that a transaction, funds, property or person executing such transaction are related to money laundering and terrorist financing;
- 13) risk of money laundering and terrorist financing means the risk that a customer will use the financial system for money laundering or terrorist financing, or that a business relationship, a transaction or a product will indirectly or directly be used for money laundering or terrorist financing;
- 14) correspondent relationship means a relationship:
- between one bank as a correspondent providing banking services to another bank as a respondent, including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services;
  - between and among credit institutions and financial institutions including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers;
- 15) shell bank means a credit institution, or other similar institution, registered in a country where it has no physical presence, it does not carry out activity, has no premises, employees, management bodies and management and which is not related to a financial group subject to supervision for the purpose of detecting and preventing money laundering or terrorist financing;
- 16) property means property rights of any kind, regardless of whether they refer to goods of corporeal or incorporeal nature, movable or immovable, securities and other documents (in any form, including electronic or digital), evidencing property rights;
- 17) funds are financial funds and benefits of any kind including:
- cash, checks, monetary liabilities, promissory notes, monetary remittances and other means of payment;
  - funds deposited with a reporting entity;
  - financial instruments, specified in the law governing capital market, which are traded through appropriate offering, including shares and stakes, certificates, debt instruments, bonds, guarantees and derived financial instruments;
  - other documents which prove the right to the financial means or other financial sources;
  - interests, dividends and other income from the funds;
  - receivables, credits and credentials.
- 18) business relationship means a business, professional or commercial relationship related to the professional activities of reporting entities and customers and which is expected, at the time of its establishing, to have an element of duration, as well as the following:
- registration of customer for participation in the organizing games of chance system with organizers that organize games of chance via internet or other remote communication means;
  - customer's access to the rules of managing mutual fund with a managing mutual fund company;
- 19) anonymous legal person means a foreign legal person with unknown owners and/or

## UNOFFICIAL TRANSLATION

managers;

20) senior manager means a responsible person with a reporting entity who:

- is responsible for managing the risk of money laundering and terrorist financing;
- possesses necessary knowledge of the reporting entity's money laundering and terrorist financing risk exposure;
- makes decisions that affect the money laundering and terrorist financing risk exposure;

21) financial group means a group comprised of:

- parent company seated in Montenegro, dependent companies and companies where these companies have direct or indirect participation in capital or voting rights of at least 20% and are involved in the annual consolidated financial statement in accordance with the law;
- companies that are mutually linked by joint management;
- legal or natural persons that have direct or indirect share in capital or voting right of at least 20% in legal persons from financial sector;

22) parent company means a legal or natural person which, in relation to the dependent company, meets one of the following conditions:

- they have majority voting rights in a dependent company;
- they are shareholders or they possess share and have right to appoint or recall the majority of the board of directors members, supervisory board or other management or supervisory bodies;
- they have a direct or indirect participation in capital or voting rights, of at least 20% in a dependent company;

23) companies linked by joint management are companies that are not connected as a parent and dependent company, but they are connected in one of the following manners:

- companies are equal and linked by joint management in accordance with the concluded agreement or articles of association;
- majority of the members of the board of directors or supervisory bodies or executive directors are the same persons;

24) person means domestic or foreign natural or legal person or other civil law entity;

25) other civil law entity is an organised group of individuals who join or have committed to join their funds or other property for certain purposes;

26) organiser of lottery and special games of chance is also an organiser who has the consent of a competent body to organise such games through the Internet or other telecommunications means;

27) insurance agent means a legal or a natural person that possesses a licence, issued by the regulatory authority competent for insurance activities, for performing insurance representation activities;

28) insurance intermediary means a legal person that possesses a licence, issued by the regulatory authority competent for insurance activities, for performing insurance mediation activities;

29) trust or business organization providing services is a person engaged in providing services to third parties, in particular:

- establishment of business organizations or other legal persons;
- performance of functions or the appointment of other persons to act as a trustee of an

## UNOFFICIAL TRANSLATION

- express trust or similar foreign legal entity;
  - provision of services related to a registered office, business address and other related services;
  - performance of functions or the appointment of another person to carry out the tasks of the trustee of a fund, or similar foreign legal entity that receives, manages or allocates property instruments for certain purposes, excluding investment and pension funds;
  - performance of functions or the appointment of other person to perform the function of a nominal shareholder on behalf of another person other than a business organization listed on a regulated market that is subject to disclosure requirements pursuant to the EU law or the equivalent international standards;
- 30) distribution channel is the channel used for the supply of goods and services to end users;
- 31) electronic money means electronically, including magnetically, deposited monetary value issued on receipt of funds for the purpose of making payment transactions, which represents a claim on the issuer of such electronic money and which is accepted by a natural or legal person other than the electronic money issuer, except:
- money values deposited on the instruments that can be used for purchasing goods or services only in the premises used by the issuer of such instrument or upon a commercial contract with an issuer, within the limited network of payment services providers or for a limited scope of goods and services;
  - money values used for payment transactions conducted via telecommunication, digital or information technology device, provided that the purchased good or service can be delivered and used through telecommunication, digital or information technology device, and provided that the telecommunication, digital or information technology operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;
- 32) anonymous electronic money is a payment instrument that allows (enables) anonymity to the payer and makes it impossible to monitor the transaction between the issuer of the electronic money and the recipient of payment;
- 33) cash is banknotes and coins that are in circulation as the legal tender;
- 34) information on business activities of the customer is any data on the customer regardless of the private or professional status i.e. of the business activities of the customer;
- 35) virtual currency is a digitally expressed value issued neither by the Central Bank, nor any state body, nor its value is necessarily linked to any conventional currency, but is accepted by natural or legal persons, as a means of payment which may be electronically transferred, stored or which may be electronic traded;
- 36) legal person means a person that may establish lasting customer relationship with a financial institution or in some other way possess property (e.g. firms, corporations, foundations, partnerships or business associations and other equivalent structures and similar).

### **National Risk Assessment Article 5a**

- (1) National risk assessment of money laundering and terrorist financing (hereinafter: National Risk Assessment) is a process of identification and analysis of the main risks of money laundering and financing of terrorism at the national level, development of appropriate measures for the prevention of money laundering and financing of terrorism on the basis of

## UNOFFICIAL TRANSLATION

the established risks and improvement of the efficiency in the allocation of the available resources for the control, reduction or elimination of identified risks.

- (2) The National Risk Assessment shall be determined by the Government.
- (3) For developing the National Risk Assessment the Government shall establish a permanent coordinating body that shall:
  - 1) prepare the National risk assessment of money laundering and terrorist financing;
  - 2) prepare the report on the identified national risks of money laundering and terrorist financing;
  - 3) prepare proposals for the measures and action plan for the reduction of identified risks of money laundering and terrorist financing;
  - 4) implement the analyses in the area of money laundering and terrorist financing, prepare reports on the conducted analysis and harmonize the cooperation between competent authorities and organizations.
- (4) The decision on establishing the coordinating body shall define the composition, tasks, manner of work and other questions important for functioning of this body.
- (5) The coordination and synchronization of the coordinating body work shall be done by the financial intelligence unit.

### **National Risk Assessment report and purpose Article 5b**

- (1) The financial intelligence unit shall report to the Government on the results of the National Risk Assessment.
- (2) In accordance with the National Risk Assessment the following shall be done:
  - 1) Improving of the regulations on detection and prevention of money laundering and terrorist financing, and in particular defining sectors or activities in which reporting entities have to take stricter measures pertaining to the establishment and verification of customer's identity, the monitoring of business relationships and the control of the transactions of the customer and other obligations prescribed by this law;
  - 2) identifying sectors and the activities of lower or higher risk of money laundering and terrorist financing;
  - 3) preparing regulations for individual sectors or activities in accordance with the identified risks of money laundering and terrorist financing and directing reporting entities in their development of assessment of risk of money laundering and terrorist financing.

## **II. OBLIGATIONS OF REPORTING ENTITIES**

### **1. Measures and actions undertaken by reporting entities**

#### **Types of measures and actions Article 6**

Reporting entities shall, when conducting their activities, undertake measures and actions in accordance with this Law, in particular the following:

## UNOFFICIAL TRANSLATION

- 1) identify the risks and conduct risk assessment (hereinafter: risk analysis) and establish policies, control and procedures and undertake activities for decreasing the risk of money laundering and terrorist financing;
- 2) establish and verify customer's identity on the basis of reliable, independent and objective sources and monitor customer's business activities (hereinafter: establishing and verifying the identity of the customer and the monitoring of business relationships and the control of the transactions of the customer);
- 3) establish appropriate information system, if it is a credit or financial institution and, in that way provide automated support for the assessment of the risk of the customer, ongoing monitoring of business relationships of the customer and the control of the transactions and the timely dissemination of information, data and documentation to the financial intelligence unit;
- 4) designate compliance officers for implementing measures of detection and prevention of money laundering and terrorist financing and his/her deputy, as well as provide conditions for their work;
- 5) organise regular professional training and development of employees;
- 6) develop and regularly update the list of indicators for the identification of suspicious customers and transactions;
- 7) keep records and ensure the protection and keeping of the data and documents obtained in accordance with this Law;
- 8) establish and monitor a system that enables complete and timely response to the requests of the financial intelligence unit and competent state authorities in accordance with the Law;
- 9) apply measures of detection and prevention of money laundering and terrorist financing in business units and companies that are majority-owned by reporting entities in foreign countries.

### **Risk Analysis Article 7**

- (1) A reporting entity shall, within 60 days since the date of its establishment, develop the risk analysis for determining the risk assessment of an individual customer, a group of customers, a country or geographic areas, business relationship, transaction or product, services and distribution channels related to the possibility of misuse for the purpose of money laundering or terrorist financing and update it regularly at least once a year and keep it in accordance with this Law.
- (2) A reporting entity shall, based on risk analysis, undertake appropriate activities for decreasing the determined risk of money laundering and terrorist financing.
- (3) A reporting entity shall prepare the risk analysis, referred to in Paragraph 1 of this Article, on the basis of guidelines on risk analysis determined by the competent authorities from Article 94 of this Law, in accordance with the regulation passed by the administrative authority competent for internal affairs (hereinafter: the Ministry) and on the basis of the results of the National Risk Assessment.
- (4) The regulation from the Paragraph 3 of this Article shall determine more specific criteria for developing guidelines in accordance with reporting entity's size and composition, scope and type of affairs, customer categories, type of products, manner of communication with customers (usage of technology means – internet, automated teller machine and similar tools) criteria for determining risk factors and other elements significant for assessing money laundering and terrorist financing risks.

## UNOFFICIAL TRANSLATION

- (5) A reporting entity is obliged, during all important changes in the business processes, such as: introduction of new products, new practice, including new distribution channels, the introduction of new technologies for new and existing products, services or organizational changes, to perform appropriate assessment of the impact of these changes on the exposure to the risk of money laundering and terrorist financing.
- (6) A reporting entity is obliged to implement the assessment of the risk from Paragraph 5 of this Article before the introduction of changes in the business processes and, in accordance with the results of the assessment, to adopt measures to reduce the risk of money laundering and terrorist financing.
- (7) Professional basis for drafting the regulations referred to in Paragraph 3 of this Article shall be prepared by the financial intelligence unit, with the previously obtained opinion of the competent authorities from Article 94 of this Law.

### **Lower and higher risk of money laundering and terrorist financing** **Article 7a**

- (1) If reporting entities assess that a customer, business relationship, transaction, product, service, distribution channel, state or geographic area present lower risk of money laundering or terrorist financing, they can apply simplified measures for establishing and verifying the identity of the customer, monitoring of business relationships and the control of the transactions in accordance with the provisions of this Law.
- (2) If reporting entities assess that a customer, business relationship, transaction, product, service, distribution channel, state or geographic area present higher risk of money laundering or terrorist financing, they shall apply enhanced measures for establishing and verifying the identity of the customer, monitoring of business relationships and the control of the transactions in accordance with this Law.

### **Money laundering and terrorist financing risk management** **Article 7b**

- (1) In order to provide effective management of risk of money laundering and terrorist financing a reporting entity is obliged to establish effective policies, controls and procedures that are proportional to the scope of its activities, and the business activity, size and type of the customer it deals with, as well as the type of product.
- (2) Policies, controls and procedures referred to in Paragraph 1 of this Article shall include:
  - 1) adoption of internal policies and procedures related to:
    - risk management models;
    - establishing and verifying the identity of the customer, monitoring of business relationships and the control of the transactions;
    - submission of data to the financial intelligence unit in accordance with the Law;
    - protection and preservation of the data and record keeping;
    - internal control in the area of detection and prevention of money laundering and terrorist financing;
    - security checks of employees in accordance with the law that regulates data confidentiality;
  - 2) establishment of an independent audit department or nomination of a person for the review of the internal policies, controls and procedures from Item 1 of this Paragraph, if the reporting entity is a large legal person in accordance with the law

regulating auditing;

- (3) The reporting entity which is a large legal person in accordance with the law regulating accounting is obliged to appoint one of the members of the board of directors or other governing body that is responsible for the realisation of the tasks from Paragraph 2 Item 1 of this Article.

### **New and developing technologies**

#### **Article 7c**

- (1) A reporting entity shall take measures and actions referred to in Article 8 of this Law, to eliminate money laundering and terrorist financing risks that may arise from new and developing technologies that might allow anonymity (issuance of virtual currencies, internet banking, ATMs, etc.).
- (2) A reporting entity shall adopt internal procedures in accordance with Article 7 Paragraph 3 of this Law with a view to preventing the new technologies to be used for money laundering or terrorist financing.

### **Measures for establishing and verifying the identity of the customer and monitoring of business relationships and the control of the transactions of the customer**

#### **Article 8**

- (1) A reporting entity shall implement the measures of establishing and verifying the identity of the customer, as well as monitoring of business relationships and the control the transactions of the customer and, in particularly, shall:
  - 1) establish and verify a customer's identity based on documents, data and information from reliable, independent and objective sources and collect data on the customer, and verify the collected data on the customer based on reliable, independent and objective sources (hereinafter: customer identification);
  - 2) identify the beneficial owner of customer and verify his identity including the measures necessary to determine ownership and control structure of the customer in cases defined by this Law;
  - 3) obtain data on the purpose and nature of a business relationship or purpose of transaction and other data in accordance with this Law;
  - 4) monitor regularly the business relationship, including control of the transactions undertaken with the reporting entity by the customer during the business relationship and verify their compliance with the nature of a business relationship and the usual scope and type of customer's affairs.
- (2) During the implementation of the measures referred to in Paragraph 1, Items 1 and 2 of this Article, the reporting entity is obliged to check that any person acting in the name of the customer has the right to represent or is authorised by the customer, as well as to establish and verify the identity of any person who acts in the name of the customer pursuant to the provisions of this Law.
- (3) Reporting entity is obliged to implement all measures of establishing and verifying the identity of the customer and the monitoring of business relationships and the control of the transactions referred to in Para. 1 and 2 of this Article, where the reporting entity can apply the scope of measures proportionate to the risk of money laundering and terrorist financing.
- (4) When determining the scope of application of measures referred to in Paragraph 1 of this

## UNOFFICIAL TRANSLATION

Article, the reporting entity is obliged to, at least, take into consideration the following:

- the purpose of the conclusion and the nature of the business relationship;
  - the amount of funds, the value of the property or the volume of the transaction;
  - the duration of the business relationship;
  - the compliance of the business with the purpose of the conclusion of the business relation.
- (5) The reporting entity referred to in Article 4 Paragraph 2, Items 8 and 9 of this Law is obliged to, when concluding a contract on life insurance, conduct identification of the user of a life insurance policy, when:
- 1) a natural or legal person is named as a beneficiary – by taking data on the personal name or the name of a beneficiary;
  - 2) a beneficiary is designated by characteristics, class or in other manner - by obtaining information on the beneficiary, to the extent sufficient for establishing the identity of the beneficiary at the time of pay-out.
- (6) Verification of the identity of the beneficiary from Paragraph 5 of this Article shall be conducted at the time of pay-out.
- (7) In case of assigning, in whole or in part, the rights under insurance policy to a third party, a reporting entity shall identify the new beneficiary at the time of assigning the rights under the insurance policy.
- (8) A reporting entity shall, in its internal acts, establish procedures for conducting measures from Para. 1, 2 and 5 of this Article.
- (9) A reporting entity is obliged to submit to the supervision authorities from Article 94 of this law, at their request, appropriate analysis, documents and other information proving that the measures were implemented in accordance with the identified risk of money laundering and terrorist financing.

### **Cases in which measures for establishing and verifying customer's identity, monitoring of customer's business relationship and control of transactions are conducted**

#### **Article 9**

- (1) A reporting entity shall conduct the measures from Article 8 of this Law, particularly in the following cases:
- 1) when establishing a business relationship with a customer;
  - 2) when executing one or several linked occasional transactions in the amount of €15,000 or more;
  - 3) during each occasional transaction which represents the transfer of funds in the value of €1,000 or more;
  - 4) when there is a suspicion about the accuracy or veracity of the obtained customer and beneficial owner identification data;
  - 5) when there are reasons for suspicion of money laundering or terrorist financing related to the transaction, customer, funds or property;
  - 6) for natural or legal persons trading in goods, when executing occasional cash transactions in the amount of €10,000 or more, regardless of whether the transaction is executed as a single transaction or a number of mutually linked transactions.
- (2) A reporting entity shall also apply measures from Article 8 of this Law on the customers with whom it has already established business relationship (existing customers) and obtain

## UNOFFICIAL TRANSLATION

all data in accordance with this Law.

- (3) An organiser of lottery and special games of chance and games of chance via internet, or other telecommunication means, is obliged, during the payment of lottery winnings, or payment of stake, while executing one or several linked transactions in the amount of at least €2,000, to verify the identity of a customer and obtain the data from Article 79 Item 5 of this Law.
- (4) If a reporting entity concludes an additional business relationship with a customer or on the basis of the existing business relationship executes the transaction referred to in Paragraph 1 Item 2 and Paragraph 3 of this Article, the reporting entity is obliged to obtain only the data that is missing in accordance with this Law, under the condition that he previously had established and verified the identity of the customer, verified the business relation and conducted the control of transactions from Article 8 of this Law.
- (5) Regarding the transactions referred to in Paragraph 1 item 2 and 3 of this Article, a reporting entity is obliged to verify the identity data from Art. 79 Item 4 of this Law of the customer who executes the transaction.
- (6) Regarding the transactions referred to in Paragraph 1 item 2 and Para. 3 of this Article, organiser of games of chance is obliged to verify the identification data on the customer executing the transaction and obtain the copy of ID document of the customer, at the cash desk or other locations where the transactions are executed in accordance with the games of chance type.

### **Establishing and verifying identity of the customer and the monitoring of business relationships and the control of transactions of the customer in case of occasional electronic transactions** **Article 9a**

- (1) A reporting entity is obliged to take measures in order to establish and verify the identity of the customer, monitor the customer's business relation and control transactions in accordance with this Law in relation to any occasional electronic transaction that represents the transfer of funds in the amount of €1,000 or more.
- (2) Occasional transaction referred to in Paragraph 1 of this Article is a transaction executed by the customer who is not in the business relationship with the reporting entity.
- (3) The transfer of funds referred to in Paragraph 1 of this Article, is any transaction which is partly executed electronically in the name of the sender over the provider of payment services for the purpose of allowing that such funds are available to the recipient of payment via the provider of payment services, regardless of whether the sender and the recipient of the payment is the same person.

### **Customer identification before establishing a business relationship** **Article 10**

- (1) A reporting entity shall apply the measures referred to in Article 8, Paragraph 1, Items 1, 2 and 3 of this Law prior to establishing a business relationship with a customer, including establishing and verifying the identity of person from Art. 16 and 17 of this Law.
- (2) By way of exception from Paragraph 1 of this Article, a reporting entity can apply customer identity verification measures from Article 8, Paragraph 1, Items 1 and 2 of this Law during the establishment of a business relationship with a customer when a reporting entity estimates it is necessary for not interrupting the usual business and when there is

insignificant risk of money laundering or terrorist financing.

- (3) When concluding a life insurance contract the reporting entity from Article 4 Paragraph 2 Items 8 and 9 of this Law can verify the identity of the insurance policy beneficiary even after concluding the insurance contract, but not later than the time when the beneficiary according to the policy can exercise his/her rights.
- (4) If a reporting entity cannot conduct measures from Paragraph 1 of this Article, the business relationship must not be established, and if the business relationship has already been established it must be terminated.

### **Customer identification and verification when executing a transaction**

#### **Article 11**

- (1) When executing transactions from Article 9 Paragraph 1 Item 2 of this Law a reporting entity shall apply the measures from Article 8 Paragraph 1 Items 1, 2 and 3 of this Law before the execution of a transaction.
- (2) If the reporting entity cannot undertake the measures from Paragraph 1 of this Article, the transaction must not be executed.

### **Refusal to establish a business relationship and execute a transaction**

#### **Article 12**

A reporting entity that cannot conduct measures from Article 8 Paragraph 1 Items 1, 2 and 3 of this Law shall refuse to establish the business relationship and execute the transaction, i.e. it shall act in accordance with Article 10 Paragraph 4 and Article 11 Paragraph 2 of this Law, and based on the already obtained information and data on a customer and/or transaction it may prepare a report on a suspicious customer or transaction and submit it to the financial intelligence unit in accordance with Article 41 of this Law.

### **Exemptions from application of measures of establishing and verifying identity of the customer and monitoring of business relationships and control of the transactions of the customer**

#### **Article 13**

- (1) Reporting entities do not have to apply the measures referred to in Article 8, Paragraph 1, Items 1, 2 and 3 of this Law if, on the basis of the risk assessment, it is established that there is lower risk of money laundering or terrorist financing, and if the following conditions are met:
  - 1) the payment instrument cannot be re-deposited or does not exceed the monthly amount of €250 and can only be used in Montenegro;
  - 2) the deposited amount of electronic money does not exceed the amount of €250;
  - 3) the payment instrument is exclusively used for the purchase of goods or services;
  - 4) the payment instrument cannot receive anonymous electronic money;
  - 5) the issuer implements appropriate measures for monitoring of business relationships and the control of the transactions for the purpose of detecting unusual or suspicious transactions;
- (2) the provision from Paragraph 1 of this Article does not apply to buying off electronic money in cash or cash withdrawal in the value of electronic money in the amount higher than €100.

- (3) the provision from Paragraph 1 of this Article does not apply to cases when a transaction or customer are related to the reasons for suspicion in money laundering or terrorist financing.

**2. Application of measures of establishing and verifying customer's identity**  
**Establishing and verifying the identity of a natural person**

**Article 14**

- (1) A reporting entity shall establish and verify the identity of a customer that is a natural person or his/her legal representative, entrepreneur, or a natural person carrying out business activity, pursuant to Article 8 paragraph 1 item 1 and article 10 of this Law, by checking the customer's personal identification document in his/her presence and shall obtain data from Article 79 Item 4 of this Law and in case the required data cannot be established on the basis of the submitted identification document, the missing data shall be obtained from other valid official document submitted by a customer.
- (2) Identity of a customer from Paragraph 1 of this Article can be established on the basis of a qualified electronic certificate of a customer, issued by a certification service provider in accordance with the regulations, and when establishing the identity a reporting entity shall enter the data on the customer from the qualified electronic certificate into data records from Article 78 of this Law.
- (3) The data that cannot be obtained from a qualified electronic certificate in accordance with Paragraph 2 of this Article, shall be obtained from the copy of the personal identification document submitted to a reporting entity by a customer in written or electronic form, and if it is not possible to obtain all required data in that manner, the missing data shall be obtained directly from the customer.
- (4) Certification service provider from Paragraph 2 of this Article that has issued a qualified electronic certificate to a customer shall, upon a reporting entity's request, without delay submit the data on the manner of establishing and verifying the identity of a customer who is a holder of the qualified electronic certificate.
- (5) When establishing the identity of a customer from Paragraph 1 of this Article, a reporting entity shall obtain a photocopy of personal document (e.g. identification card, passport, driving license or similar documents containing a photo of a person whose identity a reporting entity is establishing or verifying) on which he/she enters date, time and personal name of a person that checked the photocopy and it shall keep the photocopy of a personal document in accordance with this Law.
- (6) Establishing and verifying the identity of a customer using a qualified electronic certificate is not permitted when:
- 1) opening accounts with reporting entities from Article 4 Paragraph 2 Item 1 of this Law, except in the case of opening a temporary deposit account for paying in founding capital;
  - 2) there is a suspicion of qualified electronic certificate misuse or when a reporting entity determines that the circumstances that have significant effect on the certification validity have changed.
- (7) If an authorised person is establishing business relationship or executing a transaction on behalf of a customer, natural person or his/her legal representative, entrepreneur, or a natural person carrying out business activity, a reporting entity, pursuant to Article 8 Paragraph 1 Item 1 and Article 10 of this Law, shall:
- 1) establish and verify the identity of the authorised person by checking personal identification documents in this person's presence and obtain data from article 79 Item 3 of

## UNOFFICIAL TRANSLATION

this Law;

- 2) establish and verify the identity of the customer, on whose behalf the authorised person acts, and obtain data from Article 79 Item 4 of this Law from the original of written power of attorney or its photocopy certified in accordance with law.
- (8) If a reporting entity, when establishing and verifying the identity of the authorised person, doubts the veracity of obtained data it shall obtain his written statement on the veracity of those data.
- (9) If a reporting entity, when establishing and verifying the identity of the representative of a natural person, doubts the veracity of obtained data or authenticity of identification documents and other business files from which the data have been obtained, it shall request from the representative or the customer a written statement on the veracity of those data.

### **Establishing and verifying the identity of a legal person and a business organization**

#### **Article 15**

- (1) A reporting entity shall establish and verify the identity of a customer that is a legal person or a business organization, pursuant to Article 8 Paragraph 1 Item 1 and Article 10 of this Law, and obtain the following data: name, address, registered office and ID number of the legal person or business organization on whose behalf a business relationship has been established or transaction executed, by checking the original or certified copy of the document from the Central Business Register (hereinafter: CBR) or checking the original or certified copy from other appropriate public register, as well as checking court, business or other public register of a foreign legal person or business organisation, submitted by the representative on behalf of such legal person or business organisation.
- (2) The document from Paragraph 1 of this Article must not be older than three months of its issue date.
- (3) A reporting entity can establish and verify the identity of a legal person and obtain data from Article 79 Item 1 of this Law by checking the CBR or other appropriate public register, as well as court, business or other public register of a foreign legal person or business organisation pursuant to Article 10 of the Law.
- (4) In the register extract from Paragraph 3 of this Article a reporting entity shall state date, time, and the name of the person that has made the check.
- (5) A reporting entity shall obtain data from Article 79 It. 2, 6 and 9-13 of this Law by checking the originals or certified copies of identification documents and other business files. If data cannot be determined by checking identification documents and other business files, the missing data shall be obtained directly from public or other documentation.
- (6) A reporting entity shall keep the original or certified copy of the customer's document in its files.
- (7) If, when establishing and verifying the identity of a legal person or business organization, a reporting entity doubts the accuracy of the obtained data or veracity of identification documents and other business files from which the data have been obtained, he/she shall obtain from the representative or authorised person a written statement on the accuracy of those data before establishing a business relationship or executing a transaction.
- (8) If a customer is a foreign legal person performing activities in Montenegro through its business unit, a reporting entity shall establish and verify the identity of that foreign legal person and its business unit.

**Establishing and verifying the identity of the representative of a legal person or a business organization**

**Article 16**

- (1) A reporting entity shall establish and verify the identity of the representative and all directors of a domestic or foreign legal person or business organization, pursuant to Article 8 Paragraph 1 Item 1 and Para. 2 and Article 10 of this Law, and obtain data from Article 79 Item 2 of this Law by checking the personal identification document of the representative in his/her presence, as well as by checking the personal documents of all directors submitted by the representative.
- (2) If the required data cannot be determined from the personal identification document, the missing data shall be obtained from other official document submitted by the representative or authorised person.
- (3) If a reporting entity, when establishing and verifying the identity of the representative of a legal person or business organization from Paragraph 1 of this Article, doubts the veracity of obtained data it shall require his/her written statement on the veracity of those data.
- (4) A reporting entity shall, when establishing identity of the representative and all directors of a domestic or foreign legal person or business organization, obtain photocopy of personal identification documents of those persons in accordance with Article 14 Paragraph 5 of this Law.
- (5) When establishing and verifying the representing powers of representatives and all directors from para 1 of this Article, a reporting entity shall obtain the documents that certify representing powers and keep it in its documentation

**Establishing and verifying the identity of the authorised person of a legal person and business organisation**

**Article 17**

- (1) If an authorised person, in the name of a representative and all directors, establishes a business relationship or executes a transaction on behalf of a domestic or foreign legal person or business organization, a reporting entity shall establish and verify the identity of the authorised person pursuant to Article 8 Paragraph 1 Item 1, Paragraph 2 and Article 10 of this Law and obtain data from Article 79 Item 2 of this Law by checking the personal identification document of the authorised person in his presence.
- (2) If the required data cannot be determined from the personal identification document of the authorised person, the missing data shall be obtained from other official document submitted by the authorised person.
- (3) A reporting entity shall obtain data from Paragraph 1 of this Article on the representative, and all directors, in whose name the authorised person acts, checking the personal document and the original of written power of attorney issued by the representative and all directors or its copy certified in accordance with law, and keep it in its documentation.
- (4) If a reporting entity doubts the accuracy of the obtained data when establishing and verifying the identity of the representative and authorised person that acts in the name of the representative, it shall obtain their written statements.
- (5) A reporting entity shall, when establishing identity of the representative and all directors of a domestic or foreign legal person or business organization, obtain photocopy of personal identification documents of those persons in accordance with Article 14 Paragraph 5 of this Law.

**Establishing and verifying the identity of a foreign trust, other persons, i.e. a foreign entity equal to them**

**Article 18**

- (1) When the customer is a foreign trust, other person, i.e. a foreign entity equal to it, a reporting entity shall:
  - 1) establish and verify the identity of its representative and authorised person in accordance with Article 8 Paragraph 1 Item 1, Article 10 and Art. 16 and 17 of this Law;
  - 2) obtain a written documents that certify powers for a protector (representative) and authorised person;
  - 3) obtain the data from Article 79 Item 2 of this Law for its representative and authorised person.
- (2) A reporting entity shall establish and verify the identity of the representative from Paragraph 1 Item 1 of this Article and obtain the data from Article 79 Items 2 and 15 of this Law by checking a personal identification document of the representative in his/her presence, and if the required data cannot be determined from the personal identification document, the missing data shall be obtained from other official document submitted by the representative or authorised person.
- (3) As for a trust and a foreign entity equal to it, a reporting entity is obliged to determine and verify the identity of the:
  - settlor;
  - all trustees;
  - protector (representative);
  - beneficiary or group of beneficiaries who manage a property, under the condition that the future beneficiaries had already been determined or can be determined;
  - other natural person who directly or indirectly has ultimate control over the trust.
- (4) For the natural person from Paragraph 3 of this Article, the data from Article 79 Paragraph 1 Item 4 of this Law shall be collected, and for the legal person and business organization the data from Article 79 Paragraph 1, It. 1, 2 and 3 of this Law shall be collected.
- (5) The data from Paragraph 3 of this Article for the legal person or business organization shall be obtained by checking the original or certified copy of the document from CBR or court, business or other appropriate public register that is not older than three months and it verifies the data in accordance with Article 8 paragraph 1 Item 1 of this Law.
- (6) If, when establishing and verifying the identity of the representative and authorized person of the customer from Paragraph 1 of this Article, a reporting entity doubts the accuracy of the obtained data or authenticity of the identification documents and other business files from which the data have been obtained, he/she shall obtain a written statement from the customer's representative and authorized person.

**Special cases of establishing and verifying customer's identity**

**Article 19**

- (1) A reporting entity shall establish and verify customer's identity, in accordance with this Law, in particular:
  - 1) when a customer enters the premises where special games of chance are organised in casinos;
  - 2) on any approach of a lessee or his/her representative, or a person he/she has authorised, to the safe deposit box.
- (2) The identity of the customer may be established and verified every time when the customer

## UNOFFICIAL TRANSLATION

accesses the safe deposit box through an electronic identification card, personal access password or through the electronic video identification, or means which allow the identification of the customer on the basis of the customer's biometric properties.

- (3) When establishing and verifying the customer's identity in accordance with Paragraph 1 of this Article an organiser of games of chance in a casino or a reporting entity engaged in the activity of safekeeping shall obtain the data from Article 79 It. 5 and 7 of this Law.
- (4) When establishing identity of the customer from Paragraph 1 of this Article a reporting entity shall obtain photocopy of personal identification document of that person in accordance with Article 14 Paragraph 5 of this Law.

### **Beneficial Owner Article 20**

- (1) Beneficial owner is the natural person who ultimately owns or controls the customer, or the natural person on whose behalf a transaction is being conducted or a business relationship established, as well as the person that ultimately exercises control over a legal person, business organization, foreign trust, foreign institution or similar foreign legal entity.
- (2) A beneficial owner of a business organization, or legal person, in the context of this Law, shall be a natural person who:
  - 1) indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than 25% share of the capital or has a dominating influence in the management of the assets of the business organization or legal person;
  - 2) has ensured or ensures funds to a business organization or legal person and on that basis has the right to influence significantly the decision making process of the managing body of the business organization or legal person when decisions concerning financing and business are made.
- (3) If it is not possible to identify the beneficial owner or if there is a suspicion that the natural person referred to in Paragraph 2 of this Article is the beneficial owner, one or more persons in managerial positions shall be deemed to be the beneficial owner of the business organization or legal person.
- (4) Beneficial owner of an association, institution, political party, religious community, artistic organization, chamber, trade union, employers' association, foundation or other business organization is any natural person authorised for representation or a natural person who has a controlling position in the management of the property.
- (5) As a beneficial owner of a legal person that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered a natural person that:
  - 1) indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity;
  - 2) is determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.
- (6) the beneficial owner of a foreign trust, foreign institution or a similar foreign entity, who receives, manages or allocates the funds for certain purposes, in terms of this law, is considered to be a natural person who is:
  - 1) the founder of a foreign trust, foreign institution or a similar foreign entity;
  - 2) the trustee of a foreign trust, foreign institution or a similar foreign entity;
  - 3) the beneficiary of the assets obtained from the property which is managed, where the future beneficiaries had already been determined or are determinable;
  - 4) representative of interests of the recipients of the acquired assets;

## UNOFFICIAL TRANSLATION

- 5) in the category of persons with interest in the establishment of a foreign trust, foreign institution or a similar foreign entity when the individuals who receive the benefits from the foreign trust, foreign institution or a similar foreign entity have yet to be determined;
- 6) natural person who, in any other way, indirectly or directly controls the property of a foreign trust, foreign institution or a similar foreign entity.

### **Identifying a beneficial owner of a legal person and business organization or foreign legal person**

#### **Article 21**

- (1) A reporting entity shall establish the beneficial owner of a legal person and business organization or foreign legal person by obtaining data from Article 79 Item 14 of this Law.
- (2) A reporting entity shall obtain the data from Paragraph 1 of this Article by checking the original or certified copy of the documents from the CBR or other appropriate public register, as well as by checking a court, business or other public register of foreign legal persons that must not be older than three months of their issue date or obtain them by checking the CBR or other public register in accordance with Article 15 Paragraph 4 of this Law.
- (3) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person, business organization or of foreign legal person in accordance with Paragraph 2 of this Article, a reporting entity shall obtain the missing data by checking the original or certified copy of an identification document or other business documents submitted by the representative or authorised person of the customer that is legal, person business organization or foreign legal person.
- (4) A reporting entity shall verify the data on beneficial owner of a legal person, business organization or foreign legal person to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer in accordance with risk-degree assessment.
- (5) When establishing the identity of the beneficial owner of a legal person or foreign legal person a reporting entity shall obtain photocopy of a personal identification document of that person in accordance with Article 14 Paragraph 5 of this Law.
- (6) If, while collecting the data from this Article, a reporting entity doubts the accuracy of the obtained data or authenticity of the identification documents and other business files from which the data have been obtained, he/she shall obtain a written statement from the customer's representative or authorized person.

### **Beneficial owners register**

#### **Article 21a**

- (1) Beneficial owners register (hereinafter: the Register) is the electronic database where accurate data on beneficial owners are kept with a view to ensuring the transparency of ownership structures and conducting measures for prevention of money laundering and terrorist financing.
- (2) Access to the data from the Register is available for:
  - 1) reporting entities from Article 4 of this Law with a view to conducting measures of establishing and verifying customer's identity;
  - 2) financial intelligence unit, supervisory authorities from Article 94 of this Law and other authorities for carrying out activities related to prevention and detection of money laundering and terrorist financing;
  - 3) legal and natural persons who prove the legal interest.

## UNOFFICIAL TRANSLATION

- (3) The Register is kept and maintained by the administrative authority competent for collection of taxes (hereinafter: Tax Administration).
- (4) Business organizations, legal persons, associations, institutions, political parties, religious communities, artistic organizations, chambers, trade unions, employers' associations, foundations or other business organizations, a legal person that receives, manages or allocates the funds for certain purposes, foreign trust, foreign institution or similar foreign legal entity that receives, manages or allocates the funds for certain purposes, shall enter in the Register the data on beneficial owners and changes of owners 8 days since the changes on owner have been made, except:
  - entrepreneur;
  - one-member limited liability company and
  - direct and indirect budget user.
- (5) The provision from Paragraph 4 of this Article shall not apply to legal persons and business organizations at more-membered stock-companies whose shares are traded on the regulated securities market where they are obliged to comply with the obligation of disclosing data and information on beneficial ownership in accordance with law governing rights and obligations of the subjects on the securities market and other law.
- (6) The persons from paragraph 4 of this Article are responsible for the accuracy of entered data.

### **Delivering data to the Register Article 21b**

- (1) Persons from Article 21a Paragraph 4 of this Law, shall deliver to the Register the data on:
  - 1) business organization or legal person:
    - name, address, registered office, registered number, identification number, registration date and date of deleting the business organization for legal entities registered in CBR;
    - name, address, registered office, tax identification number, registration date and date of deleting persons from Article 21a Paragraph 4 from the tax register for subjects registered in the tax register;
  - 2) beneficial owner:
    - personal name, resident or temporary address, birth date, tax identification number, nationality, ownership interest or other type of control, registration date and date of deleting the beneficial owner from the Register;
  - 3) category of persons with an interest for establishing foreign trust, foreign institution or similar foreign legal entity when individuals who benefit from foreign trust, foreign institution or similar foreign legal entity are to be determined.
- (2) The Tax Administration shall keep and manage the Register in the following manner:
  - In addition to the last status of data on beneficial owner, keeps the previous entry (registration), changes of data and deletions, according to the time and type of change;
  - Data from the Register shall be available to the financial intelligence unit and supervisory authorities for the needs of preventing money laundering and terrorist financing five years after deleting the persons from Article 21a Paragraph 4 of this Law from CBR or tax register.
- (3) The manner and procedure of keeping the Register, collection, entries and deadlines for entering and updating data from Paragraph 1 of this Article and the manner of accessing data from the register shall be closely defined by the regulation of the Ministry.

**Access to the Beneficial Owners Register  
Article 21c**

- (1) The authorities from Article 21a Paragraph 2 item 2 of this Law shall have a direct access, without compensation, to all data on beneficial owners entered in the Register for performing their activities and tasks in the area of preventing and detecting money laundering and terrorist financing.
- (2) Reporting entities from Article 4 of this Law shall have access to the data on beneficial owners entered in the Register when conducting measures of establishing and verifying customer's identity.
- (3) Legal and natural persons from Article 21a paragraph 2 item 3 of this Law, are allowed access to the data from Article 21b of this Law, with compensation, if they prove a justified legal interest in relation to preventing and detecting the criminal act of money laundering, the criminal act from which proceeds have been illegally obtained and that can be subject of the criminal act of money laundering or terrorism financing.
- (4) The amount of compensation from paragraph 3 of this Article shall be prescribed by the Government.
- (5) Legal and natural persons from paragraph 3 of this Article shall submit to the Tax Administration –CBR an accessing data request stating the justified legal interest in relation to preventing and detecting money laundering, related predicate offences and criminal act of terrorism financing.
- (6) The financial intelligence unit shall determine the existence of legal interest of the requestor from paragraph 3 of this Article by the decision.
- (7) After the financial intelligence unit determines the legal interest from paragraph 3 of this Article, the Tax Administration shall allow the requestor, on the basis of the decision from paragraph 6 of this Article, access to data on beneficial owner from Article 21 b paragraph 1 item 2 of this Law.
- (8) An administrative dispute can be initiated against the decision from paragraph 6 of this Article.
- (9) The Tax Administration shall, upon justified request of the authority from Article 21a paragraph 2 item 2 and persons from Article 21a paragraph 4 of this Law, limit access to the data or part of the data on beneficial owners of certain person from Article 21a paragraph 4 if such access to such data would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation or if the beneficial owner is a minor or professionally incapable.

**Establishing and verifying customer's identity through a third party  
Article 22**

- (1) Under the conditions provided for by this Law, when establishing business relationship with a customer, a reporting entity may entrust the implementation of the measures from Article 8 Paragraph 1 Items 1, 2 and 3 of this Law to a third party that meets the requirements defined by this Law.
- (2) A third party may be:
  - 1) a bank and other credit institution and branch of a foreign bank.
  - 2) a company for the management of investment funds, branch of a foreign company for the management of investment funds and a company from EU member states authorised to be directly engaged in the management of investment funds on the territory of Montenegro;

## UNOFFICIAL TRANSLATION

- 3) a company for the management of pension funds;
  - 4) authorized participants at the securities market and branches of foreign legal persons in Montenegro dealing with:
    - brokering in purchase and sale of securities upon the order of a client in their name, and for account of a third person, with a charge of commission (brokerage activities);
    - managing portfolio of securities owned by another person (investment manager activities) and legal persons possessing the Securities Commission license for performing custody business, except banks;
  - 5) life insurance companies and branches of foreign life insurance companies;
  - 6) mediation companies, representation companies and entrepreneurs – agents in insurance in the part related to life insurance;
  - 7) equivalent persons with registered office in a state of the European Union or another state which applies the standards in the field of prevention of money laundering and terrorist financing at least to the extent defined by this Law.
- (3) A reporting entity must not accept measures from Article 8 Paragraph 1 Items 1, 2 and 3 of this Law, conducted by a third party if the third party did not establish and verify customer's identity in his/her presence.
- (4) A reporting entity is responsible for the proper establishing and verifying identity of a customer through a third party.

### **Prohibition of establishing and verifying customer's identity through third party**

#### **Article 23**

- (1) A reporting entity must not entrust the application of measures of establishing and verifying customer's identity to a third party when a third party is a shell bank or anonymous company.
- (2) A reporting entity must not entrust the application of measures of establishing and verifying customer's identity to a third party from a country that is on the list of countries that do not apply the standards in the area of money laundering and terrorist financing.
- (3) Persons who, upon an agreement on entrusting the activities from Article 22 of this Law, for the reporting entity, establish and verify the identity of the customer shall not be considered third persons in the sense of this Law.
- (4) The list of countries that do not apply the standards from Paragraph 2 of this Article is published by the financial intelligence unit on its website based on the data of international organizations.

### **Obtaining data and documents from a third party**

#### **Article 24**

- (1) The third person that carries out customer identification and verification in accordance with Article 22 of this Law shall deliver to the reporting entity the obtained data and documents on the customer.
- (2) If the reporting entity doubts the validity of establishing and verifying customer's identity by a third party, or the veracity of obtained data on the customer, the reporting entity shall directly establish and verify customer's identity.

**Third party obligations**  
**Article 25**

- (1) The third party from Article 22 of this Law:
  - 1) upon a request of a reporting entity, it shall without delay provide copies of identification documents and other documents upon which it has established and verified customer's identity and obtained data and documents;
  - 2) shall keep the obtained copies of identification documents and documentation in accordance with this Law.
- (2) The reporting entity is obliged to develop an internal act which determines the procedures on acceptance of the identification of the customer and the beneficial owner of the customer through a third person.

**4. Obtaining data on a customer, business relationship, product, transaction, monitoring business relationship, transaction control and repeated annual control**

**Obtaining data on a customer, business relationship, product and transaction**  
**Article 26**

- (1) When establishing and verifying customer's identity in the case from Article 9 Paragraph 1 Item 1 of this Law a reporting entity shall obtain data and keep records from Article 79 Items 1 - 8 and Item 14 of this Law.
- (2) When establishing and verifying customer's identity and monitoring customer's business and controlling transactions of a customer in the case from Article 9 Paragraph 1 Items 2 and 6 of this Law a reporting entity shall obtain data and keep records from Article 79 Items 1-5 and Item 8 of this Law.
- (3) When establishing and verifying customer's identity and monitoring customer's business and controlling transactions of a customer in the case from Article 9 Paragraph 1 Item 3 of this Law a reporting entity shall obtain data and keep records from Article 79 Items 1-5, Items 8-11 and items 14 and 15 of this Law.
- (4) When establishing and verifying customer's identity and monitoring customer's business and controlling transactions of a customer in the case from Article 9 Paragraph 1 Items 4 and 5 of this Law a reporting entity shall obtain data and keep records from Article 79 of this Law.

**Monitoring business activities and transactions control**  
**Article 27**

- (1) A reporting entity shall apply the measures of monitoring customer's business activities including the control of transactions and tracing the source of funds used by the customer in his business.
- (2) Measures from Paragraph 1 of this Article shall in particular include the following:
  - 1) verifying the compliance of customer's business with the nature and purpose of contractual relationship;
  - 2) control of the transactions in accordance with the customer's profile of risk from money laundering and terrorist financing;
  - 3) monitoring and verifying the compliance of customer's business with the usual scope of her/his affairs;
  - 4) checking the source of funds which the customer uses to operate his/her business;
  - 5) monitoring and regular updating of identification documents and data on a customer.
- (3) A reporting entity shall ensure and adjust the scope and dynamics of undertaking measures from Paragraph 1 of this Article to the risk of money laundering and terrorist financing, to

## UNOFFICIAL TRANSLATION

which a reporting entity is exposed when performing certain work or when dealing with a customer.

### **Repeated annual control**

#### **Article 28**

- (1) If a foreign legal person executes transactions from Article 9 Paragraph 1 of this Law with a reporting entity, the reporting entity shall, in addition to monitoring business relationship and control of transactions from Article 27 of this Law, conduct repeated annual control of a foreign legal person at least once a year, and not later than after the expiry of one-year period since the last control of the foreign legal person.
- (2) By the way of exception to Paragraph 1 of this Article a reporting entity shall, at least once a year, and not later than after the expiry of one-year period since the last control of a customer, also conduct repeated control when the customer executing transactions from Article 9 Paragraph 1 of this Law is a legal person with a registered office in Montenegro, if the foreign capital share in that legal person is at least 25%.
- (3) Repeated annual control of a customer from Paragraphs 1 and 2 of this Article shall include:
  - 1) obtaining or verifying data on the customer's name, address and registered office;
  - 2) obtaining data on personal name and permanent and temporary residence of a representative;
  - 3) obtaining data on a beneficial owner;
  - 4) obtaining the power of attorney from Article 17 Paragraph 3 of this Law.
- (4) If the business unit of a foreign legal person executes transactions from Article 9 Paragraph 1 of this Law on behalf and for the account of a foreign legal person, a reporting entity, when conducting repeated control of a foreign legal person, in addition to data from Paragraph 3 of this Article, shall also obtain:
  - 1) data on the address and registered office of the business unit of the foreign legal person;
  - 2) data on personal name and permanent residence of the representative of the foreign legal person business unit.
- (5) A reporting entity shall obtain the data from Paragraph 3 Items 1, 2 and 3 of this Article by checking the original or certified copy of the documents from the CBR or other appropriate public register that must not be older than three months of its issue date, or by checking the CBR or other appropriate public register.
- (6) If the required data cannot be obtained by checking the documents, the missing data shall be obtained from the original or certified copy of documents and other business files, delivered by a legal person upon a reporting entity's request, or directly from a written statement of the representative of a legal person from Paragraphs 1 or 2 of this Article.
- (7) By way of exception to Paragraphs 1-5 of this Article a reporting entity does not need to conduct repeated control of the foreign legal person if such person belongs to the category from Article 37 Paragraph 2 of this Law.

### **5. Special forms of establishing and verifying of the customer, monitoring of business relationships and the control of the transactions**

#### **Types of special forms of establishing and verifying of the customer, monitoring of business relationships and the control of the transactions**

#### **Article 29**

Special forms of establishing and verifying of the customer, monitoring of business relationships and the control of the transactions, in the context of this Law, shall be:

- 1) enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions;

- 2) simplified establishing and verifying of the customer, monitoring of business relationships and the control of the transactions.

**Enhanced verification of the customer, monitoring of business relationships and the control of the transactions**

**Article 30**

- (1) A reporting entity shall conduct enhanced measures of verification and monitoring business relationship and the control of the transactions in the following cases:
  - 1) on entering into correspondent relationship with a bank or other credit institution, with registered office outside the European Union or in a country that is not on the list of countries applying international standards in the area of money laundering and terrorist financing that are on the level of EU standards or higher;
  - 2) on entering into business relationship or executing transactions from Article 9 Paragraph 1 Items 2 to 6 of this Law with a customer that is a politically exposed person or the beneficial owner of a customer is a politically exposed person;
  - 2a) when a customer or beneficial owner of a customer is domestic or foreign politically exposed person referred to Article 32 paragraphs 1 and 2 of this Law
  - 3) when the user of life insurance policy or other insurance policy linked with investment or when the beneficial owner of a user is a politically exposed person in the case from Article 32a Paragraph 3 of this Law;
  - 4) in cases of complex and unusual transactions;
  - 5) in cases of electronic money transfer.
- (2) The financial intelligence unit shall, based on the data from international organizations, publish on its website the list of countries that do not apply international standards in the area of preventing money laundering and terrorist financing.
- (3) A reporting entity shall apply enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures in cases when, based on higher risk factors, it conducts, and in all other cases, when in accordance with Article 7 and 7a paragraph 2 of this Law, it estimates that regarding a customer, group of customers, country or geographic area, business relationship, transaction, product, service and distributive channel, there is or there could be a higher risk of money laundering or terrorist financing.
- (4) A reporting entity shall also apply enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures in cases when, pursuant to the national risk assessment, there is a higher degree of risk of money laundering and terrorist financing identified.

**Correspondent banking relationships with credit institutions of other countries**

**Article 31**

- (1) When establishing a correspondent relationship with a bank or other credit institution that has a registered office outside the European Union or outside the countries from the list of countries that apply international standards in the area of preventing money laundering and terrorist financing that are on the level of EU standards or higher, a reporting entity shall, in addition to the measures from Article 10 of this Law, also obtain the following data, information and documents:
  - 1) on the issuance date of the license for providing banking services and the name and registered office of the competent body that issued the license;
  - 2) on the internal procedures conducted with a view to detecting and preventing money laundering and terrorist financing, and in particular, customer verification procedures,

## UNOFFICIAL TRANSLATION

establishing beneficial owners, reporting data on suspicious transactions and customers to competent bodies, records keeping, internal control and other procedures, that a bank or other credit institution has established in relation to preventing and detecting money laundering and terrorist financing;

- 3) on the evaluation of the internal control of the application of preventing money laundering and terrorist financing measures with the correspondent bank or other credit institution;
  - 4) on the legal, or institutional organization of the system in the area of detecting and preventing money laundering and terrorist financing, applied in the other country where the bank or other credit institution has a registered office or where it has been registered;
  - 5) a written statement issued by a bank or other credit institution in the state where it has a registered office or where it has been registered, that, in compliance with legislation of that state, it is obliged to apply appropriate regulations in the area of detecting and preventing money laundering and terrorist financing, including the information on whether it is under an investigation related to money laundering or terrorist financing or if measures have been undertaken against it by the competent authorities;
  - 6) a written statement that a bank or other credit institution does not operate as a shell bank;
  - 7) a written statement that a bank or other credit institution has not established or it does not establish business relationships or executes transactions with shell banks;
  - 8) written consent from a senior management of a reporting entity for establishing a business relationship with a customer obtained before establishing that business relationship;
  - 9) a written statement that a bank or other credit institution has with respect to payable-through accounts, verified the identity and performed ongoing procedure with a customer having direct access to accounts of the correspondent and that it is able to provide relevant data from the procedure with the customer.
- (2) A reporting entity shall also apply the enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures from Paragraph 1 of this Article when establishing a correspondent relationship with a bank or other credit institution located in a country from the list of countries that apply international standards in the area of preventing money laundering and terrorist financing that are on the level of EU standards or higher, if it estimates that there is high risk of money laundering or terrorist financing.
- (3) A reporting entity shall obtain the data from Paragraph 1 of this Article by checking the identification documents and business files provided for by the bank or other credit institution that has a registered office outside the European Union or outside the countries from the list from Paragraph 2 of this Article, or from public or other available data records.

### **Politically exposed persons Article 32**

- (1) A politically exposed person, in the context of this Law, is a Montenegrin citizen performing public function, as follows:
- 1) the president of Montenegro, president of the Parliament of Montenegro, prime minister and members of the Government;
  - 2) member of Parliament;
    - 2a) members of management bodies of political parties;
  - 3) state secretary, general director and secretary in the ministry, head of the financial intelligence unit;
  - 4) mayor, his deputy and the president and vice-president of the municipality, president of the Assembly of the municipality, the Capital and the Old Royal Capital;
  - 5) the president and judges of the Supreme Court of Montenegro and the president and judges

## UNOFFICIAL TRANSLATION

- of the Constitutional Court of Montenegro;
- 6) member of the Senate of the State Audit Institution and the Council of Central Bank;
  - 7) ambassador, consul, Chief of Staff of the Military of Montenegro, the general and admiral of the Military of Montenegro;
  - 8) director, deputy and member of the managing or supervisory bodies of legal persons whose majority owner is the State;
- (2) A politically exposed person is also a foreign citizen nominated or assigned public function by a foreign state or international organization, such as:
- 1) president of a state, prime minister, ministers and their deputies;
  - 2) members of Parliament;
  - 2a) members of management bodies of political parties;
  - 3) members of the Supreme and the Constitutional courts or of other high-level judicial bodies whose judgments are not subject to further regular or extraordinary legal remedies, save in exceptional cases;
  - 4) members of courts of auditors, or supreme audit institutions and of the councils of central banks;
  - 5) ambassadors, consuls and high-ranking officers in the armed forces;
  - 6) members of the managing or supervisory bodies of legal persons whose majority owner is the State;
  - 7) directors, deputies or director deputies and members of board or equivalent functions in an international organization.
- (3) Close family members of the person from Paragraph 1 and 2 of this Article and their close associates shall also be deemed politically exposed persons.
- (4) Close family members of the person from Paragraphs 1 and 2 of this Article shall include the spouse or extra-marital partner and the children born in a marital or extra-marital relationship and adoptees, their spouses or extra-marital partners, parents, brothers and sisters.
- (5) Close associate of the person from Paragraph 1 and 2 of this Article shall include:
- 1) any natural person who is known to have joint ownership of legal entities, established business relationship or any other close business relationships, with a politically exposed person;
  - 2) any natural person who has ownership of a legal person or has established business relationships for the benefit of the politically exposed person.
- (6) A person from Paragraphs 1, 2, 4 and 5 of this Article shall be considered as a politically exposed person for the period of time not less than 12 months since the date of ceasing to hold the office, and after the expiry of this period, a reporting entity shall implement the risk assessment measures until it determines that there is no risk of money laundering and terrorist financing.
- (7) The list of politically exposed persons from Paragraph 1 of this Article shall be defined by the Agency for Prevention of Corruption and published on its website.

### **Politically exposed persons and life insurance** **Article 32a**

- (1) A reporting entity is obliged to establish appropriate measures to determine whether the users of life insurance or life insurance connected with investment units and the beneficial owners of the user are politically exposed persons.

## UNOFFICIAL TRANSLATION

- (2) The measures referred to in Paragraph 1 of this Article must be adopted no later than at the time of the payment of the insurance policy, or complete or partial transfer of the insurance policy.
- (3) In the case of higher risk, the reporting entity is obliged, in addition to the measures referred to in Article 8 of this Law, take additional measures, such as:
  - 1) prior to the payment of the insurance policy to notify the responsible person who covers the position within the senior management;
  - 2) enhanced verification and monitoring of business of a customer for the customer who is the owner of insurance policy, and in case there are reasons for suspicion of money laundering or terrorist financing, inform the financial intelligence unit in accordance with Article 41 of this Law.
- (4) The measures referred to in Paragraph 3 must be implemented to the members of the immediate family and close associates from Paragraphs 4 and 5 of Article 32 of this Law.
- (5) The beneficiary from Paragraph 1 of this article shall be deemed a politically exposed person in the period of at least 12 months after the termination of public function, and after the expiry of this period, reporting entity shall conduct measures for reducing the risk until it determines that there is no risk of money laundering or terrorist financing in relation to that person.

### **Measures of verifying identity and monitoring of business of politically exposed persons**

#### **Article 33**

- (1) When conducting enhanced verification of customer that is a politically exposed person, in addition to the measures from Article 8 of this Law, a reporting entity shall:
  - 1) undertake appropriate measures and obtain data on a customer's sources of property (wealth) and funds;
  - 2) obtain a written consent from a senior management before establishing business relationship with a customer, and if the business relationship has already been established, obtain a written consent from a senior management for continuing the business relationship;
  - 3) determine whether the politically exposed person referred to in Article 32 of this Law is a beneficial owner of a legal person, business organization, trust and other person, i.e. entity or a natural person equal to it with the registered office in a foreign country, on whose behalf a business relationship is being established or a transaction carried out or other customer's activity performed and obtain data from Items 1 and 2 of this Paragraph;
  - 4) after establishing a business relationship, monitor with special attention transactions and other business activities carried out with a reporting entity by a politically exposed person or the customer whose beneficial owner is a politically exposed person.
- (2) A reporting entity shall, in accordance with the guidelines of a competent authority from Article 94 of this Law make an internal act containing the procedures that are based on risk analysis and apply them when identifying the customer or beneficial owner of a customer who is a politically exposed person.

#### **Wire transfer**

#### **Article 34**

- (1) A reporting entity that is a payment service provider shall, in addition to measures from Article 8 and pursuant to Art. 10 and 11 of this Law, establish and verify the customer's identity on the basis of documents, data and information from authentic, independent and objective sources, including a qualified electronic confirmation if it is available, and obtain accurate and complete data on a payer and enter them into a form or message

## UNOFFICIAL TRANSLATION

accompanying wire transfer, sent or received in any currency that is the subject of the wire transfer.

- (2) The wire transfer shall be accompanied with the data from Paragraph 1 of this Article when passing through the payment chain.
- (3) A payment service provider, that is an intermediary service provider or payee, shall refuse to execute funds transfer if the data on payer are not complete and/or shall require payer data supplement in the shortest possible period.
- (4) When gathering data referred to in the Paragraph 1 of this Article, the payment service provider shall identify the payer by using a personal identification document issued by a competent authority.
- (5) The content and type of data from Paragraph 1 of this Article and the other activities of the payment service provider, as well as the exceptions in collecting data when executing funds transfer that represents insignificant risk for money laundering and terrorist financing shall be defined by the regulation of the Ministry.

### **Complex and unusual transactions**

#### **Article 35**

- (1) A reporting entity is obliged to analyse all complex and unusually large transactions, as well as any unusual pattern of the execution of transactions that have no clear economic justification or legal purpose or deviate from the usual or expected business of the customer, even in the case when, in terms of transactions or the customer there are no reasons for suspicion in money laundering or terrorist financing.
- (2) In relation to the transactions referred to in Paragraph 1 of this Article, the reporting entity is obliged to analyse the background and purpose of such transactions, including the information on the property, the origin of the property and the source of the funds, and such analysis results shall be documented in written form.
- (3) A reporting entity shall, upon a request of the financial intelligence unit, supervisory body from Article 94 of this Law or other competent authority, make available the analysis from Paragraph 2 of this Article.
- (4) In relation to the transactions referred to in Paragraph 1 of this article, the reporting entity, in addition to the measures referred to in Article 8 of this Law, takes at least the following actions:
  - 1) collects and verifies additional information on the customer's activities and updates the identification data on the customer and the beneficial owner of the customer;
  - 2) collects and examines additional information on the nature of the business relation and the data on the purpose of the announced or executed transaction and
  - 3) collects and examines additional information on the customer's property, the origin of the property and the source of the funds.
- (5) A reporting entity shall, by an internal act, in accordance with Article 7 of this Law, determine the criteria for recognising complex and unusual transactions.

### **Measures for the establishing and verifying identity of the customer and monitoring of business relationships and the control of the transactions of a customer from high-risk third countries**

#### **Article 35a**

- (1) A reporting entity is obliged, when analysing the transaction, to pay special attention to customers, business relationships and transactions with persons from high-risk third countries that do not apply or insufficiently apply measures for the prevention and

## UNOFFICIAL TRANSLATION

detection of money laundering or terrorist financing and to take, in addition to the measures referred to in Article 8 of this law, additional measures from Article 35 Paragraph 4 of this Law.

- (2) A reporting entity is obliged to, before the establishment of business relation with the customer from a high-risk third country, obtain a written consent of a senior manager.
- (3) A reporting entity is obliged to, after the establishment of business relation with a customer, closely monitor transactions and other business activities performed with him/her by a customer from a high-risk third country.
- (4) The list of high-risk third countries from Paragraph 1 of this Article is published by the financial intelligence unit on its website, based on the international organizations data.
- (5) A reporting entity is obliged to take measures of establishing and verifying the identity of the customer and monitoring customer's business from high-risk third countries based on the assessment of the risk of money laundering and terrorist financing carried out in accordance with the analysis from Article 7 of this Law.
- (6) A reporting entity shall, by an internal act, in accordance with Article 7 of this Law, determine the criteria for recognising the customers and transactions from high-risk third countries.

### **Article 36**

*Deleted (Law on Changes and Amendments to the Law on the Prevention of Money Laundering and terrorist Financing, Official Gazette of Montenegro, No. 44/18)*

### **Simplified establishing and verifying of the customer identity, monitoring of business relationships and the control of the transactions**

#### **Article 37**

- (1) If in cases from Article 9 Paragraph 1 items 1, 2, 3 and 6 of this Law, in relation to a customer, business relationship, transaction, products, services, distribution channels, countries or geographic areas there is lower risk of money laundering or terrorist financing and if there are no reasons for suspicion of money laundering or terrorist financing, a reporting entity can, in addition to the measures from Article 8 and in accordance with Articles 10 and 11 of this Law, apply simplified measures of establishing and verifying of customer, monitoring of business relationships and the control of the transactions.
- (2) A reporting entity can apply the simplified measures from Paragraph 1 of this Article on customers, business relationships, transactions or products only when it has previously established that they belong to a category with lower risk of money laundering or terrorist financing, based on risk factors defined by the regulation from Article 7 Paragraph 3 of this Law.
- (3) When a business relationship is established with the implementation of simplified measures, a reporting entity is obliged to deliver to the financial intelligence unit the report from Article 41 para. 2 and 3 of this Law and implement measures from Article 8 of this Law, when reasons for suspicion of money laundering or terrorist financing arise.
- (4) A reporting entity must not apply simplified measures of establishing and verifying of customer, monitoring of business relationships and the control of the transactions that is a resident of a country that does not apply or insufficiently applies international standards in the area of prevention of money laundering and terrorist financing, based on data of the relevant international organizations.

**Obtaining and verifying customer and transaction data**

**Article 38**

- (1) A reporting entity shall apply the simplified measures from Article 37 of this Law pursuant to Articles 8, 10 and 11, Articles 14 to 19 and Article 21 of this Law, providing that the required data are obtained, verified and kept in accordance with this Law.
- (2) Establishing and verifying of the customer, monitoring of business relationships and the control of the transactions from Paragraph 1 of this article include collection of data:
  - 1) when establishing and monitoring a business relationship, data on :
    - the name and the registered office of a legal person or business organisation that establishes or on whose behalf and for whose account business relationship is established;
    - the personal names of the representative and all directors or authorised person that establishes a business relationship for a legal person or business organisation;
    - establish the beneficiary owner and verify his/her identity including measures necessary for establishing the ownership and control structure of a customer, in cases defined by this Law;
    - the purpose and nature of a business relationship or purpose of transaction and other data in accordance with this Law;
    - regularly monitor of the business relationship, including the control of the transactions during the business relationship executed by the customer with the reporting entity and verifies their compliance with the nature of the business relationships and the usual volume and type of the business of the customer;
  - 2) when executing transactions from Article 9 Paragraph 1 Items 2 and 3 of this Law, data on:
    - the name and the registered office of a legal person or business organisation on whose behalf and for whose account a transaction is being executed;
    - the personal names of a representative and all directors or authorised person executing a transaction for a legal person or business organisation;
    - date and time of executing a transaction;
    - the amount of a transaction, currency and the manner of executing a transaction;
    - the purpose of a transaction, personal name and permanent residence, or the name and registered office of a legal person or business organisation that the transaction is sent to.
- (3) A reporting entity shall obtain the data from Paragraph 2 of this Article by checking the originals or certified copies of the documents from CBR or other appropriate public register, as well as checking court, business or other public register where the foreign legal person or business organisation is entered, submitted by a customer or by a direct check.
- (4) If the required data cannot be obtained in the manner from Paragraph 3 of this Article, the missing data shall be obtained from the originals or certified copies of identification documents and other business documentation submitted by a customer, or from the written statement of a representative or authorised person of a customer.
- (5) Documents from Paragraphs 2, 3 and 4 of this Article must not be older than three months of its issue date.

**Prohibition of providing services that enable the concealment of customer's identity**

**Article 39**

A reporting entity must not, for a customer, open, or keep an anonymous account, a coded or bearer passbook or provide other service or product that can indirectly or directly enable the concealment of a customer's identity.

**Prohibition of carrying on business with shell banks**  
**Article 40**

A reporting entity must not establish, or continue a correspondent relationship with a bank that operates or could operate as a shell bank or with other credit institution known for allowing shell banks to use its accounts.

**6. Reporting obligation and applying measures in business units and business organizations whose majority owners are foreign countries**

**Reporting obligation**

**Article 41**

(1) A reporting entity shall provide to the financial intelligence unit a report that contains accurate and complete data from Article 79 Items 1 to 4 and 8-11 of this Law on any transaction executed in cash in the amount of at least €15,000, without delay, and not later than three working days since the day of execution of the transaction.

(2) A reporting entity shall refrain from carrying out suspicious transactions (regardless of the amount) until the decision on temporary suspension of transactions from Article 61 of this Law is made and provide, without delay, to the financial intelligence unit the report on suspicious transactions and deliver data from Article 79 of this Law;

(3) A reporting entity shall, without delay, provide data from Article 79 of this Law to the financial intelligence unit, where he/she knows or suspects that the funds are the proceeds of criminal activity or are related to terrorist financing;

(4) A reporting entity shall provide the data from Paragraph 2 of this Article to the financial intelligence unit before the execution of the transactions, and state the deadline within which the transactions are to be executed;

(5) A reporting entity can provide to the financial intelligence unit the data from Paragraphs 2 and 3 of this Article via telephone, but it shall deliver those data in written form not later than the following working day from the day of providing the information via telephone;

(6) If a reporting entity, due to the nature of the transactions or other justifiable reasons cannot act according to the Paragraph 2 of this Article, it is obliged to submit to the financial intelligence unit, without delay, the report which contains the data from Article 79 of this Law, as soon as possible and after execution of transactions, or as soon as he/she determines that transactions are suspicious;

(7) The reporting entity shall, in the report from Paragraph 6 of this Article, give the reasons due to which it did not act in accordance with Paragraph 4 of this Article;

(8) Provisions from Paragraphs 2 and 5 of this Article shall apply to attempted transactions as well;

(9) The manner and conditions of providing the data from Paragraphs 1-7 of this Article shall be defined by the Ministry.

**Applying measures of detection and prevention of money laundering and terrorist financing in business units and business organizations whose majority owners are foreign countries**

**Article 42**

- (1) A reporting entity shall ensure that measures of detection and prevention of money laundering and terrorist financing defined by this Law are applied to the same extent, both in business units or companies in majority ownership of the reporting entity, whose registered offices are in other country, if that is in compliance with the legal system of the concerned state, or if the standards in the host country are on the level of EU member states or higher.
- (2) If the regulations of another state do not prescribe the application of measures of detection and prevention of money laundering or terrorist financing to the same extent defined by this Law, a reporting entity shall immediately inform the financial intelligence unit and competent authorities from Article 94 of this Law thereof and undertake measures for eliminating money laundering or terrorist financing risks.
- (3) A reporting entity that is a member of a financial group can, for the purpose of prevention money laundering and terrorist financing, exchange data on a customer and/or transaction, obtained in accordance with this Law, with other members of a financial group in Montenegro, EU member states and countries applying standards in the area of preventing money laundering and terrorist financing that are on the level of EU member states standards or higher, and during this process a reporting entity shall provide adequate protection of data/information secrecy in accordance with the Law regulating data confidentiality and personal data protection.
- (4) A reporting entity, who is a member of a financial group, may exchange the information referred to in Paragraph 3 of this Article with other members of the financial group, in cases when it is reported to the financial intelligence unit that there is suspicion that the funds are the proceeds of criminal activity or are related to terrorist financing, unless the financial intelligence unit orders a limitation or prohibits the data exchange.

**7. Designating a compliance officer and his/her deputy and internal control and auditing**

**Performing the affairs of detecting and preventing money laundering and terrorist financing**

**Article 43**

- (1) A reporting entity shall establish and apply appropriate rules regarding the procedures with a customer and enable reporting, keeping of data, internal control, risk assessment, risk management and communication, with a view to prevent money laundering and terrorist financing.
- (2) Banks, other credit institutions, financial institutions and other reporting entities shall order, conduct and supervise the application of the rules from Paragraph 1 of this Article in branches and other parts in majority ownership with registered offices in other countries.
- (3) Reporting entities shall, within 60 days from the date of their establishment, designate a compliance officer and at least one of his/her deputy for the affairs of detecting and preventing money laundering and terrorist financing and submit documentation on its appointment to the financial intelligence unit.
- (4) By way of exception, a reporting entity that has three or less employees is not obliged to designate a deputy compliance officer.
- (5) The reporting entities that have less than four employees the affairs of detecting and preventing money laundering and terrorist financing shall be performed by the director or other person authorised for that and reporting entity shall inform the financial intelligence

unit thereof.

**Requirements for a compliance officer**  
**Article 44**

The affairs of a compliance officer and deputy compliance officer from Article 43 of this Law can be performed by a person that:

- 1) is employed with only one reporting entity for carrying out affairs and tasks that are in accordance with the systematisation act of the reporting entity or employment contract, organised in the manner ensuring fast, qualitative and timely performance of tasks defined by this Law and regulations passed on the basis of this Law, and the reporting entity shall submit the competent tax authority's certificate thereof to the financial intelligence unit;
- 2) is professionally skilled for performing affairs of preventing and detecting money laundering and terrorist financing and has professional competencies for reporting entity's operations in the areas where the risk of money laundering or terrorist financing exists;
- 3) has not been finally convicted for a criminal act for which an imprisonment longer than six months is provided, and which makes him/her inadequate for performing affairs of prevention of money laundering and terrorist financing and against whom there is no criminal proceedings for criminal acts prosecuted ex officio.

**Compliance officer's obligations**  
**Article 45**

- (1) A compliance officer and deputy compliance officer from Article 43 of this Law shall perform the following affairs:
  - 1) take care for establishing, functioning and developing the system of detecting and preventing money laundering and terrorist financing;
  - 2) take care for proper and timely data provision to the financial intelligence unit and cooperate during the inspection procedure;
  - 3) initiate and participate in preparing and modifying operational procedures and preparing reporting entity's internal acts related to the prevention and detection of money laundering and terrorist financing;
  - 4) cooperate in preparing the guidelines for carrying out verifications related to the prevention of money laundering and terrorist financing;
  - 5) monitor and coordinate reporting entity's activity in the area of detecting and preventing money laundering and terrorist financing;
  - 6) cooperate in establishing and developing information technology for carrying out activities of detecting and preventing money laundering and terrorist financing;
  - 7) introduce initiatives and proposals to the administrative or managing or other body of a reporting entity for the improvement of the system for detecting and preventing money laundering and terrorist financing;
  - 8) prepare programs of professional training and improvement of the employees at reporting entities in the area of detecting and preventing money laundering and terrorist financing.
- (2) A compliance officer shall be directly accountable to the management or other managing or other similar reporting entity's body, and functionally and organizationally shall be separated from other organizational parts of the reporting entity.
- (3) In case that a compliance officer is absent or unable to work, he/she shall be substituted by a deputy compliance officer designated by a general act of a reporting entity.

**Working conditions for a compliance officer**  
**Article 46**

- (1) A reporting entity shall provide the compliance officer particularly with the following:
  - 1) functional connection of organizational parts with the compliance officer and to regulate the manner of cooperation between organizational units and obligations and responsibilities of the employees;
  - 2) appropriate powers for efficient performance of tasks from Article 45 Paragraph 1 of this Law;
  - 3) appropriate material and other conditions for work;
  - 4) appropriate spatial and technical options ensuring an appropriate degree of protecting confidential data and information he/she deals with, on the basis of this Law;
  - 5) appropriate information-technical support enabling ongoing and reliable monitoring of the activities in the area of preventing money laundering and terrorist financing;
  - 6) regular professional improvement in relation to detecting and preventing money laundering and terrorist financing;
  - 7) substitute during the absence from work.
- (2) Managing body of a reporting entity shall provide the compliance officer with assistance and support in performing the tasks defined by this Law and inform him/her on facts significant for detecting and preventing money laundering and terrorist financing.
- (3) A reporting entity shall, within eight days since the day of designating a compliance officer, submit to the financial intelligence unit the decision containing the personal data and the job title of the compliance officer and his/her deputy, as well as to inform the financial intelligence unit on any change in these data, not later than within 15 days since the day of their change.

**Professional training and development**  
**Article 47**

- (1) A reporting entity, lawyer and notary shall ensure regular professional training and improvement of employees performing affairs of detecting and preventing money laundering and terrorist financing.
- (2) A reporting entity, lawyer and notary shall prepare the program of professional training and improvement of persons from Paragraph 1 of this Article not later than the end of the first quarter of a business year.

**Internal control and revision**  
**Article 48**

- (1) A reporting entity shall adopt a program for conducting the measures for preventing money laundering and terrorist financing and ensure its implementation.
- (2) A reporting entity shall ensure regular internal control and revision of the implementation of the program for preventing money laundering and terrorist financing, or ensure performing the affairs of detecting and preventing money laundering and terrorist financing.
- (3) The manner of work of a compliance officer, conducting internal control and revision, exchanging data on customers and transactions within a financial group, keeping and protecting data, keeping records and the training of the employees at reporting entities, lawyers, notaries, revision agencies, independent auditors or natural persons providing

accounting or other similar services shall be specifically defined by the regulation of the Ministry.

### **III. TASKS AND OBLIGATIONS OF LAWYERS AND NOTARIES**

#### **Tasks and obligations of lawyers and notaries**

##### **Article 49**

- (1) A lawyer or a notary shall implement the measures of detecting and preventing money laundering and terrorist financing pursuant to this Law, when:
- 1) he/she assists in planning and executing transactions for a customer related to:
    - purchase or sale of real estates or a business organization;
    - managing money, securities or other property of a customer;
    - opening and managing a banking account, savings deposit or the account for dealing with securities;
    - collecting funds for founding, dealing with or managing a business organization;
    - founding, dealing with or managing an institution, fund, business organization or other similar form of organization.
  - 2) he/she executes a financial transaction or transaction concerning real estate on behalf and for a customer.
- (2) A lawyer or notary is obliged, when conducting the affairs from Paragraph 1 of this Article, in addition to the measures referred to in Art. 7c and 8 of this Law, to apply enhanced measures of establishing and verifying the identity of a customer and monitoring business relationships of customer from Art. 32 - 35 of this Law when in connection with a business relationship, customer or transaction there are reasons for suspicion of money laundering or terrorist financing.

#### **Verification of a customer**

##### **Article 50**

- (1) Within customer verification in the process of establishing his/her identity from Article 9 Paragraph 1 Items 1 and 2 of this Law, a lawyer or notary shall obtain data from Article 81 Paragraph 1 Items 1-6 and 11 of this Law.
- (2) Within customer verification from Article 9 Paragraph 2 of this Law, a lawyer or notary shall obtain data from Article 81 Paragraph 1 Items 1 - 4 and Items 7 - 11 of this Law.
- (3) In the process of applying measures of enhanced verification and monitoring of a customer in cases from Article 9 Paragraph 1 Items 4 and 5 of this Law, a lawyer or notary shall obtain data from Article 81 Paragraph 1 Items 12, 13 and 14 of this Law.
- (4) A lawyer or notary shall establish and verify the identity of a customer or his/her representative, or authorised person and obtain data from Article 81 Paragraph 1 Items 1, 2 and 3 of this Law by checking the personal identification document of a customer in his/her presence, or the originals or certified copy of the documentation from the CBR or other appropriate public register, that must not be older than three months of the issue date.
- (5) A lawyer or notary shall establish the beneficial owner of a customer that is a legal person or other similar forms of organising foreign legal persons, by obtaining data from Article 81 Paragraph 1 Item 4 of this Law, and checking the originals or certified copy of the documentation from the CBR or other public register, as well as

## UNOFFICIAL TRANSLATION

checking court, business or other public register where the foreign legal person is entered, that must not be older than a month of the issue date.

- (6) If the required data cannot be obtained in accordance with the Paragraph 5 of this Article, the missing data shall be obtained by checking the originals or certified copies of documents and other business documentation submitted by the representative of a legal person or other organizational form or its authorised person.
- (7) If the required data cannot be obtained in the manner from Paragraphs 1 - 6 of this Article, the missing data, except for the data from Article 81 Paragraph 1 Items 12, 13 and 14 of this Law, shall be obtained directly from the customer's written statement.

### **Reporting on customers and transactions for which there are reasons for suspicion of money laundering and terrorist financing** **Article 51**

- (1) If a lawyer or notary, when performing affairs from Article 49 Paragraph 1 Item 2 of this Law, establishes that there are reasons for suspicion of money laundering or terrorist financing related to a transaction or a customer, he/she shall inform the financial intelligence unit before the execution of a transaction and in the report they shall state the deadline within which the transaction is to be executed.
- (2) The information from the Paragraph 1 of this Article, a lawyer or notary can provide to the financial intelligence unit via telephone, but shall deliver them in written form no later than the following working day from the day of providing the information via telephone.
- (3) The provision of Paragraphs 1 and 2 of this Article shall refer to planned transactions as well, regardless of whether the transaction has been executed later or not.
- (4) If a lawyer or notary in cases from Paragraphs 1, 2 or 3 of this Article, cannot provide information to the financial intelligence unit due to the nature of transaction, or the fact that it has not been executed or due to other justified reasons, he shall provide data to the financial intelligence unit as soon as possible, or as soon as he establishes that there are reasons for suspicion of money laundering or terrorist financing and confirm the reasons for not acting in the prescribed manner from Paragraphs 1, 2 and 3 of this Article.
- (5) When a customer asks for advice on money laundering or terrorist financing, a lawyer or notary shall inform the financial intelligence unit without delay.
- (6) A notary shall, once a week, provide certified copies of the sales contracts referring to real estate trade, with the value exceeding €15,000 to the financial intelligence unit.

### **Exceptions** **Article 52**

- (1) Notwithstanding Article 51 Paragraphs 1 and 2 of this Law, a lawyer is not obliged to provide the financial intelligence unit with the data he obtained from a customer or data on a customer when establishing his/her legal position or representing in the proceedings conducted before court, which includes providing advice on its proposing or avoiding.
- (2) Upon the financial intelligence unit's request for providing data from Article 59 of this Law, a lawyer shall, no later than 15 days after the day of receiving the request, in written form

## UNOFFICIAL TRANSLATION

state the reasons for which he/she did not act in accordance with the request.

- (3) A lawyer is not obliged to report the financial intelligence unit on cash transactions from Article 41 Paragraph 1 of this Law, unless there are reasons for suspicion of money laundering or terrorist financing related to a transaction or a customer.

### **IV. LIST OF INDICATORS FOR IDENTIFYING SUSPICIOUS CUSTOMERS AND TRANSACTIONS**

#### **Applying the list of indicators Article 53**

- (1) When establishing reasons for suspicion of money laundering or terrorist financing and other circumstances related to the suspicion, a reporting entity, lawyer or notary shall use the list of indicators for identifying suspicious customers and transactions.
- (2) When making the list of indicators from the Paragraph 1 of this Article, a reporting entity is obliged to particularly take into account the complexity and size of executed transactions, unusual patterns, values or transaction links that have no clear economic or legal purpose and/or are not compliant or are disproportionate to usual or expected business activities of the customer, as well as other circumstances related to the status and other characteristics of the customer.
- (3) The list of indicators from Paragraph 1 of this Article shall be placed in the business documentation of reporting entities, lawyers or notaries.

#### **Defining the list of indicators Article 54**

- (1) The list of indicators for identifying suspicious customers and transactions shall be defined by the Ministry.
- (2) Professional basis for the drafting of the list of indicators from the Paragraph 1 of this Article prepares the financial intelligence unit in cooperation with other competent bodies.

### **V. AFFAIRS, POWERS AND THE MANNER OF WORK OF THE FINANCIAL INTELLIGENCE UNIT**

#### **Independence and autonomy in performing affairs and exercising of powers Article 55**

- (1) The financial intelligence unit is operationally independent in performing its affairs.
- (2) The financial intelligence unit is independent in exercising its powers when performing activities prescribed by this Law and independent in decision-making related to the reception, gathering, keeping, analysing and delivering data, notifications, information and documentation and delivery of the results of its strategic and operational analyses of the suspicious transactions to the competent authorities and foreign financial intelligence units aimed at prevention and detection of money laundering and terrorist financing, in accordance with this Law.
- (3) The activities or powers from paragraph 2 of this Article shall be conducted or exercised by employees of the financial intelligence unit.

## UNOFFICIAL TRANSLATION

- (4) The financial intelligence unit shall at least once a year submit a report to the Government on its work and the situation in the area of preventing money laundering and terrorist financing, in accordance with the law regulating the State administration.
- (5) Provision of data, notifications, information and documentation to the financial intelligence unit in accordance with this Law shall be carried out without compensation.

### **Head of the Financial Intelligence Unit Article 55a**

- (1) A person that meets the requirements for deputy director of the administrative authority competent for police affairs, in accordance with the law regulating the internal affairs, may be appointed as the head of the financial intelligence unit.
- (2) The head from paragraph 1 of this Article, upon public competition, is appointed by the Government, on the proposal of the director of the administrative authority competent for police affairs.
- (3) The Government submits the proposal for appointing the head from paragraph 1 of this Article to the Parliament of Montenegro, for providing its opinion.
- (4) The Parliament of Montenegro provides the opinion from paragraph 3 of this Article upon the proposal of the competent board.

### **Entering employment and terms for employment Article 55b**

- (1) The head of financial intelligence unit shall participate in the procedure of selecting candidates that are entering employment at the financial intelligence unit that is conducted in accordance with the regulations on civil servants and state employees.
- (2) Employees of the financial intelligence unit shall fulfil terms prescribed by the law defining internal affairs and act on internal organisation and systematization of the administrative authority competent for the police affairs.
- (3) The decision on employee's entering employment in the financial intelligence unit is issued by director of the administrative authority competent for the police affairs, upon the proposal of the head of the financial intelligence unit.
- (4) Employee from the financial intelligence unit cannot be reassigned to other working position or tasked to perform other duties in the administrative authority competent for the police affairs, without the authorisation of the head of the financial intelligence unit.

### **Disposal of the budget of the Financial Intelligence Unit**

#### **Article 55c**

The funds that are allocated by the budget of the administrative authority competent for police affairs for the work of the financial intelligence unit are independently disposed of by the head of the financial intelligence unit, in accordance with instructions given by the director of the administrative authority competent for the police affairs, in accordance with the law regulating planning and execution of the budget and fiscal responsibility.

### **Powers of the Financial Intelligence Unit Article 56**

The financial intelligence unit is empowered to:

- 1) initiate changes and amendments to regulations related to prevention of money laundering and terrorist financing;

## UNOFFICIAL TRANSLATION

- 2) prepare and compile the list of indicators for identifying customers and transactions for which there are reasons for suspicion of money laundering and terrorist financing and to submit it to the reporting entities and other subjects that are obliged to act in accordance with this Law;
- 2a) conclude cooperation agreements or establish an independent co-operation aimed at exchanging information with other domestic competent bodies and foreign financial intelligence units.
- 3) participate in training and professional improvement of reporting entity's compliance officers and employees of the competent state authorities;
- 4) publish on its website the list of countries from Article 30 Paragraph 2 of this Law;
- 5) publish on its website the list of countries from Article 23 Paragraph 3 of this Law;
- 6) prepare and issue recommendations or guidelines for unique implementation of this Law and regulations enacted in accordance with this Law;
- 6 a) propose to the National Security Council natural and legal persons to be included in the National list of designated persons, as terrorists, terrorist organizations or those who finance terrorists or terrorist organizations, in accordance with the law that regulates international restrictive measures;
- 7) at least once a year, publish a report that includes statistical data, trends and typologies in money laundering and terrorist financing area, and especially data related to the number of suspicious transaction reports sent to the financial intelligence unit, the number of investigated cases, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences and data on the property that has been frozen or confiscated, and to notify the public, in other appropriate manner, on the phenomenon of money laundering and terrorist financing.

### **Duties of the Administrative authority**

#### **Article 57**

*Deleted (Law on Changes and Amendments to the Law on the Prevention of Money Laundering and terrorist Financing, Official Gazette of Montenegro, No. 44/18)*

### **Data provision upon request**

#### **Article 58**

- (1) After estimating that there are reasons for suspicion of money laundering and related predicate offences or terrorist financing, the financial intelligence unit can request from a reporting entity to provide data:
  - 1) from the records on customers and transactions kept on the basis of Article 78 of this Law;
  - 2) on the state of funds and other property of a certain customer at a reporting entity;
  - 3) on funds and asset turnover of a certain customer at a reporting entity;
  - 4) on business relationships established with a reporting entity;
  - 5) other data obtained by a reporting entity in accordance with this Law, documentation and information related to performing activities in accordance with this Law as well as other data in order to monitor fulfilment of the obligations set out by this Law.
- (2) In the request from Paragraph 1 of this Article the financial intelligence unit shall state legal basis, the data that are to be provided, the purpose of data gathering and the deadline for their provision.
- (3) The financial intelligence unit can also require the provision of data from Paragraph 1 of this Article on the persons for whom it is possible to conclude that they have cooperated or

## UNOFFICIAL TRANSLATION

participated in transactions or on the business of persons for whom there are reasons for suspicion of money laundering or terrorist financing.

- (4) Upon the request of the financial intelligence unit in cases from Paragraph 1 of this Article, a reporting entity shall provide accurate and complete data and documentation that he/she/it has at his/her/its disposal.
- (5) A reporting entity shall provide data, information and documentation from Paragraphs 1 - 4 of this Article to the financial intelligence unit without delay, in the manner and form as referred to in the request, and not later than eight days since the day of receiving the request.
- (6) Upon the financial intelligence unit's request for delivering data, information and documentation from Paragraphs 1 - 4, a reporting entity shall, in cases when the request is designated as urgent, deliver the requested data without delay, not later than 24 hours after receiving the request.
- (7) The financial intelligence unit can, due to extensive documentation or other justified reasons, upon the reasoned request of a reporting entity, prolong the deadline from Paragraph 5 of this Article or carry out data verification at a reporting entity.
- (8) The employee from the financial intelligence unit that checks the documents at the reporting entity shall prove his/her identity with an official identity card containing ID number.

### **Request to a lawyer or notary for submitting data on suspicious transactions or persons**

#### **Article 59**

- (1) If the financial intelligence unit estimates that there are reasons for suspicion of money laundering and related predicate offences or terrorist financing, it can request from a lawyer or notary to provide data from Article 58 of this Law necessary for detecting money laundering or terrorist financing.
- (2) The financial intelligence unit can also require the provision of data from Paragraph 1 of this Article on the persons for whom it is possible to conclude that they have cooperated or participated in transactions or on the business of persons for whom there are reasons for suspicion of money laundering or terrorist financing.
- (3) Considering the types of data that are to be provided, terms and manners of providing data from Paragraphs 1 and 2 of this Article provisions from Article 58 of this Law shall be applied.

### **Request to a state authority or public powers holder for submitting data on suspicious transactions or persons**

#### **Article 60**

- (1) If the financial intelligence unit estimates that there are reasons for suspicion of money laundering and related predicate offences or terrorist financing, it can require state authorities or public powers holders to provide data, information and documentation necessary for detecting money laundering or terrorist financing.
- (2) The financial intelligence unit shall state in the request legal basis, the data that are to be provided, the purpose of data gathering and the deadline for their provision.
- (3) The financial intelligence unit can also require the provision of data from Paragraph 1 of this Article on the persons for whom it is possible to conclude that they have cooperated or participated in transactions or on the business of persons for whom there are reasons for suspicion of money laundering and related predicate offences or terrorist financing.
- (4) State authorities and public powers holders shall provide the requested data, information and documentation to the financial intelligence unit without delay, and not later than eight

## UNOFFICIAL TRANSLATION

days after the day of receiving the request, or enable, without compensation, direct electronic access to the requested data and information.

### **Order for temporary suspension of transactions**

#### **Article 61**

- (1) The financial intelligence unit may require in written order the reporting entity to temporarily suspend a transactions, but not longer than for 72 hours, if it evaluates that there are reasons for suspicion of money laundering and related predicate offences or terrorism financing, and is obliged, without delay, to notify competent authorities thereof in order to take measures from their own competence.
- (2) Financial intelligence unit shall, on submitting the order from Paragraph 1, decide 24 hours from the hour of being notified on suspicious transactions from Article 41 paragraph 2 of this Law.
- (3) If the last day of a deadline referred to in Paragraph 1 of this Article occurs during non-working days of the competent authorities, such deadline can be extended with an order for additional 48 hours.
- (4) The reporting entity shall, without delay, take measures and actions in accordance with Paragraphs 1 and 3 of this Article.
- (5) Notwithstanding Paragraph 1 of this Article, in case of urgency or other circumstances of the transactions execution, the order can be given verbally.
- (6) The responsible person of a reporting entity shall make a note on receiving a verbal order from the Paragraph 1 of this Article.
- (7) The financial intelligence unit shall, without delay, provide the previously given verbal order to the reporting entity in written form.
- (8) Upon received notification of suspension of transactions, competent authorities from Paragraph 1 of this Article shall act, without delay, in accordance with their powers and not later than 72 hours from the beginning of the temporary suspension of transactions and shall, without delay, notify the financial intelligence unit in written form on the decision on further procedure regarding the suspended transactions.

### **Termination of the measures for temporary suspension of transactions**

#### **Article 62**

If the financial intelligence unit or the competent authority from Article 61 Paragraph 1 of this Law, within 72 hours from the suspension of transactions, does not notify the reporting entity on further procedure, the reporting entity may execute the transactions upon the expiration of the deadline and notify the financial intelligence unit thereof.

### **Request for ongoing monitoring of customer's financial businesses**

#### **Article 63**

- (1) The financial intelligence unit shall, in writing, request from the reporting entity an ongoing monitoring of customer's financial business, in relation to which there are reasons for suspicion of money laundering and related predicate offences or terrorist financing, or other person, for whom it may be concluded that he/she has cooperated or participated in transactions or businesses activities for which there are reasons for suspicion of money laundering and related predicate offences or terrorism financing, and shall determine deadline within which the reporting entity is obliged to inform the financial intelligence unit and provide the required data.
- (2) Reporting entity shall provide or inform the financial intelligence unit on data from the

## UNOFFICIAL TRANSLATION

Paragraph 1 of this Article, before carrying out the transaction or concluding the business and state in the report the deadline estimation, within which the transaction or business should be done.

- (3) If due to the nature of transaction or business or due to other justified reasons reporting entity is not able to act as it is prescribed in Paragraph 2 of this Article, he/she shall forward the data to the financial intelligence unit as soon as he/she is able to do so, but not later than the next working day from the day of carrying out the transaction or concluding the business activity and they shall state the reasons for not acting in accordance with the provisions of Paragraph 2 of this Article.
- (4) Ongoing monitoring of transactions from Paragraph 1 of this Article shall not be longer than 3 months.
- (5) Deadline from the Paragraph 4 of this Article, if there are reasons for suspicion of money laundering and related predicate offences and terrorism financing shall be prolonged not later than 3 months starting from the day of submitting the request from Paragraph 1 of this Article.

### **Collecting data upon an initiative Article 64**

- (1) In case there are reasons for suspicion of money laundering and predicate offence or terrorist financing regarding a certain transaction or person, the financial intelligence unit may, upon an initiative of the Court, State Prosecutor, other competent organisational units of the administrative authority competent for police affairs, National Security Agency, competent tax authority, administrative authority competent for customs affairs (hereinafter: Customs authority), administrative authority competent for prevention of corruption, administrative authority competent for inspection affairs, administrative authority competent for the supervision of non-profit organizations and other competent authority, as well as a competent authority from a foreign country, initiate the procedure for collecting and analysing data, information and documentation, when there are reasons for suspicion of money laundering and related predicate offences or terrorist financing in relation to a certain transaction or person.
- (2) The written initiative from the Paragraph 1 of this Article shall include the explained reasons, or circumstances, that indicate the suspicion of money laundering and, if available, the data on related predicate offences or terrorist financing, and that are necessary for undertaking the needed measures and actions as well as data on the person, transaction and business relationship that are related to reasons for suspicion of money laundering or terrorist financing.
- (3) If the written initiative from the Paragraph 1 of this Article does not contain explanation and data from the Paragraph 2 of this Article the financial intelligence unit shall return such written initiative to the initiator for supplementing it.
- (4) If, within eight days from the day of supplementing, the written initiative is not amended or does not contain detailed reasons and the data from Paragraph 2 of this Article, it shall be deemed that the applicant has withdrawn the initiative.
- (5) If the written initiative is not supplemented pursuant to Paragraph 3 of this Article, the financial intelligence unit shall inform the initiator, in written form, that the written initiative does not fulfil the requirements for initiating a procedure for collecting and processing data, stating the reasons for not starting the procedure upon the initiative.
- (6) The financial intelligence unit shall, in written form, provide the initiator with the results of the analysis of data, information and documentation, collected in accordance with Paragraphs 1 and 2 of this Article, related to the persons or transactions for which the

## UNOFFICIAL TRANSLATION

reasons for suspicion of money laundering and related predicate offences or terrorist financing are given, or for which it has been determined that they are or could be related to money laundering or terrorist financing.

### **Notifying on suspicious transactions Article 65**

- (1) If the financial intelligence unit evaluates on the basis of data, information and documentation obtained in accordance with this Law, that in relation to certain transaction or certain person there are reasons for suspicion of money laundering or terrorist financing, it shall inform the competent authority in written form accompanied with necessary documentation about the reasons for suspicion.
- (2) In the notification from Paragraph 1 of this Article the financial intelligence unit must not state the data on the reporting entity and person employed at the reporting entity that disseminated the data, unless there are reasons for suspicion that the reporting entity or its employee has committed the criminal act of money laundering or terrorist financing, or if those data, required in written form by a competent court, are necessary for establishing facts in criminal proceedings.

### **Information on other criminal acts Article 66**

If the financial intelligence unit, on the basis of data, information and documentation, obtained in accordance with this Law, evaluates that in relation to a transaction or person there are reasons for suspicion of committing other criminal acts that are prosecuted ex officio, it shall provide, in written form, the information to competent authorities without delay..

### **Feedback Article 67**

The financial intelligence unit shall, in written form, inform the reporting entity and other persons that have sent the initiative, on the results of the analysis of data on persons and transactions, for which there are, in accordance with Article 41 Paragraph 2 of this Law, reasons to suspect of money laundering or terrorist financing, unless it evaluates that the feedback information may cause detrimental effects on the course and outcome of the proceeding.

## **V. INTERNATIONAL COOPERATION**

### **Establishing international cooperation Article 68**

With a view to establishing and realising international cooperation, the financial intelligence unit shall conclude agreements with the relevant authorities of foreign countries and international organizations, on exchanging financial-intelligence data, information and documentation that can only be used for the purposes defined by this Law.

**Request to the competent authority of a foreign state for providing data and information**  
**Article 69**

- (1) The financial intelligence unit may request, within its competencies, from the competent authority of a foreign state data, information, and documentation necessary for detection and prevention of money laundering and related predicate offences or terrorist financing.
- (2) The financial intelligence unit may request from authorities of other foreign state, that are responsible for the detection and prevention of money laundering and terrorist financing, to submit data, information and documentation necessary for detection and prevention of money laundering and terrorist financing, with the provision that such exchange of data, information and documentation must be done via the financial intelligence unit competent for detection and prevention of money laundering and terrorist financing of that state through a secure communications systems, global association of financial intelligence units or via other system of international communication providing the same or higher level of data protection.
- (3) The financial intelligence unit may use the data, information and documentation obtained in accordance with Paragraph 1 of this Article, only for the purposes provided for by this Law, and without previous approval of the competent authority of the foreign state from which the data are obtained, it must not provide or disclose them to another authority, legal or natural person, or use them for purposes that are not in accordance with the terms and limits defined by requested authority.

**Providing data and information upon the request of the competent authority of a foreign state**  
**Article 70**

- (1) The financial intelligence unit may, upon a request, containing sufficient reasons for suspicion on money laundering and related predicate offenses or terrorist financing and a purpose for which data are required, to a foreign financial intelligence unit competent for detection and prevention of money laundering and terrorist financing, provide data, information and documentation about persons or transactions related to reasons for suspicion of money laundering and related predicate offences or terrorist financing.
- (2) The financial intelligence unit may, upon a request, submit the data from Paragraph 1 of this Article, to other bodies of the foreign state, that are responsible for the detection and prevention of money laundering and terrorist financing, with the provision that such exchange of data, information and documentation must be done via the financial intelligence unit competent for detection and prevention of money laundering and terrorist financing of that state through a secure communications systems, global association of financial intelligence units or via other system of international communication providing the same or higher level of data protection.
- (3) The financial intelligence unit may respond to the request of a foreign financial intelligence unit, from Paragraph 1 of this Article, in cases when that predicate offence for money laundering was not known at the time of the request reception.
- (4) Prior to providing the personal data to the authority from the Paragraph 1 and 3 of this Article, the financial intelligence unit shall verify with the administrative authority competent for personal data protection if the requesting authority owns a regulated system of protection of personal data and whether the data will be used solely for the requested purpose, unless otherwise defined by the international agreement.
- (5) The financial intelligence unit is obliged to act in accordance with the request from the Paragraph 1 of this Article, except if:

## UNOFFICIAL TRANSLATION

- 1) on the basis of the facts and circumstances, stated in the request, evaluates that there are not enough reasons for suspicion of money laundering and related predicate offences or terrorist financing;
- 2) the providing of data would jeopardise or could jeopardise the course of criminal proceeding in Montenegro or in some other way affect interests of the proceeding;
- 3) The providing of data would be obviously disproportionate to the legitimate interests of a natural or a legal person or Montenegro;
- 4) the providing of data is not in accordance with the basic principles of the legal system in Montenegro;
- 5) there are no guarantees for the protection of personal data and purpose of use of data from Paragraph 1 of this Article is not stated.
- (6) The financial intelligence unit shall inform in writing the requesting authority on the rejection of the request and shall state the reasons for the rejection.
- (7) Data, information and documentation submitted on the basis of this article, to a foreign financial intelligence unit from Paragraph 1 of this Article can exclusively be used for the purposes for which they were shared.
- (8) A foreign financial intelligence unit may, only with the prior consent of the financial intelligence unit share or allow access to such data, information and documentation to a third person or use them in accordance with conditions defined in paragraph 7 of this Article.
- (9) The financial intelligence unit may determine the terms and limits of using the data from the Paragraph 1 of this Article.

### **Spontaneous provision of data to the competent authority of a foreign state** **Article 71**

- (1) The financial intelligence unit may, without a request, provide data, information and documentation on persons or transactions, for which there are reasons for suspicion of money laundering and related predicate offences or terrorist financing, which it has obtained or kept in accordance with this Law, to a foreign country authority competent for the prevention and detection of money laundering and terrorist financing, under the condition of reciprocity.
- (2) When providing data in accordance with the Paragraph 1 of this Article, the financial intelligence unit may prescribe the terms and limits under which a foreign authority competent for detection and prevention of money laundering or terrorism financing can use such data.

### **Temporary suspension of transaction upon the initiative of the competent authority of a foreign state** **Article 72**

- (1) In accordance with this Law, the financial intelligence unit may, under the condition of reciprocity, by reasoned written initiative of a foreign competent authority, suspend a transaction, with written order, for the period not exceeding 72 hours.
- (2) The financial intelligence unit is obliged to inform competent authorities about the order from the Paragraph 1 of this Article.
- (3) The financial intelligence unit may reject the initiative of the authority from the Paragraph 1 of this Article, if based on the facts and circumstances stated in the initiative, it evaluates that given reasons are not sufficient for a suspicion of money laundering and related

## UNOFFICIAL TRANSLATION

predicate offences or terrorist financing, and shall inform in written form the initiating authority on the rejection stating the reasons for its rejection.

### **The initiative to a foreign competent authority for temporary suspension of transaction** **Article 73**

The financial intelligence unit may, within its competencies in the area of detection and prevention of money laundering and terrorist financing, submit written initiative for temporary suspension of transaction to a foreign authority competent for the prevention of money laundering and terrorist financing, if it evaluates that there are sufficient reasons for a suspicion of money laundering and related predicate offences or terrorist financing.

## **VI. DUTIES OF THE STATE AND OTHER AUTHORITIES AND INSTITUTIONS**

### **The customs authority** **Article 74**

- (1) The customs authority shall provide data or enable electronic access to the financial intelligence unit on each cross border declaration on transport of money, checks, bearer securities, precious metals and precious stones, in the value or amount of 10,000€ or more, not later than within 3 days from the day of transporting.
- (2) The customs authority shall provide data or enable electronic access to the financial intelligence unit on each cross border transport of money, checks, bearer securities, precious metals and precious stones, in the value or amount of 10,000€ or more, that were not declared, immediately or not later than within 3 days from the day of transporting.
- (3) The customs authority shall provide the data from Paragraph 1 of this Law to the financial intelligence unit on the transport or attempt of transport of money, checks, securities, precious metals and precious stones in the value or amount lower than 10,000€, if in relation to that transport or attempt of transport there are reasons for suspicion of money laundering or terrorist financing.

### **Stock Exchanges and Clearing and Depository Companies**

#### **Article 75**

- (1) Stock exchanges and clearing and depository companies shall, without delay, inform in written form the financial intelligence unit, if during carrying out activities within the scope of its business, detect facts indicating possible connection with money laundering and related predicate offences or terrorist financing.
- (2) Upon the request of the financial intelligence unit, the legal persons from Paragraph 1 of this Article shall provide data, information or documentation that indicate possible connection with money laundering and related predicate offences or terrorist financing, in accordance with the Law.
- (3) Regarding the deadlines and manners of providing the data from Paragraph 2 of this Article, the provisions from Article 58 Paragraphs 4 and 5 of this Law shall be applied.

### **Courts, state prosecutor and other state authorities** **Article 76**

- (1) For the purpose of keeping a unique record on money laundering and terrorist financing the competent courts, state prosecutor and other state authorities shall provide data to the financial intelligence unit on misdemeanours and criminal offences related to money laundering and terrorist financing.

## UNOFFICIAL TRANSLATION

- (2) The competent state authorities from Paragraph 1 of this Article shall provide the financial intelligence unit, regularly and upon a request, the following information:
- 1) date of filing a criminal charge;
  - 2) personal name, date of birth and address or company name, address and registered office of the reported person;
  - 3) nature of criminal offence and place, time and manner of carrying out the activity, which has elements of a criminal offence;
  - 4) previous criminal offence and place, time and manner of carrying out the activity, which has elements of a criminal act.
- (3) The state prosecutor and competent courts shall, at least semi-annually, provide data to the financial intelligence unit referring to:
- 1) personal name, date of birth and address or the name, address and the registered office of the reported person or of the person that submitted the request for court protection within the misdemeanour procedure under this Law;
  - 2) phase of the procedure and final decision;
  - 3) characteristics of the nature of criminal offence or misdemeanour;
  - 4) personal name, date of birth and address or a company's name and registered office of the person against whom a temporary measure for the seizure assets or temporary confiscation is ordered;
  - 5) date of issuing and duration of the order on temporary measure of seizing the assets or on temporary confiscation;
  - 6) the amount of the assets or value of the property which is the subject of the temporary measure of seizing or on temporary confiscation;
  - 7) date of issuing the order on assets or property confiscation;
  - 8) the amount of confiscated assets or value of the seized property.

### **Reporting on observations and undertaken measures**

#### **Article 77**

The competent state authorities shall once a year, but not later than the end of January of the current year, for the previous year, inform the financial intelligence unit on their observations and undertaken measures in relation to suspicious transactions on money laundering or terrorism financing, in accordance with this Law.

## **VII. RECORDS, PROTECTING AND KEEPING DATA**

### **1. Keeping records and its contents**

#### **Records kept by a reporting entity**

#### **Article 78**

- (1) Reporting entity shall keep:
- 1) data records on customers, business relationships, accounts and transactions (carried out in the country and with foreign countries) from article 9 of this Law;
  - 2) data records from Article 41 of this Law;
  - 3) data records from Article 35 of this Law;
  - 4) records of orders on temporary suspension of transactions referred to in Article 61 of this Law;
  - 5) records of requests for the ongoing monitoring of customer's financial status referred to in Article 63 of this Law.

## UNOFFICIAL TRANSLATION

- (2) The reporting entity shall keep records referred to in Paragraph 1 of this Article in a manner that will ensure the reconstruction of individual transactions (including the amounts and currency) that could be used as evidence in the process of detecting customer's criminal activities.

### **Content of the reporting entities' records**

#### **Article 79**

In the records from Article 78 of this Law the following data are kept and processed:

- 1) name, address, registered office and tax identification number of a legal person that establishes business relationship or executes a transaction, or a legal person for whom a business relationship is established or transaction is executed;
- 2) name, address of permanent or temporary residence, date and place of birth and tax identification number of a representative or an authorised person who concludes the business relationship or executes transaction for the legal person, foreign trust or other person i.e. entity equal to them from Article 18 of this Law, and number, type and name of the authority that issued the personal identification document;
- 3) name, address of permanent or temporary residence, date and place of birth and tax identification number of an authorised person, which requires or executes transaction for a customer, and number, type and name of the competent authority that issued the personal identification document;
- 4) name, address of permanent or temporary residence, date and place of birth and tax identification number of natural person or, tax identification number of his/her representative, entrepreneur or a natural person carrying out the activity, that establishes business relationship or executes a transaction, or a natural person, for whom business relationship is established or transaction executed, and number, type and name of the competent authority that issued the personal document;
- 5) name, address of permanent or temporary residence, date and place of birth of the natural person who enters in the premises for organising the games of chance in the casinos, accesses a safe deposit box or games of chance through the Internet or other telecommunications means, cash desk or other locations (points) where the transactions are executed in accordance with the type of games of chance;
- 6) purpose and presumed nature of a business relationship, including information on customer's businesses activity;
- 7) date of establishing a business relationship or date and time of entering the casino or accessing safe deposit box;
  - 7a) registration of identification number of each customer's account
- 8) date and time of the transaction execution;
- 9) the amount of the transaction and currency of the executed transaction;
- 10) the purpose of the transaction and personal name and address of permanent or temporary residence, or the name and registered office of the person who the transaction is intended to;
- 11) method of executing the transaction;
- 12) data on the sources of property and funds that are or will be the subject of the business relationship or transaction;
- 13) reasons for suspicion of money laundering and related predicate offences or terrorist financing;
- 14) name, address of permanent or temporary residence, date and place of birth of the beneficial owner of the legal person or in case from Article 20 Paragraphs 5 and 6 of this Law, data on the category of the person, in whose interest is the establishing and operating

## UNOFFICIAL TRANSLATION

of the legal person or similar foreign legal person;

- 15) company name or name of trust, other person i.e. entities equal to them, address of permanent or temporary residence, date and place of birth and tax identification number of a person referred to in Article 18 of this Law.

### **Records kept by lawyer or notary**

#### **Article 80**

Lawyer or notary shall keep the following:

- 1) records on customers, business relationships and transactions from Article 9 of this Law;
- 2) records on data from Article 51 Paragraph 1 of this Law;
- 3) records on complex and unusual transactions referred to in Article 35 of this Law.

### **Content of lawyer or notary's records**

#### **Article 81**

(1) In the records from Article 80 of this Law the following data are kept and processed:

- 1) name, address of permanent residence, date and place of birth of the entrepreneur and natural person carrying out the business activity, or a company name, registered office and address and tax identification number of legal person or entrepreneur to whom lawyer or notary provides services;
- 2) name, address of permanent residence, date and place of birth of the representative who establishes business relationship or executes transaction for the person from Item 1 of this Paragraph;
- 3) name, address of permanent residence, date and place of birth of the authorised person who executes transaction for the person from Item 1 of this Paragraph;
- 4) data from Article 9 of this Law in relation to the legal person to whom lawyer or notary provides services;
- 5) purpose and presumed nature of a business relationship, including information on customer's businesses activity;
- 6) date of concluding the business relationship;
- 7) date of transaction execution;
- 8) the amount and currency of transaction;
- 9) purpose of transaction and personal name and permanent residence or company name and registered office of the person whom the transaction is intended to;
- 10) method of executing the transaction;
- 11) data on the sources of property and funds that are the subject of the business relationship or transaction;
- 12) name, date and place of birth, address of permanent residence or name and address and registered office of the person for whom there are reasons for suspicion of money laundering and terrorist financing;
- 13) data on transaction for which there are reasons for suspicion of money laundering or terrorist financing (amount, currency, date or time period of transactions execution);
- 14) reasons for suspicion of money laundering or terrorist financing.

(2) The manner of the submission of data from the Paragraph 1 of this Article delivered to the financial intelligence unit by a lawyer or notary is prescribed by the Ministry.

**Records kept by customs authority**  
**Article 82**

Customs authority shall keep the following:

- 1) records on declared and non-declared cross border transport of money, checks, securities, precious metals and precious stones in amount and in value of 10,000€ or more;
- 2) records on cross border transport or attempt of transport of money, checks, securities, precious metals and precious stones in amount less than 10,000€, if there are reasons for suspicion of money laundering or terrorist financing.

**Content of the records of the customs authority**  
**Article 83**

(1) In the records from Article 82 of this Law the following data are kept and processed:

- 1) name, address of permanent residence, date and place of birth and the nationality of the natural person who transports or attempts to transport assets from Article 82 of this Law across the state border;
- 2) name of the company, address and the registered office of a legal person or personal name, address of permanent residence and nationality of the natural person for whom cross border transport of assets from Article 82 of this Law is performed;
- 3) name, address of permanent residence and the nationality of the natural person, or company name, address and the registered office of the legal person which is the intended recipient of cash;
- 4) the amount, currency and type of cash transported across the state border;
- 5) source and purpose of using the cash transported across state border;
- 6) place, date and time of crossing or attempt of crossing the state border;
- 7) the name of the country from which or in which the transfer of assets from Article 82 of this Law is performed;
- 8) reasons for suspicion of money laundering or terrorist financing.

(2) In addition to the data from Paragraph 1 of this Article, in the records from Article 82 Item 2 of this Law, the data on whether the cash transfer has been reported to the customs authority shall also be entered.

**Records kept by the Financial Intelligence Unit**  
**Article 84**

The financial intelligence unit shall keep records and statistics on:

- 1) persons and transactions from Article 41 of this Law;
- 2) persons and transactions from Article 51 Paragraph 1 of this Law;
- 3) received initiatives from Article 64 of this Law;
- 4) notifications and information from Articles 65 and 66 of this Law;
- 5) international requests from Articles 69 and 70 of this Law;
- 6) criminal acts and misdemeanours from Article 76 of this Law;
- 7) orders for temporary suspension of transactions referred to in Article 61 of this Law;
- 8) requests for the ongoing monitoring of customers financial businesses referred to in Article 63 of this Law.

**Content of the records kept by the Financial Intelligence Unit**  
**Article 85**

- (1) In data records on persons and transactions from Article 84 Item 1 of this Law data from Article 79 of this Law are kept and processed for the purpose of temporary suspension of transaction from Article 61 of this Law.
- (2) In data records on persons and transactions from Article 84 Item 2 of this Law data from Article 80 of this Law are processed for temporary suspension of transaction.
- (3) In the records from Article 84 Paragraph 3 of this Law the following data are kept and processed:
  - 1) name, date and place of birth, address of permanent residence or name and address of a person for whom there are reasons for suspicion of money laundering or terrorist financing;
  - 2) data on transaction, for which there are reasons for suspicion of money laundering or terrorist financing (amount, currency, date or period of the transaction execution);
  - 3) reasons for a suspicion of money laundering or terrorist financing.
- (4) In the records from Article 84 Paragraph 4 of this Law the following data are kept and processed:
  - 1) name, date and place of birth, address of permanent residence or company name and registered office of the persons for which the financial intelligence unit has submitted notifications and information;
  - 2) data on transaction, for which there are reasons for suspicion of money laundering (amount, currency, date or period of the transaction execution);
  - 3) data on previous sanctioning;
  - 4) data on the authority to which the notification or information have been sent to.
- (5) In the records from Article 84 Paragraph 5 of this Law the following data are kept and processed:
  - 1) name, date and place of birth, address of permanent residence, or company name, address and registered office of the person subject of the request;
  - 2) the name of the state and requested authority, or of the authority that issued the request.
- (6) In the records from Article 84 Paragraph 6 of this Law the following data are kept and processed:
  - 1) name, date and place of birth, address of permanent residence, or company name, address and registered office of the person for which data are sent out of the country;
  - 2) the name of the state and name of the authority to which data are delivered.
- (7) In the records from Article 84 Paragraph 7 of this Law the following data are kept and processed:
  - 1) name, date and place of birth, address of permanent residence, or company name, address and registered office of the person subject of the order;
  - 2) name of the reporting entity, account number, date and time of the transaction and reasons for the suspension of the transaction.
- (8) In the records from Article 84 Paragraph 8 of this Law the following data are kept and processed:
  - 1) name, date and place of birth, address of permanent residence, or company name, address and registered office of the person subject of the request;

## UNOFFICIAL TRANSLATION

- 2) name of the reporting entity, account number, transaction date and reasons for the ongoing monitoring of financial businesses of the customer.

### **Data records on non-residents** **Article 86**

In data records from Article 85 of this Law data on personal identity number, or tax identification number of a non-resident shall not be recorded unless otherwise provided for by this Law.

### **Records on supervision bodies' access to data, information and documentation** **Article 87**

- (1) Reporting entity, lawyer or notary shall keep separate records on access of competent authorities from Article 94 of this Law, to data, information and documentation from Article 88 of this Law.
- (2) In data records from Paragraph 1 of this Article the following data are recorded:
  - 1) name of the competent authority;
  - 2) personal name of authorized official designated by the competent authorities from Article 94 paragraph 1 Items 1-8 and authorized official from Article 94 Paragraph 1 Item 9 of this Law;
  - 3) date and time of data checking.
- (3) A reporting entity, lawyer or notary shall inform the financial intelligence unit in writing, no later than 3 days from the completed check, on any access of a competent authority from Article 94 of this Law to data from Paragraph 1 of this Article.

## **2. Data protection**

### **Prohibition of giving information** **Article 88**

- (1) Reporting entities, lawyers, notaries and their employees, members of the administrative, supervisory or other managing bodies, or other persons, to whom data from Article 79 of this Law are available or have been available, must not reveal to a customer or third person the following:
  - 1) that data, information or documentation on the customer or the transaction from Article 41 Paragraphs 2 - 5, Article 51 Paragraph 1, Article 58 Paragraphs 1, 2 and 3, Article 59 Paragraphs 1 and 2 of this Law, have been forwarded to the financial intelligence unit;
  - 2) that the financial intelligence unit on the basis of Article 61 of this Law, has temporarily suspended transaction or, instructed the reporting entity in relation to the suspension;
  - 3) that the financial intelligence unit on the basis of Article 63 of this Law demanded regular monitoring of customer's business;
  - 4) that investigation is initiated or could be initiated against a customer or third party due to money laundering or terrorist financing;
- (2) An attempt to retort a customer from engaging into an illegal activity shall not be deemed as disclosure in the sense of Paragraph 1 of this Article.
- (3) Information on data from Paragraph 1 of this Article, reports on suspicious transactions, as

## UNOFFICIAL TRANSLATION

well as all other data, information and documentation collected by the financial intelligence unit in accordance with this Law shall be designated the appropriate degree of confidentiality and must not be made available to third parties.

- (4) The financial intelligence unit is not obliged to confirm or deny the existence of a confidential data.
- (5) The decision on removing the status of confidentiality from Paragraph 3 of this Article shall be made by the authorised person from the financial intelligence unit in accordance with the law regulating data confidentiality.
- (6) Prohibition of giving information from Paragraph 1 of this Article shall not be applied on:
  - 1) data, information and documentation, that are, in accordance with this Law obtained and kept by reporting entity, and that are necessary for establishing facts in criminal proceedings, and if the submitting of such data in written form is required or ordered by the competent court;
  - 2) data from Item 1 of this Paragraph, if it is requested by supervision body from Article 94 of this Law for the implementation of this Law.

### **Exception to the principle of keeping confidentiality Article 89**

- (1) When providing data, information and documentation to the financial intelligence unit, in accordance with this Law, the obligation to protect business secrecy, bank secrecy, professional and official secrecy shall not apply to reporting entities, organizations with public powers, state authorities, courts, lawyers or notaries and their employees.
- (2) The obligation to protect business secrecy, bank secrecy, professional and official secrecy shall not apply to a reporting entity who is a member of financial group when exchanging data and information with other members of financial group in accordance with the conditions prescribed by Article 42 of this Law.
- (3) Reporting entity, lawyer or notary and their employees shall not be liable for damage caused to their customers or third persons, if in accordance with this Law, they:
  - 1) provide data, information and documentation on their customers to the financial intelligence unit;
  - 2) obtain and process data, information and documentation on their customers;
  - 3) execute the financial intelligence unit's order on temporary suspension of transaction;
  - 4) carry out the financial intelligence unit's request on regular monitoring of customer's financial businesses.
- (4) Reporting entity's employees, lawyers or notaries shall not be disciplinary or criminally liable for breach of obligation of keeping data secrecy, if:
  - 1) they provide data, information and documentation to the financial intelligence unit, in accordance with this Law;
  - 2) they process data, information and documentation, obtained in accordance with this Law, with a view to verifying customers and transactions for which there are reasons for suspicion of money laundering and terrorist financing.

### **Use of received data Article 90**

The financial intelligence unit, state authorities and holders of public powers, reporting entities, lawyers or notaries and their employees are obliged to use data, information and documentation, which they have received in accordance with this Law, only for those purposes they are obtained for.

**Keeping data  
Article 91**

- (1) Reporting entity shall keep records obtained in accordance with this Law, related documentation, data on identification number of each customer's account, data and documentation on wire transfers, documentation on business correspondence and reports at least ten years after the termination of business relationship, executed transaction, entrance of the customer into casino and facilities where other special games on chance are organised or access to the safe deposit box, unless a specific law prescribes longer period for data keeping.
- (2) The reporting entity shall keep a photocopy of a personal identification document, other documents and documentation, as well as written powers of attorney in accordance with the Paragraph 1 of this Article.
- (3) Reporting entity shall keep data and related documents on compliance officer and his/her deputy, professional trainings of employees and the application of measures of internal control from Articles 43, 47 and 48 of this Law, for the period of four years after the dismissal of the compliance officer and his/her deputy, or after the completion of professional training and internal control.
- (4) Lawyer or notary shall keep data obtained on the basis of Article 50 Paragraph 1 and related documentation for the period of ten years after the customer's identity has been established.
- (5) Lawyer or notary shall keep data and related documents on professional training of employees for the period of four years after the training has been carried out.

**Record keeping at the customs authority  
Article 92**

- (1) The customs authority shall keep data from records from Article 82 of this Law for the period of 11 years after the date of obtaining those data.
- (2) After the expiration of the period from the Paragraph 1 of this Article the data from Article 82 of this Law shall be destroyed.

**Record keeping at the Financial Intelligence Unit  
Article 93**

- (1) The financial intelligence unit shall keep data and information from records kept in accordance with this Law for the period of 11 years after the date of obtaining those data.
- (2) Data from the Paragraph 1 of this Article will be destroyed after the expiration of this period.
- (3) The financial intelligence unit must not inform the person on information and data it possesses in relation to him/her, before the expiration of 10 years from the date of their recording.
- (4) The person from Paragraph 3 of this Article shall have the right to check his/her/its personal data after the expiration of 10 years from the date of their recording.

**Protection of data and information kept by financial intelligence unit  
Article 93a**

- (1) The financial intelligence unit shall, in the aim of protection of data and information kept in accordance with this Law, provide technical conditions for informatical protection of those data and information.
- (2) Solely the employees of the financial intelligence unit have access to the data and information from Paragraph 1 of this Article.

**IX. SUPERVISION OVER THE IMPLEMENTATION OF THE LAW  
Article 94**

- (1) Supervision over implementation of this Law and regulations passed on the basis of this Law, within the competencies defined by law, is conducted by:
  - 1) The Central bank of Montenegro in relation to reporting entities from Article 4 Paragraph 2 Items 1, 2, 3 of this Law, and to reporting entities from Article 4 paragraph 2 item 12 of this Law, to which it issues licence or approval for operation;
  - 2) The Agency for Electronic Communications and Postal Services in relation to reporting entities from Article 4 Paragraph 2 Item 4 of this Law;
  - 3) The **Capital Market Authority** in relation to reporting entities from Article 4 Paragraph 2 Items 5, 6 and 7 and the legal persons from Article 75 of this Law;
  - 4) the Insurance Supervision Agency in relation to reporting entities from Article 4 Paragraph 2 Items 8 and 9 of this Law;
  - 5) the administrative authority competent for inspection affairs through an authorised inspector in accordance with the law regulating the inspection, in relation to reporting entities from Article 4 Paragraph 2 Item 10 of this Law;
  - 6) the competent tax authority in relation to reporting entities from Article 4 Paragraph 2 Item 11 of this Law;
  - 7) Bar Association of Montenegro in relation to lawyers and law offices;
  - 8) Notary Chamber in relation to notaries;
  - 9) the Ministry through an authorised official, in accordance with the Law that regulates inspection in relation to reporting entities from Article 4 Paragraph 2 Item 13 of this Law.
- (2) The competent authorities from Paragraph 1 of this Article shall, prior to conducting the inspection control, inform the financial intelligence unit on the activities of supervision they plan to carry out and, if necessary, to coordinate and harmonise their activities in performing supervision over the implementation of this Law.
- (3) If the supervisory body from Paragraph 1 of this Article, in the procedure of the supervision over the implementation of this Law, finds out illegalities and/or irregularities in the business of the reporting entity, it is authorised to:
  - order the reporting entity to remove illegalities and/or irregularities;
  - initiate misdemeanour proceedings against the reporting entity in accordance with the law which regulates misdemeanour proceedings;
  - order other measures to the reporting entity in accordance with the Law.
- (4) The supervisory bodies referred to in Paragraph 1 of this Article are obliged to mutually exchange information and to, at the request of the other competent authority or a foreign competent supervisory authority, submit the required data and documentation which such authorities need for supervision in accordance with this Law.

## UNOFFICIAL TRANSLATION

- (5) The supervisory bodies referred to in Paragraph 1 of this Article are obliged, when controlling the reporting entities from Article 4 of this Law, to use the risk based approach.
- (6) When planning the frequency, scope, intensity and the implementation of the control, the supervisory bodies referred to in Paragraph 1 of this Article are obliged to take into consideration the following:
  - data related to risks of money laundering or terrorist financing determined in the National Risk Assessment;
  - data related to specific national or international risks associated with the customers, products and services;
  - data related to the risk from an individual reporting entity and other available data;
  - significant events or changes associated with the management of the reporting entity, as well as any change in business activity.
- (7) The financial intelligence unit can submit a request to other supervisory bodies referred to in Paragraph 1 of this Article to conduct inspection at a specific reporting entity or reporting entity type, on the basis of information and data that are available to the financial intelligence unit and on the basis of strategic and operational analyses.

### **Article 95**

If an authorized official from Article 94 paragraph 1 item 9 of this Law, in procedure of inspection of the reporting entity, discovers that there are reasons for suspicion of committing criminal offence of money laundering or terrorist financing, or another criminal offence from Article 66 of this Law, he/she can take documentation from reporting entity.

### **Article 96**

If an authorized official from Article 94 paragraph 1 item 9 of this Law, in procedure of inspection of the reporting entity, discovers that there are reasons for suspicion of committing criminal offence from Article 66 of this Law, it shall provide data, information and other documentation implying criminal offence to competent state prosecution office.

### **Article 97**

- (1) Competent authorities from Article 94 of this Law shall inform the financial intelligence unit on measures taken in the process of supervision, in accordance with this Law, within 8 days from the date on which the measures were taken.
- (2) The financial intelligence unit shall keep records on measures and authorities from Paragraph 1 of this Article.
- (3) If the competent authorities from Article 94 of this Law, during the inspection, assess that in relation to any transaction or person there are reasons for suspicion of money laundering or terrorist financing, or establish facts that can be related to money laundering or terrorist financing, they shall immediately, without delay, inform the financial intelligence unit.
- (4) Authorities from Article 94 of this Law may issue an order to the reporting entity to terminate carrying out business in its subsidiaries in other country, if it is unable to implement measures to detect and prevent money laundering and terrorist financing stipulated by this Law.

### **Article 98**

On the established misdemeanour and submitted request, the competent authority shall inform the financial intelligence unit within 8 days.

**Processing, exchanging and publishing data in electronic form**  
**Article 98a**

Processing, exchanging and publishing data in electronic form shall be conducted in accordance with the laws defining electronic administration, electronic identification and electronic signature, electronic document and informational security, if it is not contrary to this Law and differently defined by this Law.

**XI. PENALTY PROVISIONS**

**Article 99**

- (1) A legal person shall be fined for misdemeanour in an amount from 3,000 EUR to 20,000 EUR when:
- 1) within the period of 60 days since the day of its establishment it does not draft risk analysis for determining the risk assessment of an individual customer, a group of customers, a country or geographic area, business relationship, transaction or product, services and distribution channels related to the possibility of misuse for the purpose of money laundering or terrorist financing and does not update it regularly and keep it in accordance with this Law (Article 7 Paragraph 1);
    - 1a) it does not develop and regularly update the list of indicators for the identification of suspicious customers and transactions (Article 6 paragraph 1 item 6);
    - 1b) it does not establish efficient policies, controls and procedures which are proportionate to the scope of its operations, or business activity, size and type of its customer, as well as the type of products (Article 7b Paragraph 1);
    - 1c) it does not appoint one of the members of the board of directors or other management body responsible for realization of tasks from Article 7b Paragraph 2 Item 1 of this Law (Article 7b Paragraph 3);
  - 2) it does not conduct the appropriate measures from Article 8 of this Law when establishing a business relationship with a customer (Article 9 Paragraph 1 Item 1);
  - 3) it does not conduct the appropriate measures from Article 8 of this Law when executing one or more occasional linked transactions in the amount of € 15,000 or more (Article 9 Paragraph 1 Item 2);
    - 3a) it does not conduct the appropriate measures from Article 8 of this Law during each occasional transaction which represents the transfer of funds in the value of €1,000 or more (Article 9 Paragraph 1 Item 3);
  - 4) it does not conduct the appropriate measures from Article 8 of this Law when there is a suspicion in the accuracy and veracity of the obtained customer and beneficial owner of customer identification data (Article 9 Paragraph 1 Item 4);
  - 5) it does not conduct the appropriate measures from Article 8 of this Law when there are reasons for suspicion of money laundering or terrorist financing related to a transaction, customer, funds or property (Article 9 Paragraph 1 Item 5);
  - 6) it does not conduct the appropriate measures from Article 8 of this Law against natural and legal persons trading in goods, when executing occasional cash transactions in the amount of €10,000 or more, regardless of whether the transaction is executed as a single transaction or several linked transactions. (Article 9 Paragraph 1 Item 6);
  - 7) it does not apply the measures from Article 8 to the customers with whom it has already established business relationships (existing customers) and does not obtain all data in accordance with this Law (Article 9 Paragraph 2);
  - 8) it does not verify the identity of a customer and obtain data from Article 79 Item 5 of this

## UNOFFICIAL TRANSLATION

- Law during the payment of lottery winnings, or payment of stake, while executing one or several linked transactions in the amount of at least €2,000 (Article 9 Paragraph 3);
- 8a) for transactions from Article 9 Paragraph 1 Items 2 and 3 it does not verify the identity data from Article 79 Item 4 of this Law of the customer who executes the transaction (Article 9 Paragraph 5);
  - 8b) for transactions from Article 9 Paragraph 1 Items 2 and 3 of this Law it does not verify the identification data on the customer executing the transaction and obtain the copy of ID document of the customer, at the cash desk or other locations where the transactions are executed in accordance with the games of chance type (Article 9 Paragraph 6);
  - 8c) it does not take measures for establishing and verifying the identity of the customer, monitor the customer's business relation and control of transactions in accordance with this Law in relation to any occasional electronic transaction that represents the transfer of funds in the amount of €1,000 and more (Article 9a Paragraph 1)
  - 9) it does not conduct the measures from Article 8 Paragraph 1 Items 1, 2 and 3 of this Law prior to establishing business relationship with the customer including establishing and verifying the identity of person from Articles 16 and 17 of this Law (Article 10 Paragraph 1);
  - 10) it establishes or does not terminate a business relationship when it cannot execute measures from Article 10 Paragraph 1 of this Law (Article 10 Paragraph 4);
  - 11) it executes the transaction without previously undertaking the prescribed measures from Article 8 Paragraph 1 Items 1,2 and 3 of this Law (Article 11 Paragraph 1);
  - 12) it cannot conduct measures from Article 8 Paragraph 1 Items 1, 2 and 3 of this Law but does not reject the establishment of business relationship and the execution of transactions, or does not act in accordance with Article 10 Paragraph 4 and Article 11 Paragraph 2 of this Law, and on the basis of previously collected information and data on the customer and/or transaction can prepare a report on a suspicious customer or transaction, which it delivers to the financial intelligence unit in accordance with Article 41 of this Law (Article 12);
  - 13) when establishing the identity of a customer from Article 14 Paragraph 1 of this Law, it does not obtain a photocopy of a personal document (e.g. identification card, passport, driver's license or similar document containing the photo of the person whose identity a reporting entity is establishing or verifying), on which he/she enters the date, time and personal name of the person who performed the check, and which it keeps in accordance with this Law (Article 14 Paragraph 5);
  - 14) establishing and verifying the identity of a customer using a qualified electronic certificate when opening an account with the reporting entity from Article 4 Paragraph 2 Item 1 of this Law, except in the case of opening a temporary deposit account for paying in founding capital (Article 14 Paragraph 6 Item 1);
  - 15) establishing and verifying the identity of a customer using a qualified electronic certificate if there is suspicion that the qualified electronic certificate was misused or if the reporting entity determines that the circumstances that have significant effect on the certification validity have changed (Article 14 Paragraph 6 Item 2);
  - 16) it does not establish in accordance with Article 8 Paragraph 1 Item 10 of this Law and verify the identity of an authorised person by checking the personal identification document in this person's presence and obtain data from Article 79 Item 3 of this Law, when establishing business relationship or conducting transactions on behalf of a customer, natural person or his/her legal representative, entrepreneur or natural person who performs activity (Article 14 Paragraph 7 Item 1);
  - 17) when establishing a business relationship or executing transactions on behalf of a customer, natural person or his/her legal representative, entrepreneur, or natural person performing the activity, in accordance with Article 8 Paragraph 1 Item 1 and Article 10 of this Law it

UNOFFICIAL TRANSLATION

- does not establish and verify the identity of the customer, on whose behalf the authorised person acts, and obtain data from Article 79 Item 4 of this Law from the original of written power of attorney or its photocopy certified in accordance with law (Article 14 Paragraph 7 Item 2);
- 18) it does not obtain his/her written statement on the veracity of these data when establishing and verifying the identity of the representative if it doubts the veracity of the data obtained. (Article 14 Paragraph 8);
  - 19) it does not require a written statement of the representative or of the customer on the veracity of these data when establishing and verifying the identity of the representative of a natural person or a customer if it doubts the veracity of the data obtained or authenticity of documents and other business documentation from which the data were obtained. (Article 14 Paragraph 9);
  - 20) it does not obtain a written statement on the authenticity of these data from a representative or an authorised person before establishing a business relationship or executing transactions when establishing and verifying the identity of a legal person or business organization if it doubts the authenticity of the obtained data or veracity of documents and other business documentation from which the data were taken (Article 15 Paragraph 7);
  - 21) when establishing and verifying the identity of the representative of a legal person or business organization, it doubts the veracity of obtained data, and it does not require his/her written statement on the veracity of those data (Article 16, Paragraph 3);
  - 22) in the process of establishing the identity of the representative and all directors of national or foreign legal person it does not obtain a copy of personal identification document of those persons in accordance with Article 14 Paragraph 5 of this Law. (Article 16 Paragraph 4);
  - 23) it does not obtain written statements when establishing and verifying the identity of the representative and authorised person who acts on behalf of a representative if it doubts the authenticity of the obtained data (Article 17 Paragraph 4);
  - 24) in the process of establishing the identity of a representative and all directors of a domestic or foreign legal person or business organization and authorised person, it obtains a copy of personal identification document of that person in accordance with Article 14 Paragraph 5 of this Law (Article 17 Paragraph 5);
  - 25) it does not establish and verify the identity of its representative and authorised person of the customer in accordance with Article 8 Paragraph 1 Item 1, Article 10 and Articles 16 and 17 of this Law and the customer is a foreign trust, other person i.e. foreign entity equal to it (Article 18 Paragraph 1 Item 1);
  - 26) it does not obtain a written documents that certify powers for a protector (representative) and authorised person when the customer is a foreign trust, other person i.e. foreign entity equal to it (Article 18 Paragraph 1 Item 2);
  - 27) it does not obtain data from Article 79 Item 2 of this Law for representative and authorised person, and the customer is a foreign trust, other person i.e. foreign entity equal to it (Article 18 Paragraph 1 Item 3);
  - 28) it does not establish and verify the identity of the representative from Article 18 Paragraph 1 Item 1 of this Law and does not obtain data from Article 79 Items 2 and 15 of this Law by checking the personal identification document of the representative in his/her presence, and if the required data cannot be determined by checking the personal identification document, it does not obtain these data from other public documents, submitted by the representative or authorised person (Article 18 Paragraph 2);
  - 28a) for a trust and foreign entity equal to it, it does not establish and verify the identity of the settlor, all trustees, protector, beneficiaries or group of beneficiaries who manage a

## UNOFFICIAL TRANSLATION

- property, under the condition that the future beneficiaries have had already been determined or can be determined, other natural person who directly or indirectly has ultimate control over the trust (Article 18 Paragraph 3);
- 29) when establishing and verifying the identity of a customer's representative from Article 18 Paragraph 1 of this Law, it doubts the accuracy of the obtained data or authenticity of identification documents and other business documentation from which the data have been obtained, and it does not obtain a written statement of the customer's representative and authorized person (Article 18 Paragraph 6);
- 30) it does not verify the identity of the customer in accordance with this Law when the customer enters the premises where special games of chance are organised in casino (Article 19 Paragraph 1 Item 1);
- 31) it does not verify the identity of the customer in accordance with this Law on any approach of a lessee or his/her representative, or a person he/she has authorised, to the safe deposit box (Article 19 Paragraph 1 Item 2);
- 32) it does not obtain a photocopy of personal identification document of that person in accordance with Article 14 Paragraph 5 of this Law, when establishing the identity of the customer from Article 19 Paragraph 1 of this Article (Article 19 Paragraph 4);
- 33) it does not establish the beneficial owner of a legal person, business organization or foreign legal person by obtaining data from Article 79 Item 14 of this Law (Article 21 Paragraph 1);
- 34) it does not obtain a photocopy of personal identification document of that person in accordance with Article 14 Paragraph 5 of this Law when establishing the identity of the beneficial owner of a legal person, business organization or foreign legal person (Article 21 Paragraph 5);
- 34a) when in the process of collecting the data from Article 21 of this Law, it doubts the accuracy of the obtained data or authenticity of the identification documents and other business files from which the data have been obtained, he/she shall does not obtain a written statement from the customer's representative or authorized person (Article 21 Paragraph 6);
- 34b) does not enter in the Register the defined data on beneficial owners and changes of owners 8 days since the day of entry into the business or tax register or eight days since the change on owner have been made((Article 21a Paragraph 4);
- 35) it accepts the measures from Article 8 Paragraph 1 Items 1, 2 and 3 of this Law conducted by a third party if the third party established and verified the identity of a customer without his/her presence (Article 22 Paragraph 3);
- 36) it entrusts the execution of measures of establishing and verifying the identity of a customer to a third party, if the third party is a shell bank or anonymous company (Article 23 Paragraph 1);
- 37) it entrusts the execution of measures of establishing and verifying the identity of a customer to a third party from a country that is on the list of countries that do not apply the standards in the area of the prevention of money laundering and terrorist financing (Article 23 Paragraph 2);
- 38) it, as a third party, executes the establishment and verification of the identity of the customer in accordance with Article 22 of this Law, and does not submit the obtained data and documentation on the customer to the reporting entity (Article 24 Paragraph 1);
- 38a) If it doubts the validity of establishing and verifying customer's identity by a third party, or the veracity of obtained data on the customer, it does not execute direct establishment and verification of customer's identity (Article 24 Paragraph 2);
- 39) upon a request of the reporting entity, it does not provide, without delay, copies of identification documents and other documentation upon which it has made establishment

UNOFFICIAL TRANSLATION

- and verification of the customers identity and obtained data and documentation (Article 25 Paragraph 1 Item 1);
- 40) deleted; (Law on Amendments and Changes to the law on Prevention of Money Laundering and Terrorist Financing, Official Gazette No.44/18)
- 41) it does not keep obtained copies of documents and documentation in accordance with this Law (Article 25 Paragraph 1 Item 2);
- 41a) it does not determine, in an internal act, the procedures on acceptance of the identification of the customer and the beneficial owner of the customer through a third person (Article 25 Paragraph 1 Item 2);
- 42) when establishing and verifying the customer's identity in the case of Article 9 Paragraph 1 Item 1 of this Law, it does not obtain the data and does not keep records from Article 79 Paragraph 1 Items 1-8 and Item 14 of this Law (Article 26 Paragraph 1);
- 43) when establishing and verifying the customer's identity and monitoring of the customer's business and controlling transactions in the case from Article 9 Paragraph 1 Items 2 and 6 of this Law, it does not obtain the data and does not keep records from Article 79 Items 1-5 and Item 8 of this Law (Article 26 Paragraph 2);
- 43a) when establishing and verifying customer's identity and monitoring customer's business and controlling transactions of a customer in the case from Article 9 Paragraph 1 Item 3 of this Law, it does not obtain data and keep records from Article 79 Items 1-5, Items 8-11 and Items 14 and 15 of this Law (Article 26 Paragraph 3);
- 44) when establishing and verifying the customer's identity and monitoring of the customer's business and controlling transactions of a customer in the case of Article 9 Paragraph 1 Items 4 and 5 of this Law, it does not obtain data and does not keep records from Article 79 of this Law (Article 26 Paragraph 4);
- 45) it does not take the measures of enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions, when entering into correspondent relationship with a bank or other credit institution which has its registered office outside the European Union or is not on the list of countries that apply international standards in the area of money laundering and terrorist financing which are at the level of standards of the European Union or higher (Article 30 Paragraph 1 Item 1);
- 46) it does not conduct measures of enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions when entering into a business relationship or executing of the transaction from Article 9 Paragraph 1 items 2-6 of this Law with a customer who is a politically exposed person or beneficial owner of a customer is a politically exposed person from Article 32 of this Law (Article 30 Paragraph 1 Item 2);
- 46a) it does not take the enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures when the user of life insurance policy or other insurance policy linked with investment or when the beneficial owner of a user is a politically exposed person in the case from Article 32a paragraph 3 of this Law (Article 30 Paragraph 1 Item 3);
- 46 b) If it does not take measures of enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the customer's transactions, when the customer or the beneficial owner of a customer is domestic or foreign politically exposed person in relation to Article 32, Paragraphs 1 and 2 of this Law (Article 30 Paragraph 1 Item 2a)
- 47) it does not take the enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures in the case of complex and unusual transactions (Article 30 Paragraph 1 Item 4);

UNOFFICIAL TRANSLATION

- 48) it does not take the enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures in the case of electronic transfer of money (Article 30 Paragraph 1 Item 5);
- 49) it does not conduct enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures, based on higher risk factors, and in all other cases when, in accordance with Article 7 and 7a Paragraph 2 of this Law, it estimates that regarding a customer, group of customers, country or geographic area, business relationship, transaction, product, service and distributive channel, there is or there could be a higher risk of money laundering or terrorist financing (Article 30 Paragraph 3);
- 49a) it does not apply enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions measures in cases when, pursuant to the national risk assessment, there is a high degree of risk of money laundering and terrorist financing identified (Article 30 Paragraph 4);
- 50) when establishing a correspondent relationship with a bank or other credit institution, which has its registered office outside the European Union or it is not on the list of countries that apply international standards in the area of preventing money laundering and terrorist financing which are on the level of standards of the European Union or higher, it does not obtain the required data (Article 31 Paragraph 1 Items 1 - 9);
- 51) it does not apply measures of enhanced establishing and verifying of the customer, monitoring of business relationships and the control of the transactions from Article 31 Paragraph 1 of this Law when establishing correspondent relationship with a bank or credit institution that is on the list of countries that apply international standards in the area of money laundering and terrorism financing at the level of the standards of the European Union or higher, when it estimates that there is a high risk of money laundering or terrorist financing (Article 31 Paragraph 2);
- 51a) it does not establish appropriate measures to determine whether the users of life insurance or life insurance connected with investment units and the beneficial owners of the user are politically exposed persons (Article 32a Paragraph 1);
- 52) when conducting enhanced verification of a customer who is a politically exposed person, in addition to measures from Article 8 of this Law, it does not undertake the appropriate measures and identify the source of property (wealth) and sources of funds of the customer (Article 33 Paragraph 1 Item 1);
- 53) when conducting enhanced due diligence of a customer who is a politically exposed person, in addition to the measures from Article 8, it does not obtain a written consent of the senior management before establishing a business relationship with a customer, or a written consent of the senior management for the continuation of the business relationship if the business relationship with the customer is established (Article 33 Paragraph 1 Item 2);
- 54) it does not establish whether a politically exposed person from Article 32 of this Law is the beneficial owner of a legal person, business organization, trust and other person, i.e. entity or a natural person equal to it, or a natural person with the registered office in a foreign country, on whose behalf a business relationship is being established or a transaction carried out or other customer's activity performed and does not obtain data from Article 33 Paragraph 1 Items 1 and 2 of this Law (Article 33 Paragraph 1 Item 3);
- 55) when conducting enhanced due diligence of a customer who is a politically exposed person, in addition to the measures from Article 8, after establishing a business relationship, it does not monitor with special attention the transactions and other business activities which a politically exposed person performs at the reporting entity, or the customer whose beneficial owner is a politically exposed person (Article 33 Paragraph 1 Item 4);
- 56) it does not make an internal act in accordance with the guidelines of the competent

UNOFFICIAL TRANSLATION

authority from Article 94 of this Law, containing the procedures that are based on risk analysis, which it applies when identifying the customer or the beneficial owner of a customer who is politically exposed person (Article 33 Paragraph 2);

- 56a) it does not undertake, in addition to the measures referred to in Article 8 of this Law, additional measures from Article 35 Paragraph 4 of this Law, when analysing transactions and business relationship with persons from high-risk third countries that do not apply or insufficiently apply measures for the prevention and detection of money laundering or terrorist financing (Article 35a Paragraph 1);
- 56b) it does not obtain a written consent of a senior manager before the establishment of business relationship with the customer from a high-risk third country (Article 35a Paragraph 2);
- 56c) after the establishment of business relation with a customer, it does not monitor transactions and other business activities performed with it by a customer from a high-risk third country (Article 35a Paragraph 3);
- 56d) it does not take measures of establishing and verifying the identity of the customer and monitoring business of a customer from high-risk third countries based on the assessment of the risk of money laundering and terrorist financing carried out in accordance with the analysis from Article 7 of this Law (Article 35a Paragraph 5);
- 56e) it does not establish the criteria for recognising the customers and transactions from high-risk third countries by an internal act, in accordance with Article 7 of this Law (Article 35a Paragraph 6);
- 57) it does not conduct simplified measures of establishing and verifying customer's identity, monitoring of business relationships and the control of transactions of customer from Article 37 of this Law in accordance with provisions of Articles 8,10,11, Articles 14-19 and Article 21 of this Law in the manner prescribed by this Law (Article 38 Paragraph 1);
- 58) it opens or keeps anonymous accounts, coded or bearer passbook for its customer, or provide other service or product that directly or indirectly enable concealment of a customer's identity (Article 39);
- 59) it establishes or continues correspondent relationships with a bank that carries out or could carry out business activities as a shell bank or with other credit institution that is known for allowing shell banks to use its accounts (Article 40);
- 60) it does not submit to the financial intelligence unit, within the prescribed period, without delay, a report containing accurate and complete data from Article 79 Items 1 to 4 and Items 8 - 11 of this Law on any cash transaction in the amount of at least EUR 15,000 (Article 41 Paragraph 1);
- 61) it does not refrain from carrying out suspicious transactions (regardless of the amount) until the decision on temporary suspension of transactions from Article 61 of this Law is made and does not provide , without delay, to the financial intelligence unit the report on suspicious transactions and the data from Article 79 of this Law; (Article 41 Paragraph 2);
- 61a) it does not submit to the financial intelligence unit, without delay, the data from Article 79, where he/she knows or suspects that the funds are the proceeds of criminal activity or are related to terrorist financing (Article 41 Paragraph 3);
- 62) it does not submit to the financial intelligence unit the data from Article 41 Paragraph 2 of this Law, prior to execution of the transactions and it does not specify the deadline in which the transactions are to be executed (Article 41 Paragraph 3);
- 63) it does not submit to the financial intelligence the data from Article 41 Paragraph 2 in written form not later than the following working day from the day of providing the information (Article 41 Paragraph 4);
- 64) it does not submit to the financial intelligence unit, without delay, the report containing the

## UNOFFICIAL TRANSLATION

data specified in Article 79 of this Law, as soon as possible and after the executed transactions, or as soon as it determines that the transactions are suspicious (Article 41 Paragraph 6);

- 65) in the report from Article 41 Paragraph 6 of this Law it does not state the reasons for not acting in accordance with Article 41 Paragraph 4 of this Law (Article 41 Paragraph 7);
- 66) it does not provide, within the prescribed deadline and in the prescribed manner, to the financial intelligence unit the required data, information and documentation, when there are reasons for suspicion of money laundering and related predicate offences or terrorist financing in relation to a transaction or a person (Article 58 Paragraphs 4, 5, 6 and 7);
- 67) it does not undertake measures and actions, without delay, in accordance with an order from Article 61 Paragraph 1,2 and 3 of this Law (Article 61 Paragraph 3);
- 68) it executes the transactions prior to the expiration of the prescribed deadline (Article 62);
- 69) it does not submit the required data or does not notify the financial intelligence unit prior to executing the transaction or concluding business, and in the notification it does not state the estimation of deadline within which the transaction or business should be executed (Article 63 Paragraph 2);
- 70) it does not notify the financial intelligence unit, without delay, in writing, if during the execution of activities within the scope of its business, it detects facts indicating a possible connection with money laundering and related predicate offences or terrorist financing (Article 75 Paragraph 1);
- 71) upon the request of the financial intelligence unit, it does not provide data, information or documentation that indicate a possible connection with money laundering and related predicate offences or terrorist financing, in accordance with the Law (Article 75 Paragraph 2);
- 72) it does not keep prescribed records (Article 78 Paragraph 1 Items 1 -5);
- 73) it reveals available data from Article 79 of this Law to a customer or a third party that the data, information or documentation about the customer or transaction from Article 41 Paragraph 2-5, Article 51 Paragraph 1, Article 58 Paragraphs 1, 2 and 3 and Article 59 Paragraphs 1 and 2 of this Law were delivered to the financial intelligence unit (Article 88, Paragraph 1, Item 1);
- 74) it reveals available data from Article 79 of this Law to a customer or a third party that the financial intelligence unit, under Article 61 of this Law, temporarily suspended the transaction, or instructed the reporting entity in relation to the suspension (Article 88 Paragraph 1 Item 2);
- 75) it reveals data available from Article 79 of this Law to customer or a third party that the financial intelligence unit, under Article 63 of this Law, demanded regular monitoring of customer's business (Article 88 Paragraph 1 Item 3);
- 76) it reveals data available from Article 79 of this Law to a customer or a third party that the investigation is or could be initiated against the customer or third party for money laundering or terrorist financing (Article 88 Paragraph 1 Item 4);
- 77) it does not use the data, information and documentation obtained in accordance with this Law only for the purpose for which they were obtained (Article 90).

(2) The responsible person in a legal person and natural person shall be fined in an amount from €500 to €2,000 for the misdemeanour from Paragraph 1 of this Article.

(3) An entrepreneur shall be fined in an amount from €500 to €6,000 for the misdemeanour from Paragraph 1 of this Article.

(4) A prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be

## UNOFFICIAL TRANSLATION

imposed to the responsible person in the legal person or natural person for up to six months for the misdemeanour from the Paragraph 1 of this Article.

### Article 100

- (1) A legal person shall be fined for misdemeanour in an amount from €3,000 to €18,000 when:
- 1) does not take appropriate actions, based on the risk analysis, to minimise identified risk of money laundering and terrorist financing (Article 7 Paragraph 2);
    - 1a) it does not take measures and actions referred to in Article 8 of this Law to eliminate money laundering and terrorist financing risks that may arise from new and developing technologies that might allow anonymity - issuance of virtual currencies, internet banking, ATMs and similar (Article 7c Paragraph 1);
    - 1b) it does not adopt internal procedures in accordance with Article 7 Paragraph 3 of this Law with a view to preventing new technologies to be used for money laundering or terrorist financing (Article 7c Paragraph 2);
  - 2) does not establish customer's identity (Article 8 Paragraph 1 Item 1);
  - 3) does not identify the beneficial owners of a customer who is a natural person, verify their identity and does not undertake measures for understanding ownership and controlling structure of the customer (Article 8 Paragraph 1 Item 2);
  - 4) does not provide data on the objective and nature of the business relationship or the purpose of the transaction, and other data in accordance with this Law (Article 8 Paragraph 1 Item 3);
  - 5) does not regularly monitor the business relationship, including the control of transactions, undertaken by the customer at the reporting entity and does not verify their compliance with the nature of the business relationship and the usual scope and type of the customer's activities (Article 8 Paragraph 1 Item 4);
    - 5a) it does not check that any person acting in the name of the customer has the right to represent or is authorised by the customer and not establish and verify the identity of any person who acts in the name of the customer pursuant to the provisions of this Law (Article 8 Paragraph 2);
  - 6) when concluding a life insurance contract does not identify the user of the life insurance policy (Article 8 Paragraph 5);
  - 7) when transferring rights of the policy to a third party, in part or entirely, it does not identify the new user at the time of transfer of rights (Article 8 Paragraph 7);
  - 8) does not define, in its internal acts, the procedures for undertaking the prescribed measures from Article 8 Paragraph 1, 2 and 5 of this Law (Article 8, Paragraph 8);
  - 9) does not establish and verify the customer's identity on the basis of documents, data and information from authentic, independent and objective sources, including a qualified electronic confirmation if it is available, and does not obtain accurate and complete data on a payer and enter them into a form or message accompanying wire transfer, sent or received in any currency that is the subject of the wire transfer (Article 34 Paragraph 1);
  - 10) it does not refuse to execute funds transfer if the data on payer are not complete and/or does not require payer data supplement in the shortest possible period (Article 34 Paragraph 3);
  - 11) Deleted. (Law on Changes and Amendments to the Law on the Prevention of Money Laundering and terrorist Financing, Official Gazette of Montenegro, No. 44/18)
  - 12) Deleted. (Law on Changes and Amendments to the Law on the Prevention of Money

UNOFFICIAL TRANSLATION

Laundering and terrorist Financing, Official Gazette of Montenegro, No. 44/18)

- 13) does not provide that the measures of detection and prevention of money laundering and terrorist financing, as defined by this Law, are implemented, to the same extent, in business units or organizations majority-owned by reporting entities, which have registered office in another country, if it is in accordance with the legal system of that country, or if the standards in this country are at the level of the European Union countries or higher (Article 42 Paragraph 1);
- 14) does not establish and implement appropriate regulations in dealing with the customer and does not provide reporting, record keeping, internal control, risk assessment, risk management and communication, in order to prevent money laundering and terrorist financing (Article 43 Paragraph 1);
- 15) does not order, carry out and control the implementation of the regulations from Article 43 Paragraph 1 of this Law in subsidiaries and other parts owned in majority with registered office in other countries (Article 43 Paragraph 2);
- 16) does not designate, in prescribed period, a compliance officer and at least one deputy for carrying out affairs and tasks of detecting and preventing money laundering and terrorist financing and in accordance with Article 46 Paragraph 3 of this Law it does not notify the financial intelligence unit administrative authority (Article 43 Paragraph 3);
- 17) does not notify the financial intelligence unit that, at the reporting entities which have less than four employees, director or other authorised person performs tasks of detecting and preventing money laundering and terrorist financing (Article 43 Paragraph 5);
- 18) does not provide the prescribed conditions to the compliance officer (Article 46 Paragraph 1);
- 19) does not use the list of indicators for identifying suspicious customers and transactions when establishing the reasons for suspicion of money laundering or terrorist financing and other circumstances related to the suspicion (Article 53 Paragraph 1);
- 19a) when making the list of indicators from Article 53 Paragraph 1 of this Law, it does not particularly take into account the complexity and size of executed transactions, unusual patterns, values or transaction links that have no clear economic or legal purpose and/or are not compliant or are disproportionate to usual or expected business activities of the customer, as well as other circumstances related to the status and other characteristics of the customer (Article 53 Paragraph 2);
- 20) does not keep records referred to in Article 78 Paragraph 1 of this Law, in a manner that will ensure the reconstruction of individual transactions (including the amounts and currency) that would serve as evidence in the process of detecting customer's criminal activities (Article 78 Paragraph 2);
- 21) does not keep separate records on access of supervision bodies from Article 94 of this Law, to data, information and documentation from Article 88 of this Law (Article 87 Paragraph 1);
- 22) does not keep records obtained in accordance with this Law, related documentation, data on identification number of each customer's account, data and documentation on wire transfers, documentation on business correspondence and reports at least ten years after the termination of business relationship, executed transaction, entrance of the customer into casino and facilities where other special games on chance are organised or access to the safe deposit box, unless a specific law prescribes different period for data keeping (Article 91 Paragraph 1);
- 23) does not keep data and supporting documents on compliance officer and his/her deputy, professional trainings of employees and the application of measures of internal control from Articles 43, 47 and 48 of this Law, for the period of four years after the dismissal of the compliance officer and his/her deputy, or after the completion of professional training and

## UNOFFICIAL TRANSLATION

- internal control (Article 91 Paragraph 3);
- (2) The responsible person in a legal person and a natural person shall be fined in an amount from €500 to €2,000 for the misdemeanour from Paragraph 1 of this Article.
  - (3) An entrepreneur shall be fined in an amount from 500 EUR to 6,000 EUR for the misdemeanour from Paragraph 1 of this Article.
  - (4) A prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed to the responsible person in the legal person or natural person for up to six months for the misdemeanour from the Paragraph 1 of this Article.

### **Article 101**

- (1) A legal person shall be fined for misdemeanour in an amount from 2,000 EUR to 10,000 EUR when:
  - 1) it does not apply the measures of monitoring customer's business relationship, including control of transactions and tracing the sources of funds the customer uses for business, and in particular does not apply the measures from Paragraph 2 of this Article (Article 27 Paragraphs 1 and 2);
  - 2) it does not ensure and adjust the scope and dynamics of undertaking measures from Article 27 Paragraph 1 of this Law to the risk of money laundering and terrorist financing, to which a reporting entity is exposed when performing certain work or when dealing with a customer (Article 27 Paragraph 3);
  - 3) a foreign legal person executes transactions from Article 9 Paragraph 1 of this Law with a reporting entity, in addition to monitoring business relationship and control of transactions from Article 27 of this Law, it does not conduct repeated annual control of a foreign legal person at least once a year, and not later than after the expiry of one-year period since the last control of the foreign legal person (Article 28 Paragraph 1);
  - 4) it does not analyse all complex and unusually large transactions, as well as any unusual pattern of the execution of transactions that do not have a clear economic justification or legal purpose or deviate from the usual or expected business of the customer, even in the case when, in terms of transactions or the customer there are no reasons for suspicion of money laundering or terrorist financing (Article 35 Paragraph 1);
  - 4a) it does not analyse the background and purpose of transactions from Article 35 Paragraph 1 of this Law, including the information on the property, the origin of the property and the source of the funds, and does not document in written the results of analysis results (Article 35 Paragraph 2);
  - 4b) upon a request of the financial intelligence unit , supervisory body from Article 94 of this Law or other competent authority, make available the analysis from Article 35 Paragraph 2 of this Law (Article 35 Paragraph 3);
  - 5) it does not define the criteria for recognising unusual transactions by an internal act in accordance with Article 7 of this Law (Article 35 Paragraph 5);
  - 6) it does not submit to the financial intelligence unit , within the prescribed deadline, an act on appointment containing the personal data and the job position of the compliance officer and his/her deputy, and it does not inform the financial intelligence unit on any change in these data, without delay, and not later than within 15 days since the day of their change (Article 46 Paragraph 3);
  - 7) it does not prepare the program of professional training and improvement aimed at detecting and preventing money laundering and terrorist financing within the prescribed deadline (Article 47 Paragraph 2);

## UNOFFICIAL TRANSLATION

- 8) it does not adopt a program for conducting the measures for preventing money laundering and terrorist financing and does not ensure its implementation (Article 48 Paragraph 1);
  - 9) it does not ensure regular internal control and revision of the implementation of the program for preventing money laundering and terrorist financing, or does not perform the affairs of detecting and preventing money laundering and terrorist financing (Article 48 Paragraph 2);
  - 10) does not use the list of indicators for identifying suspicious customers and transactions when establishing the reasons for suspicion of money laundering or terrorist financing and other circumstances related to the suspicion (Article 53 Paragraph 1);
- (2) The responsible person in a legal person and a natural person shall be fined in the amount from €400 to €2,000 for the misdemeanour from Paragraph 1 of this Article.
  - (3) An entrepreneur shall be fined in an amount from €500 to €3,000 for the misdemeanour from Paragraph 1 of this Article.
  - (4) A prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed to the responsible person in the legal person or natural person for up to six months for the misdemeanour from the Paragraph 1 of this Article.

### **Article 102**

- (1) The legal person shall be fined in the amount from 3,000 EUR to 20,000 EUR for misdemeanour if it, upon a reporting entity's request, without delay, does not provide data on the manner in which it established and verified the identity of the customer who is the owner of qualified electronic certificate (Article 14 Paragraph 4).
- (2) The responsible person in a legal person registered for the certified authentication of an electronic certificate shall be fined in the amount from 500 EUR to 2,000 EUR for the misdemeanour from Paragraph 1 of this Article.
- (3) A prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed to the responsible person in the legal person or natural person for up to six months for the misdemeanour from the Paragraph 1 of this Article.

### **Article 103**

- (1) A lawyer or notary shall be fined in the amount from 150 EUR to 6,000 EUR for misdemeanour in the following cases:
  - 1) when he/she does not designate a compliance officer and his/her deputy for the affairs of detecting and preventing money laundering and terrorist financing within the prescribed deadline and in accordance with Article 46 Paragraph 3 of this Law does not notify the financial intelligence unit (Article 43 Paragraph 3 in relation to Article 49 Paragraph 1);
  - 2) he/she does not ensure that activities of a compliance officer and his/her deputy are carried out by a person that meets the prescribed requirements (Article 44 in relation to Article 49 Paragraph 1);
  - 3) he/she does not provide the financial intelligence unit within the prescribed deadline, with data on personal name and job position name of the compliance officer and his/her deputy and information on any change of those data (Article 46 Paragraph 3 in relation to Article 49 Paragraph 1);
  - 4) he/she does not provide regular professional training and advanced training for employees engaged in the activities of detecting and preventing money laundering

## UNOFFICIAL TRANSLATION

- and terrorist financing in accordance with this Law (Article 47 Paragraph 1 in relation to Article 49 Paragraph 1);
- 5) he/she does not prepare program for professional training and advanced training for employees engaged in the activities of detecting and preventing money laundering and terrorist financing within the prescribed deadline (Article 47 Paragraph 2 in relation to Article 49 Paragraph 1);
  - 6) he/she does not adopt a program for conducting the measures for preventing money laundering and terrorist financing and does not ensure its implementation (Article 48 Paragraph 1 in relation to Article 49);
  - 7) he/she does not ensure regular internal control and revision of the implementation of the program for preventing money laundering and terrorist financing, or does not ensure performing the affairs of detecting and preventing money laundering and terrorist financing (Article 48 Paragraph 2 in relation to Article 49);
  - 7a) does not apply enhanced measures in cases from Article 7c and Art. 32 - 35 of this Law when in connection with a business relationship, customer or transaction there are reasons for suspicion of money laundering or terrorist financing (Article 49 paragraph 2);
  - 8) within customer verification procedures, he/she does not obtain all prescribed data in accordance with this Law (Article 50 Paragraphs 1, 2 and 3);
  - 9) he/she does not establish and verify the identity of a customer or his/her representative or authorised person or if he/she does not obtain required data in the prescribed manner (Article 50 Paragraphs 4, 6 and 7);
  - 10) he/she does not identify a beneficiary owner of a customer that is a legal person or other similar form of organising a foreign legal person, or does not obtain required data or does not obtain them in the prescribed manner (Article 50 Paragraphs 5 and 7);
  - 11) he/she does not notify the financial intelligence unit before the execution of a transaction or it does not state in the notification the deadline within which the transaction is to be executed (Article 51 Paragraph 1);
  - 12) he/she does not inform the financial intelligence unit that a customer asked for advice in relation to money laundering and terrorist financing (Article 51 Paragraph 5);
  - 13) he/she does not provide the financial intelligence unit with certified copies of the sale contracts related to real estate trade in the amount exceeding 15,000 EUR (Article 51 Paragraph 6);
  - 14) upon the financial intelligence unit's request for providing data in accordance with Article 59 of this Law he/she does not state the reasons, in written form, and within the prescribed deadline, for which he/she did not act in accordance with the request (Article 52 Paragraph 2);
  - 15) he/she does not inform the financial intelligence unit on cash transactions from Article 41 Paragraph 1 of this Law, when there are reasons for suspicion of money laundering or terrorist financing related to a transaction or a customer (Article 52 Paragraph 3);
  - 16) does not use the list of indicators for identifying suspicious customers and transactions when establishing the reasons for suspicion of money laundering or terrorist financing and other circumstances related to the suspicion (Article 53 Paragraph 1);
    - 16a) when making the list of indicators from Article 53 Paragraph 1 of this Law, he/she does not particularly take into account the complexity and size of executed

## UNOFFICIAL TRANSLATION

- transactions, unusual patterns, values or transaction links that have no clear economic or legal purpose and/or are not compliant or are disproportionate to usual or expected business activities of the client, as well as other circumstances related to the status and other characteristics of the client (Article 53 Paragraph 2);
- 17) he/she does not deliver to the financial intelligence unit requested data necessary for detecting money laundering and related predicate offences or terrorist financing (Article 59 Paragraph 1);
  - 18) he/she does not keep prescribed records (Article 80);
  - 19) he/she reveals available data from Article 79 of this Law to a client or third party when the data, information or documentation on the customer or the transaction from Article 41 Paragraphs 2 - 5, Article 51 Paragraph 1, Article 58 Paragraphs 1, 2 and 3, Article 59 Paragraphs 1 and 2 of this Law were delivered to the financial intelligence unit (Article 88 Paragraph 1 Item 1);
  - 20) it reveals available data from Article 79 of this Law to a customer or a third party if the financial intelligence unit, under Article 61 of this Law, temporarily suspended the transaction, or instructed the reporting entity in relation to the suspension (Article 88 Paragraph 1 Item 2);
  - 21) it reveals data available from Article 79 of this Law to customer or a third party if the financial intelligence unit, under Article 63 of this Law, demanded regular monitoring of customer's business (Article 88 Paragraph 1 Item 3);
  - 22) it reveals data available from Article 79 of this Law to a customer or a third party that the investigation is or could be initiated against the customer or third party for money laundering or terrorist financing (Article 88 Paragraph 1 Item 4);
  - 23) it does not use the data, information and documentation obtained in accordance with this Law only for the purpose for which they were obtained (Article 90);
  - 24) he/she does not keep data obtained on the basis of Article 50 Paragraph 1 of this Law and related documentation for the period of ten years after establishing customer's identity (Article 91 Paragraph 4);
  - 25) he/she does not keep data and supporting documents on professional training of employees for the period of four years after the training has been carried out (Article 91 Paragraph 5);
- (2) A prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed to the responsible person in the legal person or natural person for up to six months for the misdemeanour from the Paragraph 1 of this Article.

## **XII. TRANSITIONAL AND FINAL PROVISIONS**

### **Implementation of measures**

#### **Article 104**

Reporting entity shall implement measures from Article 8 of this Law in relation to the customers from Article 9 Paragraph 2 of this Law with whom it has already established business relationships (existing customers), when executing the first transaction after this Law comes into effect, on which the reporting entity shall prepare written record which he/she keeps in accordance with this Law.

**Harmonisation of business activities**

**Article 105**

Reporting entities shall harmonise their business activities with this Law within six months as of the effective date of the regulations from Article 107 para 1 of this Law.

**Initiated procedures**

**Article 106**

Procedures initiated in accordance with the Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro, no. 14/07, 4/08 and 14/12) shall be continued in accordance with this Law, if it is more favourable for party in the procedure.

**Article 106a**

Procedures initiated in accordance with the Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro, no. 33/14) shall be terminated in accordance with this Law, if it is more favourable for party in the procedure.

**Time limit for adoption of bylaws**

**Article 107**

- (1) Bylaws based on this Law shall be passed within three months from the date of entry into force of this Law.
- (2) Pending the date of entry into force of the bylaws referred to in Paragraph 1 of this Article, bylaws adopted based on the Law on Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro, no. 14/07, 4/08 and 14/12) shall apply.

**Article 107a**

- (1) Bylaws based on this Law shall be passed within six months from the date of entry into force of this Law.
- (2) Pending the date of entry into force of the bylaws referred to in Paragraph 1 of this Article, bylaws adopted based on the Law on Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro, no. 33/14) shall apply.

**Establishing the register**

**Article 107b**

- (1) The Register from Article 21a of this Law shall be established within one year from the date of entry into force of the bylaws from Article 107a Paragraph 1 of this Law.
- (2) The application of the provisions from Art. 21a, 21b and 21c shall start one year after the day of entry into force of the bylaws from Article 107a Paragraph 1 of this Law.

**Establishing reporting entity's internal acts and organization**

**Article 107c**

Reporting entities shall harmonize internal acts and organization with this Law within six months since the day of entrance into force of this Law.

UNOFFICIAL TRANSLATION

**Continuation of mandate**

**107d**

The head of the organizational unit of the administrative authority competent for police affairs competent for the area of prevention of money laundering and terrorist financing, appointed in accordance with the Law on State Administration (Official Gazette of Montenegro, No. 78/18) shall continue with his/her work until the expiry of the term of appointment.

**Expiry date**

**Article 108**

On the date of entry into force of this Law, the Law on the Prevention of Money Laundering and Terrorist Financing ("Official Gazette of the Republic of Montenegro", No. 14/07, 04/08 and 14/12) shall cease to have effect, except for the provisions of Articles 28 and 29 which shall apply until the entry into force of the regulations referred to in Article 7 paragraph 3 of this Law.

**Entry into force**

**Article 109**

This Law shall enter into force on the date of its publishing in the "Official Gazette of Montenegro".