

## LAW

### on the Prevention of Money Laundering and the Financing of Terrorism

Official Gazette of the Republic of Serbia, No 113/17 of 17 December 2017

#### I. PRELIMINARY PROVISIONS

##### **Subject matter**

##### Article 1

This Law lays down actions and measures for preventing and detecting money laundering and terrorism financing.

This Law governs the competence of the Administration for the Prevention of Money Laundering (hereinafter referred to as: the APML) and the competences of other authorities for implementing this Law.

##### **Money laundering and terrorism financing**

##### Article 2

For the purposes of this Law, money laundering means the following:

- 1) conversion or transfer of property acquired through the commission of a criminal offence;
- 2) concealment or misrepresentation of the true nature, source, location, movement, disposition, ownership of or rights with respect to the property acquired through the commission of a criminal offence;
- 3) acquisition, possession, or use of property acquired through the commission of a criminal offence;

For the purposes of this law, terrorism financing means the providing or collecting of property, or an attempt to do so, with the intention of using it, or in the knowledge that it may be used, in full or in part:

- 1) in order to carry out a terrorist act;
- 2) by terrorists;
- 3) by terrorist organizations.

Terrorism financing means aiding and abetting in the provision or collection of property, regardless of whether a terrorist act was committed or whether property was used for the commission of the terrorist act.

For the purposes of this Law, a terrorist act means the criminal offence specified in the treaties listed in the annex to the International Convention for the Suppression of the Financing of Terrorism, as well as any other act intended to cause death or a serious bodily injury to a civilian or any other person not taking an active part 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 or an international organization to do or to abstain from doing any act.

For the purposes of this Law, a terrorist means a person who individually or together with other persons wilfully:

- 1) attempts or commits an act of terrorism in any way, directly or indirectly;

- 2) aids and abets in the commission of a terrorist act;
- 3) has knowledge of an intention of a group of terrorists to commit an act of terrorism, contribute to the commission, or assist in the continuation of the commission of a terrorist act to a group acting with a common purpose.

For the purposes of this Law, a terrorist organisation means a group of terrorists which:

- 1) attempts or commits an act of terrorism in any way, directly or indirectly;
- 2) incites and aids and abets in the commission of a terrorist act;
- 3) has knowledge of an intention of a group of terrorists to commit an act of terrorism, contribute to the commission, or assist in the continuation of the commission of a terrorist act to a group acting with a common purpose.

## **Definitions**

### Article 3

For the purpose of this Law, the terms below are to be understood as follows:

- 1) property means assets, money, rights, securities, and other documents in any form which can be used as evidence of ownership, or other rights;
- 2) money means cash (domestic or foreign), funds in accounts (RSD or foreign currency) and electronic money;
- 3) bearer negotiable instruments means cash, cheques, promissory notes, and other bearer negotiable instruments that are in bearer form;
- 4) person under foreign law means a legal arrangement, which does not exist in domestic legislation, established to manage and dispose of property (e.g. a trust, anstalt, fiduciary, fideikomis, etc.).
- 5) customer means a natural person, entrepreneur, legal person, person under foreign law or person under civil law that carries out a transaction or establishes a business relationship with the obliged entity;
- 6) trust means a person under foreign law established by one individual (settlor, trustor) during their lifetime or post-mortem to entrust property to be disposed with and managed by a trustee for the benefit of the beneficiary or for a specifically defined purpose in a way that: the property is not part of property of the trust's settlor; the trustee has the property title over the property he holds, uses and disposes with for the benefit of the beneficiary or settlor, according to the conditions of the trust; certain operations may be entrusted by a trust deed to the trust protector, whose main role is to ensure that the property of the trust is disposed with and managed in such a way that the aims for which the trust was established are fully accomplished; beneficiary means a natural person or group of persons for the furtherance of whose interests a person under foreign law is established or operates, regardless of whether such a natural person or group of persons are identified or identifiable;
- 7) transaction means the acceptance, provision, conversion, keeping, disposition or other dealing with property by the obliged entity;
- 8) cash transaction means the physical acceptance or provision of cash to a customer;
- 9) person under civil law means an association of individuals who pool or will pool money or any other property for a certain purpose;

10) beneficial owner of a customer means the natural person who owns or controls the customer, indirectly or directly. The customer referred to in this item also includes a natural person;

11) the beneficial owner of a company or other legal person means the following:

(1) a natural person who owns, directly or indirectly, 25% or more of the business interest, shares, voting rights or other rights, based on which they participate in controlling the legal person, or who participates in the capital of the legal person with 25% or more of the interest, or a natural person who indirectly or directly has a dominant influence on business management and decision-making;

(2) a natural person who has provided or provides funds to a company in an indirect manner, which entitles him to influence significantly the decisions made by the managing bodies of the company concerning its financing and business operations;

12) beneficial owner of a trust means its settlor, trustee, protector, beneficiary if designated, and the person who has a dominant position in controlling the trust; the provision of this item also applies on the beneficial owner of other person under foreign law, *mutatis mutandis*;

13) business relationship means a business, professional or commercial relationship between a customer and the obliged entity regarding the business activity of the obliged entity that is expected, at the time when such relationship is established, to last;

14) correspondent relationship means the relationship between two banks or similar institutions which commences by the opening of an account by a bank or other similar institution with another bank in order to carry out international payment operations;

15) shell bank means a foreign bank or another financial institution performing operations which are equivalent to those of a bank or another financial institution, which is registered in the country of its actual registered office, and/or where its governing body has no physical presence and which is not part of any regulated financial group;

16) personal document means a valid document with a photo issued by the competent State body;

17) official document means a document issued by an official or responsible person in the exercise of their powers, being considered as such within the meaning of the Criminal Code (Official Gazette of RS, 85/05, 88/05 – corr., 107/05 – corr., 72/09, 111/09, 121/12, 104/13, 108/14 and 94/16);

18) information on the activities of a customer who is a natural person means information on the personal, professional, or similar capacity of the customer (employed, retired, student, unemployed, etc), or data on the activities of the customer (e.g. in the area of sports, culture and art, science and research, education, etc.) which serve as the basis to establish a business relationship;

19) information on the activities of a customer who is an entrepreneur, legal person, person under foreign law or person under civil law means information on the type of business activities of a customer, its business relations and business partners, business results, and similar information;

20) off-shore legal person means a foreign legal person which does not operate or may not operate any production or trade business activity in the State of its registration;

21) anonymous company means a foreign legal person whose owners or persons controlling it are unknown;

22) official means an official of a foreign country, official of an international organisation and official of the Republic of Serbia;

23) official of a foreign country means a natural person who holds or who has held in the last four years a high-level public office in a foreign country, such as:

- (1) head of state and/or head of the government, member of the government and their deputies,
- (2) elected representative of a legislative body,
- (3) judge of the supreme or constitutional court or of other judicial bodies at a high-level, whose judgments are not subject, save in exceptional cases, to further regular or extraordinary legal remedies,
- (4) member of courts of auditors, supreme audit institutions or managing boards of central banks,
- (5) ambassador, chargés d'affaires and high-ranking officer of armed forces,
- (6) member of managing or supervisory bodies of legal entities majority-owned by the State,
- (7) member of the managing body of a political party;

24) official of an international organisation means a natural person who holds or who has held in the last four years a high-level public office in an international organisation, such as: director, deputy director, member of managing boards or other equivalent function in an international organisation;

25) Republic of Serbia official means a natural person who holds or who has held in the last four years a high-level public office in Serbia, such as:

- (1) president of the country, prime minister, minister, state secretary, special advisor to a minister, assistant minister, secretary of the ministry, director of an authority within a ministry and their assistants and director of an independent organisation, as well as their deputies and assistants,
- (2) member of parliament,
- (3) judge of the Supreme Court of Cassation, Commercial Appellate Court and Constitutional Court,
- (4) president, vice president and member of the council of the State Audit Institution,
- (5) Governor, Vice-Governor, member of the executive board and member of the Council of the Governor of the National Bank of Serbia,
- (6) person entrusted with a prominent office in diplomatic - consular offices (ambassador, consul general, chargé d'affaires),
- (7) member of a managing board of a public enterprise or company majority-owned by the State;
- (8) member of the managing body of a political party;

26) close family members of an official means the spouse or extra-marital partner, parents, brothers and sisters, children and their spouses or extra-marital partners;

27) close associate of an official means any natural person who draws common benefit from property or from a business relationship or who has other sort of close business relationship with the official (e.g. natural person who is the formal owner of a legal person or a person under foreign law, whereas the actual benefit is drawn by the official).

28) top management means a person or a group of persons which, in line with the law, manages and organises the business operations of an obliged entity and is responsible for ensuring compliance of operation;

29) money transfer means any transaction executed at least partially electronically by a payment service provider on behalf of the payer, the aim of which is to make the funds available to the payee at a payment service provider, regardless of whether or not the payer and the payee are one and the same person, or whether the payer's payment service provider and the payee's payment service provider are one and the same person or not;

30) payment service provider means a bank, e-money institution, payment institution, National Bank of Serbia, Treasury Administration or other public authority of the Republic of Serbia within their respective statutory remits, as well as the public postal service operator headquartered in the Republic of Serbia and established according to the law governing postal services;

31) payer means a natural or legal person who to the debit of their payment account issues a payment order or gives consent for the execution of a payment transaction on the basis of the payment order issued by the payee or, if there is no payment account, a natural or legal person that issues a payment order;

32) payee means a natural or legal person designated as the recipient of funds that are the subject of the payment transaction;

33) intermediary in a money transfer means a payment service provider that is neither in a contractual relationship with the payer nor with the payee but participates in the execution of the transfer;

34) payment account means an account used for the execution of payment transactions, which is maintained by a payment service provider for one or more than one user of payment services;

35) unique identifier means a combination of letters, numbers and/or symbols that a payment service provider determines for a payment service user and that is used in payment transactions as an unambiguous identification of such a user and/or their payment account;

36) predicate criminal offence means an offence generating the property subject to the crime of money laundering, regardless of whether or not the offence was committed in the Republic of Serbia or abroad;

37) unusual transaction means a transaction deviating from standard business operations of an obliged entity's customer.

### **Obligated entities**

#### Article 4

For the purpose of this Law, obliged entities shall include the following:

- 1) banks;
- 2) authorised bureaux de change, business entities performing money exchange operations based on a special law governing their business activity;
- 3) investment fund management companies;
- 4) voluntary pension fund management companies;
- 5) financial leasing providers;
- 6) insurance companies, insurance brokerage companies, insurance agency companies and insurance agents with a licence to perform life insurance business, except for insurance agency companies and insurance agents for whose work the insurance company is responsible according to the law;

- 7) broker-dealer companies;
- 8) organisers of special games of chance in casinos and organisers of special games of chance through electronic communication means;
- 9) auditing companies and independent auditors;
- 10) e-money institutions;
- 11) payment institutions;
- 12) intermediaries in the trade or lease of real estate;
- 13) factoring companies;
- 14) entrepreneurs and legal persons providing accounting services;
- 15) tax advisors;
- 16) public postal service operator headquartered in the Republic of Serbia, established according to the law governing postal services;
- 17) persons providing the services of purchasing, selling or transferring virtual currencies or exchanging of such currencies for money or other property through internet platform, devices in physical form or otherwise, or which intermediate in the provision of these services.

Obligated entities shall include lawyers when:

- 1) assisting in planning or execution of transactions for a customer concerning:
  - (1) buying or selling of real estate or a company,
  - (2) managing of customer assets,
  - (3) opening or disposing of an account with a bank (bank, savings or securities accounts),
  - (4) collecting contributions necessary for the creation, operation or management of companies,
  - (5) creation, operation or management of a company or person under foreign law;
- 2) carrying out, on behalf of or for a customer, any financial or real estate transaction.

Obligated entities shall also include notaries public in line with the special provisions of this law.

## II ACTIONS AND MEASURES TAKEN BY OBLIGED ENTITIES

### 1. General provisions

#### *Actions and measures taken by obliged entities*

#### Article 5

Actions and measures for the prevention and detection of money laundering and terrorism financing shall be taken before, during the course of, and following the execution of a transaction or establishment of a business relationship.

The actions and measures referred to in paragraph 1 of this Article shall include the following:

- 1) knowing the customer and monitoring of their business transactions (hereinafter referred to as: customer due diligence);

- 2) sending information, data, and documentation to the APML;
- 3) designating persons responsible to apply the obligations laid down in this Law (hereinafter referred to as: a compliance officer) and their deputies, as well as providing conditions for their work;
- 4) regular professional education, training and development of employees;
- 5) providing for a regular internal control of the implementation of the obligations laid down in this Law, as well as internal audit if it is in accordance to the scope and nature of business operations of the obliged entity;
- 6) developing the list of indicators for identifying persons and transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing;
- 7) record keeping, protection and storing of data from such records;
- 8) implementing the measures laid down in this Law by obliged entity branches and majority-owned subsidiaries located in foreign countries;
- 9) implementing other actions and measures based on this Law.

Obliged entity shall, in relation to paragraph 1 of this Article, make appropriate internal acts which shall also include the actions and measures defined in this Article, for the purpose of effective managing of the risks of money laundering and terrorism financing. The internal acts shall be commensurate to the nature and size of the obliged entity and approved by the top management.

#### *Risk analysis*

#### Article 6

The obliged entity shall develop and regularly update a money laundering and terrorism financing risk analysis (hereinafter referred to as: the risk analysis) according to the guidelines adopted by the authority in charge of the supervision of the implementation of this Law.

The risk analysis from paragraph 1 of this Article shall be commensurate to the nature and scope of business operations and the size of the obliged entity, shall consider basic types of the risk (customer, geographic, transaction and service) and other types of the risk the obliged entity has identified based on the specific character of its business.

The risk analysis referred to in paragraph 1 shall comprise:

- 1) risk analysis to establish the obliged entity's overall risk;
- 2) risk analysis for each group or type of customer or business relationship, or service provided by the obliged entity within their business activity, or transaction.

The obliged entity shall deliver the risk analysis referred to in paragraph 1 of this Article to the APML and authorities in charge of supervision of the implementation of this Law, at their request, within three days of the day of such request, unless the authority in charge of supervision sets a longer deadline in its request.

Based on the risk analysis referred to in paragraph 3, item 2, of this Article the obliged entity shall classify the customer in one of the following risk categories:

- 1) low money laundering and terrorism financing risk and shall apply at least simplified customer due diligence;

- 2) moderate money laundering and terrorism financing risk and shall apply at least general customer due diligence;
- 3) high money laundering and terrorism financing risk and shall apply enhanced customer due diligence.

In addition to these risk categories, an obliged entity may in its internal acts envisage additional risk categories and define adequate actions and measures from this Law for such risk categories.

The Minister in charge of finances (hereinafter referred to as: the Minister), at the APML's proposal, shall specify in more detail the manner and reasons based on which the obliged entity classifies the customer, business relationship, service provided within their business activity or transaction as low money laundering or terrorism financing risk, according to the recognised international standards.

## **2. Customer due diligence**

### *a) General provisions*

#### Customer due diligence actions and measures

##### Article 7

Unless otherwise provided for under this Law, the obliged entity shall:

- 1) identify the customer;
- 2) verify the identity of the customer based on documents, data, or information obtained from reliable and credible sources;
- 3) identify the beneficial owner and verify their identity in the cases specified in this Law;
- 4) obtain and assess the credibility of information on the purpose and intended nature of a business relationship or transaction, and other data in accordance with this Law;
- 5) obtain and assess the credibility of information on the origin of property which is or which will be the subject matter of the business relationship or transaction, in line with the risk assessment;
- 6) regularly monitor business transactions of the customer and check the consistency of the customer's activities with the nature of the business relationship and the usual scope and type of the customer's business.

Where the obliged entity is unable to apply the actions and measures referred to in paragraph 1, items 1 to 5 of this Article, it shall refuse the offer to establish a business relationship and in case a business relationship has already been established, it shall terminate it, except in the case where the account was blocked as a result of the procedure conducted by the competent authority in line with the law.

In the cases referred to in paragraph 2 of this Article, the obliged entity shall make an official note in writing, consider whether there are reasons for suspicion of money laundering or financing of terrorism and act in accordance with the provisions of Article 47 of this Law. The obliged entity shall keep the official note in accordance with the law.

#### Application of due diligence actions and measures

##### Article 8

The obliged entity shall apply the actions and measures referred to in Article 7 of this Law in the following cases:



- 1) when establishing a business relationship with a customer;
- 2) when carrying out a transaction amounting to the RSD equivalent of EUR 15,000 or more, calculated by the National Bank of Serbia median rate as on the date of execution of the transaction (hereinafter referred to as: the RSD equivalent), irrespective of whether the transaction is carried out in one or more than one interrelated operations, in case when a business relationship has not been established;
- 3) when transferring money in accordance to Articles 11 to 15 of this Law, in case when a business relationship has not been established;
- 4) when there are reasons for suspicion of money laundering or terrorism financing with respect to a customer or transaction;
- 5) when there are doubts as to the veracity or credibility of the obtained data about a customer or beneficial owner.

Notwithstanding the provisions of paragraph 1 of this Article, the obliged entity operating a money exchange business shall carry out the actions and measures referred to in Article 7 of this Law in case of a transaction amounting to the RSD equivalent of EUR 5,000 or more, irrespective of whether such transaction is carried out in a single or more than one interrelated operations.

Notwithstanding the provisions of paragraph 1 of this Article, the obliged entity referred to in Article 4, paragraph 1, item 8 of this Law shall conduct the actions and measures referred to in Article 7 of this Law when withdrawing the gain, placing bets or in both cases, in case of transactions amounting to EUR 2,000 or more, irrespective of whether such transaction is carried out in a single or more than one interrelated operations.

#### Customer due diligence during the establishment of a business relationship

##### Article 9

The obliged entity shall apply the actions and measures referred to in Article 7, paragraph 1, items 1 to 5 of this Law before the establishment of a business relationship with a customer.

#### Customer due diligence when carrying-out a transaction

##### Article 10

In the case referred to in Article 8, paragraph 1, item 2 and paragraphs 2 and 3 of this Law, the obliged entity shall conduct the actions and measures referred to in Article 7, paragraph 1, items 1 to 5 of this Law, before the execution of a transaction.

#### *b) Special provisions related to money transfers*

#### Obligations of the payer's payment service provider

##### Article 11

The payer's payment service provider shall obtain the data on the payer and payee of the transfer and include them in the form of a payment order or electronic message accompanying the transfer from the payer to the payee.

The data on the payer shall be collected if the money transfer amounts at the RSD equivalent of EUR 1,000 or more, as well as where there are reasons for suspicion of money laundering or terrorism financing, regardless of the amount.

The data on the payer shall include:

- 1) name and surname, or name and registered office, of the payer;
- 2) payment account number, or other unique identifier, if the money transfer is carried out without opening a payment account;
- 3) address, or seat of the payer.

If it is not possible to obtain the data on the address or the seat of the payer, one of the following details shall be obtained:

- 1) national identifier, or other identifier issued by the payment service provider;
- 2) date and place of birth.

Information on the money transfer payee shall include:

- 1) name and surname, or name and seat, of the money transfer payee;
- 2) payee's payment account number, or other unique identifier, if the money transfer is carried out without opening an account.

The payment service provider shall verify the accuracy of the data obtained in the manner laid down in Articles 17 to 23 of this Law, before the execution of the money transfer, except when:

- 1) a money transfer is carried out from a payment account opened with the payment service provider;
- 2) a money transfer of less than EUR 1,000 is carried out from an account opened with another payment service provider.

The payment service provider shall develop procedures for verifying the completeness of data from this Article.

According to the risk assessment, the payment service provider may verify the accuracy of the obtained data regardless of the amount of money transferred.

#### Obligations of the payee's payment service provider

##### Article 12

The payee's payment service provider shall verify whether the details of the payer and payee of the money transfer are included in the form of a payment order or electronic message accompanying the money transfer.

The payment service provider shall develop procedures for verifying the completeness of data referred to in paragraph 1 of this Article and Articles 11, 13, 14 and 15 of this Law.

If a money transfer amounts to the RSD equivalent of EUR 1,000 or more, the payment services provider shall verify the identity of the money transfer payee, except if the identify has already been verified according to Articles 17 to 23 of this Law, as well as if there are reasons for suspicion of money laundering or terrorism financing.

According to the risk assessment, the payment service provider may check the identity of the payee regardless of the amount of money transferred.

#### Missing information

##### Article 13

The payee's payment service provider shall develop, using a risk-based approach, procedures for acting in case a money transfer does not contain complete information referred to in Article 11, paragraphs 3 to 5 of this Law.

If the incoming electronic message by which money is transferred does not contain the data specified in Article 11, paragraphs 3 and 4, or if these data are incomplete, the payment service provider may refuse the money transfer or temporarily suspend the execution of the money transfer and request the missing data from the payer's payment service provider.

If the payer's payment service provider frequently fails to deliver accurate and complete data referred to in Article 11, paragraphs 3 to 5 of this Law, the payee's payment service provider shall consider terminating the business cooperation with the payer's payment service provider, but shall be obliged to notify it thereof prior to the termination of cooperation. The payment service provider shall notify the APML of the termination of business cooperation.

The payment service provider shall consider whether the lack of accurate and complete data referred to in Article 11, paragraphs 3 to 5 of this Law constitutes reasons for suspicion of money laundering or terrorism financing. If the payment service provider establishes that there are no reasons for suspicion of money laundering or terrorism financing, it shall make a note to be kept according to law.

#### Obligations of money transfer agents

##### Article 14

The money transfer agent shall ensure that all data on the payer and payee are kept in a form or in the message accompanying the transfer.

The money transfer agent shall develop, using a risk-based approach, procedures to be applied in case the electronic message through which money is transferred does not contain complete data referred to in Article 11, paragraphs 3 to 5 of this Law.

If the money transfer agent establishes that the electronic message through which money is transferred does not contain the data referred to in Article 11, paragraphs 3 to 5 of this Law, in line with the procedures in paragraph 2 of this Article it is obliged to refuse the money transfer or temporarily suspend the money transfer and request the missing data from the payer's payment service provider, within the timeline set in the procedures referred to in paragraph 2 of this Article.

If the payer's payment service provider frequently fails to deliver accurate and complete data referred to in Article 11, paragraphs 3 to 5 of this Law, the payee's payment service provider shall consider terminating the business cooperation with the payer's payment service provider, but shall be obliged to notify it thereof prior to the termination of cooperation.

The money transfer agent shall consider whether the lack of accurate and complete data referred to in Article 11, paragraphs 3 to 5 of this Law constitutes reasons for suspicion of money laundering or terrorism financing. If the money transfer agent establishes that there are no reasons for suspicion of money laundering or terrorism financing, it shall make a note to be kept according to law.

#### Exemptions from the obligation to obtain data on the payer and payee of a money transfer

##### Article 15

The payment service provider shall not be obliged to obtain the data referred to in Article 11, paragraphs 3 to 5 of this Law in the following cases:

- 1) when the money transfer is executed in order to pay taxes, fines or other public charges;

- 2) when the payer and payee are payment service providers acting for themselves and on their own behalf;
- 3) when the payer withdraws money from his account;
- 4) when the conditions from Article 16, paragraph 1 of this Law are met.

*c) Exemption from customer due diligence in relation to certain services*

Article 16

Electronic money issuers are not obliged to apply customer due diligence actions and measures if it has been established, according to the risk analysis, that there is low risk of money laundering or terrorism financing and if the following conditions are met:

- 1) the amount of electronic money stored on a payment instrument cannot be recharged, or there is a monthly payment limit amounting to the RSD equivalent of EUR 250 that can only be used in the Republic of Serbia;
- 2) the total amount of stored electronic money does not exceed the RSD equivalent of EUR 250;
- 3) the money stored on a payment instrument is only used for purchase of goods and services;
- 4) the payment instrument may not be funded by anonymous e-money;
- 5) an electronic money issuer monitors transactions or business relationship to a satisfactory extent which enables it to detect unusual or suspicious transactions.

Provisions of paragraph 1 of this Article shall not be applied if there are reasons for suspicion of money laundering or terrorism financing, as well as in case of redemption of electronic money for cash or in cases of withdrawal of cash in the value of electronic money, when the amount redeemed does not exceed the RSD equivalent of EUR 100.

*d) Application of customer due diligence actions and measures*

d1) Establishing and verifying the identity of a customer

Establishing and verifying the identity of a natural person, legal representative and empowered representative

Article 17

An obliged entity shall establish and verify the identity of a customer who is a natural person and of the legal representative of the customer by obtaining the data specified in Article 99, paragraph 1, item 3 of this Law.

The data referred to in paragraph 1 of this Article shall be obtained by inspecting a personal identity document with the mandatory presence of the identified person. If it is not possible to obtain all the specified data from such a document, the missing data shall be obtained from another official document. The data that cannot be obtained for objective reasons in such manner shall be obtained directly from the customer.

Notwithstanding the provisions of paragraph 2 of this Article, the customer who is a natural person may carry out a transaction or establish a business relationship through an empowered representative.

If a transaction is carried out or a business relationship established on behalf of a customer by an empowered representative or legal representative, the obliged entity shall, in addition to identifying

and verifying the identity of the customer, identify and verify the identity of the empowered representative and legal representative, obtain the data referred to in Article 99, paragraph 1, item 3, in the manner specified in paragraph 2 of this Article, and request a written authorisation (Power of Attorney) or other public document which proves the status of the legal representative, whose photocopies it shall keep in accordance with the Law. In the above event, the obliged entity shall apply the measures specified in Article 39 of this Law.

If the obliged entity, during the identification and verification of identity of the customer in accordance with this Article, has any doubts about the veracity of the obtained data or the credibility of the documents from which the data were obtained, it shall obtain from the customer a written statement on the veracity and credibility of the data and documents.

During the identification of the natural person from paragraph 1 of this Article, the obliged entity shall obtain a photocopy of a personal document of such person. The obliged entity shall indicate on the photocopy the date, time and name of the person who inspected the document. The photocopy referred to in this paragraph shall be kept by the obliged entity in accordance with the law.

Identifying and verifying the identity of a natural person using a qualified electronic certificate

#### Article 18

Notwithstanding the provisions of Article 17, paragraph 2 of this Law, the obliged entity, under the conditions set out by the Minister, may also identify and verify the identity of a customer who is a natural person, or its legal representative, based on a qualified electronic certificate of the customer issued by a certification body in the Republic of Serbia, or based on a foreign electronic certificate which is equal to the domestic, in accordance with the law governing electronic operations and electronic signature.

Conditions under which the identity of the customer (natural person), or its legal representative, may be established and verified using the qualified electronic certificate are as follows:

- 1) The customer's qualified electronic certificate should be issued by the certification body which is recorded in the register kept by the competent body in line with the law governing the electronic business operations and electronic signature;
- 2) The customer's qualified electronic certificate should not be issued under a pseudonym;
- 3) The client should provide technical and other conditions enabling it to check, at any time, whether a client's qualified electronic certificate has expired or it has been cancelled, and whether the private cryptographic key is valid and issued in line with item 1 of this paragraph;
- 4) The client should check if the client's qualified electronic certificate has restrictions on its use with respect to the amount of the transaction, type of business operations, etc, and to accommodate its business operations with such restrictions;
- 5) The obliged entity is required to provide for technical requirements for the maintenance of records concerning operating the system using client's qualified electronic certificate.

The obliged entity is required to report to the APML and to the supervisory authority that the identification and verification of identity of the client will be carried out using client's qualified electronic certificate. It is also required to send in this report a statement concerning the fulfilment of conditions listed in paragraph 1, items 3 and 4 of this Article.

When establishing and verifying the identity of a customer, the obliged entity shall, based on paragraph 1 of this Article, obtain the customer data specified in Article 99, paragraph 1, item 3 of this Law from a qualified electronic certificate. Data that cannot be obtained from such certificate shall be obtained from a photocopy of a personal document, which shall be sent by the customer to the obliged entity in a printed form or electronically. If it is not possible to obtain all the specified data as described, the missing data shall be obtained directly from the customer.

The certification body which has issued a qualified electronic certificate to a customer shall, without delay, send to the obliged entity, at its request, the data about the manner in which it identified and verified the identity of the customer who is the bearer of the certificate.

Notwithstanding the provisions of paragraphs 1 and 3 of this Article, the identification and verification of the identity of a customer based on a qualified electronic certificate shall not be permitted if there is suspicion that the qualified electronic certificate has been misused, or if the obliged entity establishes that the circumstances substantially affecting the validity of the certificate have changed, while the certification body has not revoked the certificate.

If the obliged entity, when establishing and verifying the identity of a customer in accordance with this Article, has any doubts about the veracity of the obtained data or the credibility of the documents from which the data were obtained, it shall cease the procedure for establishing and verifying the identity of a natural person from a qualified electronic certificate and shall establish and verify the identity in accordance with Article 17 of this Law.

The National Bank of Serbia may also specify in more detail other methods and conditions for identifying and verifying the identity of the customer who is a natural persons and legal representative of such customer by means of electronic communications and without a mandatory physical presence of the customer who is being identified by the obliged entity referred to in Article 4, paragraph 1, items 1, 4, 5, 6, 10, 11, and 16 of this Law.

#### Establishing and verifying the identity of an entrepreneur

##### Article 19

An obliged entity shall establish and verify the identity of a customer who is an entrepreneur by obtaining the data specified in Article 99, paragraph 1, items 1 and 3 of this Law.

The data referred to in paragraph 1 of this Article shall be obtained by inspecting the original or a certified copy of the documentation from a register maintained by the competent body of the country where the customer has a registered office, as well as of personal documentation of the entrepreneur, photocopies of which it shall keep in accordance with the law. The obliged entity shall indicate, on the photocopy it keeps, the date, time, and the name of the person who inspected the original or a certified photocopy thereof.

The documentation from the register referred to in paragraph 2 of this Article shall be issued no earlier than three months before its inspection.

The obliged entity may obtain the data referred to in paragraph 1 of this Article by directly accessing the register maintained by the competent body of the country where the customer has a registered office or other official public register. The obliged entity shall indicate on a printed photocopy of the register entry the date, time and name of the person who accessed the register. The obliged entity shall keep the printed photocopy of the register entry referred to in this paragraph in accordance with the law.

If it is not possible to obtain all the information from an official public register or the register maintained by the competent body of the country where the customer has a registered office, the obliged entity shall obtain the missing data from the original or a certified photocopy of the document or other business documentation submitted by the customer. If some of the missing data cannot be obtained in the prescribed manner for objective reasons, the obliged entity shall establish such data by obtaining a written statement from the customer.

If the obliged entity has doubts as to the veracity of the obtained data or the credibility of the presented documentation, it shall obtain a written statement from the customer.

#### Identifying and verifying the identity of a legal person

##### Article 20

An obliged entity shall establish and verify the identity of a customer who is a legal person by obtaining the data specified in Article 99, paragraph 1, item 1 of this Law.

The obliged entity shall obtain the data referred to in paragraph 1 of this Article by inspecting the original or a certified photocopy of the documentation from a register maintained by the competent body of the country where the legal person has a registered office, a photocopy of which it shall keep in accordance with the law. The obliged entity shall indicate, on the photocopy it keeps, the date, time, and the name of the person who inspected the original or a certified photocopy thereof.

The documentation referred to in paragraph 2 of this Article shall be issued no earlier than three months before its inspection.

The obliged entity may obtain the data referred to in paragraph 1 of this Article by directly accessing the register maintained by the competent body of the country where the customer has a registered office or other official public register. The obliged entity shall indicate on a printed photocopy of the register entry the date, time and name of the person who accessed the register. The obliged entity shall keep the printed photocopy of the register entry referred to in this paragraph in accordance with the law.

If it is not possible to obtain all the information from an official public register or the register maintained by the competent body of the country where the customer has a registered office, the obliged entity shall obtain the missing data from the original or a certified photocopy of the document or other business documentation submitted by the customer. If some of the missing data cannot be obtained in the prescribed manner for objective reasons, the obliged entity shall establish such data by obtaining a written statement from the customer.

If the obliged entity has doubts as to the veracity of the obtained data or the credibility of the presented documentation, it shall obtain a written statement from the customer.

If a customer is a foreign legal person carrying out its business operations in the Republic of Serbia through its branch, the obliged entity shall identify and verify the identity of the foreign legal person and its branch.

#### Establishing and verifying the identity of the representative of a legal person and a person under foreign law

##### Article 21

An obliged entity shall establish the identity of the representative of a legal person by inspecting the original or a certified photocopy of the documentation from a register maintained by the competent

body of the country where the legal person has a registered office or by directly accessing the official public register, or inspecting the documents which establish the person authorised to represent the legal person in case the documentation from the register does not contain this information. The obliged entity shall indicate on the photocopy or the printed register entry it keeps the date, time, and the name of the person who inspected the original or the certified photocopy, or accessed the official public register.

Provisions of Article 17, paragraphs 2 and 6 of this Law shall apply, *mutatis mutandis*, on the procedure for verification of the identity of the representative of a legal person and the obtaining of the data referred to in Article 99, paragraph 1, item 2 of this Law.

If the obliged entity doubts the veracity of the obtained data when establishing and verifying the identity of the representative of a legal person, it shall take a written statement from the representative.

Paragraphs 1 to 3 of this Article shall apply, *mutatis mutandis*, when establishing and verifying the identity of the representative of a person under foreign law and obtaining data on such person.

If a legal person is a representative of another legal person or a person under foreign law, the obliged entity shall establish and verify the identity of the representative in accordance with the provisions of Article 20 of this Law.

The obliged entity shall apply the provisions of paragraphs 1 to 3 of this Article to the establishing and verifying of the identity of the representative of a legal person representing the legal person or a person under foreign law.

Establishing and verifying the identity of a procura holder and empowered representative of a legal person, person under foreign law and entrepreneur

## Article 22

If a business relationship is established or a transaction performed by a procura holder or empowered representative on behalf of a legal person, the obliged entity shall establish and verify their identity by inspecting a written authorisation issued by the representative of the legal person. The obliged entity shall indicate, on the photocopy it keeps, the date, time, and the name of the person who inspected the original or a certified photocopy thereof.

Provisions of Article 17, paragraphs 2 and 6 of this Law shall apply, *mutatis mutandis*, on the procedure for verification of the identity of a procura holder or empowered representative of a legal person and obtaining the data referred to in Article 99, paragraph 1, item 2 of this Law.

In case referred to under paragraph 1 of this Article, an obliged entity shall establish the identity of the representative of a legal person by inspecting the original or a certified photocopy of the document from a register maintained by the competent body of the country where the legal person has a registered office or by directly accessing the official public register, or inspecting the documents which establish the person authorised to represent the legal person in case the document from the register does not contain this information. The obliged entity shall indicate on the photocopy or the printed register entry it keeps the date, time, and the name of the person who inspected the original or the certified photocopy, or accessed the official public register. The obliged entity shall obtain the missing data on the representative referred to in Article 99, paragraph 1, item 2 of this Law from a photocopy of a personal document of the representative, which it keeps according to the law. If it is not possible to obtain all the specified data from such a document, the missing data shall be obtained from a written statement of the procura holder or empowered representative.



If the obliged entity, when establishing and verifying the identity of the procura holder or empowered representative, doubts the veracity of the obtained data, it shall obtain their written statement thereon.

Paragraphs 1 to 4 of this Article shall apply, *mutatis mutandis*, on the procedure for establishing and verifying the identity of a procura holder or empowered representative where the procura holder or empowered representative establishes a business relationship or executes a transaction on behalf of the entrepreneur.

#### Establishing and verifying the identity of a person under civil law

##### Article 23

If a customer is a person under civil law, the obliged entity shall:

- 1) identify and verify the identity of the authorised representative;
- 2) obtain the written authorisation for representation;
- 3) obtain the data referred to in Article 99, paragraph 1, items 2 and 14 of this Law.

The obliged entity shall establish the identity of the representative of a person under civil law by inspecting the original or a certified photocopy of a written authorisation for representation, whose photocopy it keeps according to the law. The obliged entity shall indicate, on the photocopy it keeps, the date, time, and the name of the person who inspected the original or a certified photocopy thereof. The obliged entity shall establish and verify the identity of the representative of a person under civil law and obtain the data referred to in Article 99, paragraph 1, item 2 of this Law, by inspecting a personal document of the authorised representative in his presence, the photocopy of which it keeps according to the law. The obliged entity shall indicate, on the photocopy it keeps, the date, time, and name of the person who inspected the original of the personal document. If it is not possible to obtain all the specified data from such a document, the missing data shall be obtained from another official document, whose photocopy the obliged entity keeps according to the law.

The obliged entity shall obtain the data in Article 99, paragraph 1, item 14 of this Law from the written authorisation submitted by the authorised representative. If it is not possible to obtain the data from such written authorisation, the missing data shall be obtained directly from the representative.

If the obliged entity has doubts as to the veracity of the obtained data or the credibility of the presented documentation, it shall obtain a written statement from the person authorised for representation thereof.

#### Special cases of identifying and verifying the identity of a customer

##### Article 24

Whenever a customer enters a casino or whenever a customer or his legal representative or empowered representative has access to a safe deposit box, the organiser of a special game of chance in a casino, or an obliged entity that provides safe deposit box services, shall establish and verify the identity of the customer and obtain, from the customer or its legal representative or empowered representative, the data referred to in Article 99, paragraph 1, items 4 and 6 of this Law.

##### d2) Identification of the beneficial owner of a customer

#### Identification of the beneficial owner of a legal person and person under foreign law

##### Article 25

(1) The obliged entity shall identify the beneficial owner of a customer that is a legal person or person under foreign law by obtaining the data referred to in Article 99, paragraph 1, item 13 of this Law.

The obliged entity shall obtain the data referred to in paragraph 1 of this Article by inspecting the original or a certified photocopy of the documentation from a register maintained by the country where the customer has a registered office, which may not be older than six months from the date of its issue, a photocopy of which the obliged entity keeps according to the law. The obliged entity shall indicate, on the photocopy it keeps, the date, time, and the name of the person who inspected the original or a certified photocopy thereof. The data may be also obtained by directly accessing the official public register in accordance with the provisions of Article 20, paragraphs 4 and 6 of this Law.

If it is not possible to obtain all the information from the official public register or the register maintained by the competent body of the country where the customer has a registered office, the obliged entity shall obtain the missing data from the original or a certified photocopy of the document or other business documentation submitted by the representative, procura holder or empowered representative of the customer.

If, for objective reasons, the data cannot be obtained as specified in this Article, the obliged entity shall obtain them by accessing commercial and other available databases and sources of information, or from a written statement given by the representative, procura holder or empowered representative and the beneficial owner of the customer. When identifying the beneficial owner, the obliged entity may obtain a photocopy of a personal document of the beneficial owner of the customer.

If even after undertaking all the actions prescribed in this Article the obliged entity is still unable to identify the beneficial owner, it shall identify one or more natural persons who hold top management positions at the customer. The obliged entity shall make a record of the actions and measures undertaken based on this Article.

The obliged entity shall undertake reasonable measures to verify the identity of the beneficial owner of a customer as to know at any time the ownership and management structure of the customer and its beneficial owners.

#### Establishing the identity of the beneficiary of a life insurance policy

##### Article 26

The obliged entity referred to in Article 4, paragraph 1, item 6 shall, in addition to identifying the customer - life insurance policy holder, obtain the information on the name of the beneficiary of life insurance. The obliged entity shall identify the beneficiary of a life insurance policy at the moment the customer - life insurance policy holder defines it.

Where the beneficiary of a life insurance policy is not identified by a name or title, the obliged entity shall obtain as much information as is sufficient to identify their identity, or the identity of the beneficial owner of the beneficiary of the life insurance policy, at the moment of payout of the insured amount, exercising the rights based on redemption, advance payment or pledging of the life insurance policy.

The obliged entity shall verify the identity of the beneficiary of a life insurance policy at the moment of payout of the insured amount, exercising the rights based on redemption, advance payment or pledging of the life insurance policy.

The obliged entity shall establish whether the beneficiary of a life insurance policy and their beneficial owner are officials, and if they are, the obliged entity shall undertake the measures referred to in Article 38 of this Law.

If the beneficiary of a life insurance policy is categorised as posing high money laundering or terrorism financing risk, the obliged entity shall undertake reasonable measures to establish the beneficial owner of such beneficiary no later than at the moment of payout of the insured amount, exercising the rights based on redemption, advance payment or pledging of the life insurance policy.

Where the obliged entity establishes a high money laundering and terrorism financing risk in relation to a life insurance policy, in addition to the actions and measures from Article 8 of this Law it shall also undertake the following measures: inform the top management thereof before the payout of the insured amount and apply enhanced customer due diligence actions and measures.

If the obliged entity cannot establish the identity of the beneficiary of a life insurance policy or the beneficial owner of the beneficiary of the life insurance policy, it shall make an official note in writing, and consider whether there are reasons for suspicion of money laundering or terrorism financing. The obliged entity shall keep the official note in accordance with the law.

d3) Obtaining data about the purpose and intended nature of a business relationship or transaction, and other data under the provisions of this Law

#### Data to be obtained

##### Article 27

Within the customer due diligence actions and measures laid down in Article 8, paragraph 1, item 1 of this Law, the obliged entity shall obtain the data referred to in Article 99, paragraph 1, items 1 to 3, 5, 6, 13 and 14 of this Law.

Within the customer due diligence actions and measures laid down in Article 8, paragraph 1, items 2 and 3 of this Law and Article 8, paragraphs 2 and 3 of this Law, the obliged entity shall obtain the data referred to in Article 99, paragraph 1, items 1 to 3, 7 to 10, 13 and 14 of this Law.

Within the customer due diligence actions and measures laid down in Article 8, paragraph 1, items 4 and 5 of this Law, the obliged entity shall obtain the data referred to in Article 88, paragraph 1 of this Law.

#### Data on the origin of property

##### Article 28

The obliged entity shall collect the data and information from Article 99, paragraph 1, item 11 of this Law on the origin of property which is or will be the subject of a business relationship, or of transaction where the business relationship has not been established, and assess the credibility of the collected information if, in line with the risk analysis from Article 6 of this Law, it establishes that in relation to the customer there is a high money laundering or terrorism financing risk.

The obliged entity collects the data and information on the origin of assets from a customer and, undertaking reasonable measures, checks them additionally through available sources of information.

#### d4) Monitoring customer business transactions

##### Monitoring customer business transactions with due care

##### Article 29

An obliged entity shall monitor business transactions of a customer with due care.

Monitoring of business transactions of the customer referred to in paragraph 1 of this Article also includes the following:

- 1) obtaining the data referred to in Article 99, paragraph 1, items 7 to 10 of this Law on every transaction when a business relationship has been established;
- 2) ensuring that the business transactions of a customer are consistent with the assumed purpose and intended nature of the business relationship that the customer established with the obliged entity;
- 3) conducting monitoring and ensuring that the business transactions of the customer are consistent with its normal scope of business;
- 4) monitoring and updating the obtained information, data and documentation about the customer and its business operations.

The obliged entity shall apply the actions and measures specified in paragraph 2, items 2 to 4 of this Article to the extent and as frequently as appropriate to the risk level established by the analysis referred to in Article 6 of this Law.

*e) Conducting customer due diligence actions and measures through third parties*

Relying on a third party to perform certain customer due diligence actions and measures

Article 30

When establishing a business relationship, the obliged entity may, under the conditions laid down in this Law, rely on a third party to apply the actions and measures set out in Article 7, paragraph 1, items 1 to 5 of this Law.

A third party means:

- 1) the obliged entity referred to in Article 4, paragraph 1, items 1, 3, 4, 7, 9 to 11, 13, 16 and insurance companies licensed to perform life insurance business;
- 2) the person referred to in item 1 of this paragraph from a foreign country if it is required by law to be licensed to perform business, apply customer due diligence actions and measures, keep records in an equal or similar manner as specified in this Law, and is supervised in the carrying out of its tasks for the prevention and detection of money laundering and terrorism financing in an adequate manner.

The obliged entity shall ensure beforehand that the third party referred to in paragraph 2 of this Article meets all the conditions laid down in this Law.

The obliged entity may not accept relying on a third party to perform certain customer due diligence actions and measures if such a person has identified and verified the identity of a customer without the customer's presence.

By relying on a third party in applying certain customer due diligence actions and measures, the obliged entity shall not be exempt from responsibility for a proper application of customer due diligence actions and measures in accordance with this Law.

Prohibition of relying

Article 31

The obliged entity shall not rely on a third party to perform certain customer due diligence actions and measures if the customer is an off-shore legal person or an anonymous company.

The obliged entity may not rely on a third party to perform certain customer due diligence actions and measures if the third party is from a country which has strategic deficiencies in the system for the prevention of money laundering and terrorism financing.

Under no circumstances shall the third party be an off-shore legal person or a shell bank.

#### Obtaining data and documentation from a third party

##### Article 32

A third party relied upon by an obliged entity to perform certain customer due diligence actions and measures specified in the provisions of this Law shall without delay submit to the obliged entity the data held about the customer that the obliged entity requires in order to establish a business relationship under this Law.

The third party shall, at the request of the obliged entity, deliver without delay photocopies of identity papers and other documentation based on which it applied the customer due diligence actions and measures and obtained the requested data about the customer. The obliged entity shall keep the obtained photocopies of the identity papers and documentation in accordance with this Law.

If the obliged entity doubts the credibility of the applied customer due diligence actions and measures, or of the veracity of data obtained about a customer, it shall undertake additional measures to eliminate the reasons for the suspicion of the veracity of the documentation.

If despite undertaking the additional measures from paragraph 3 of this Article the obliged entity still doubts the veracity of the documentation, it shall consider whether there is suspicion of money laundering or terrorism financing.

The obliged entity shall make an official note about the undertaken measures from this Article. The obliged entity shall keep the official note in accordance with the law.

If despite undertaking the additional measures the obliged entity does not eliminate the reasons for suspicion of the veracity of the documentation, or of money laundering or terrorism financing, it shall consider if it is going to rely on such third party to perform customer due diligence actions and measures in the future. The obliged entity shall make an official note about the undertaken measures from this paragraph. The obliged entity shall keep the official note in accordance with the law.

#### Prohibition of establishing a business relationship

##### Article 33

The obliged entity may not establish a business relationship if:

- 1) the customer due diligence was applied by a person other than the third party referred to in Article 30, paragraph 2 of this Law;
- 2) the third party established and verified the identity of the customer in its absence;
- 3) it has not previously obtained the data referred to in Article 32, paragraph 1 of this Law from the third party;
- 4) it has not previously obtained the photocopies of identification documents and other documentation about the customer from the third party;

5) it doubted the credibility of the applied customer due diligence actions and measures or the veracity of the obtained data about a customer, where the suspicion has not been eliminated after undertaking the additional measures.

*f) Special forms of customer due diligence actions and measures*

Article 34

Apart from the general customer due diligence actions and measures applied in accordance with the provisions of Article 7, paragraph 1 of this Law, the following special forms of customer due diligence shall be applied in the circumstances specified in this Law:

- 1) enhanced customer due diligence actions and measures;
- 2) simplified customer due diligence actions and measures.

f1) Enhanced customer due diligence actions and measures

General provisions

Article 35

Enhanced customer due diligence actions and measures, in addition to the actions and measures laid down in Article 7, paragraph 1, of this Law, shall also include additional actions and measures laid down herein which an obliged entity performs in the following circumstances:

- 1) when establishing a correspondent relationship with banks and other similar institutions from foreign countries;
- 2) when implementing new state of the art technology and services, in accordance with the risk assessment;
- 3) when establishing a business relationship from Article 8, paragraph 1, item 1 or carrying out a transaction from Article 8, paragraph 1, items 2 and 3 of this Law if the customer is an official;
- 4) when a customer is not physically present when establishing and verifying its identity;
- 5) when a customer or a legal person appearing in the customer's ownership structure is an off-shore legal person;
- 6) when establishing a business relationship or carrying out a transaction with a customer from a country which has strategic deficiencies in the system for the prevention of money laundering and terrorism financing.

In addition to the cases specified in paragraph 1 of this Article, the obliged entity shall apply enhanced customer due diligence actions and measures also in circumstances when, in accordance with the provisions of Article 6 of this Law, it assesses that due to the nature of the business relationship, form or manner of execution of a transaction, customer's business profile or other circumstances related to a customer there exists or there may exist a high level of money laundering or terrorism financing risk. The obliged entity shall define by an internal enactment which enhanced customer due diligence actions and measures and to what extent it applies in each particular situation.

Correspondent relationship with banks and other similar institutions from foreign countries

Article 36

When establishing a correspondent relationship with a bank or any other similar institution with registered office in a foreign country, the obliged entity shall, in addition to applying customer due

diligence actions and measures in accordance with the risk assessment, also obtain the following data, information and/or documentation:

- 1) date of issue and period of validity of the banking licence as well as the name and seat of the competent body of the foreign country which issued the licence;
- 2) description of internal procedures concerning the prevention and detection of money laundering and terrorism financing, and particularly the procedures regarding customer due diligence actions and measures, sending of data on suspicious transactions and persons to the competent bodies, record keeping, internal control, and other procedures adopted by the bank or any other similar institution in relation to the prevention and detection of money laundering and terrorism financing;
- 3) description of the system for the prevention and detection of money laundering and terrorist financing in the country where the registered office is located, or where the bank or other similar institution has been registered;
- 4) a written statement of the responsible person in a bank stating that the bank or other similar institution in the state of seat or in the state of registration is under supervision of the competent state body and that it is required to apply the regulations of such state concerning the prevention and detection of money laundering and terrorism financing;
- 5) additional data so as to: understand the nature and the intended purpose of the correspondent relationship which is being established, establish the quality of supervision, check whether there is a reputational risk, establish whether there has been a criminal proceeding for money laundering or terrorism financing or if the bank or other financial institution has been sanctioned for more severe violations of the legislation for the prevention of money laundering and terrorism financing, to establish that the bank and/or other similar institution does not operate as a shell bank, that it does not have business relationship with and that it does not conduct transactions with a shell bank.

Prior to establishing a business relationship, the obliged entity shall obtain a written authorisation from its top management, whereas if such a relationship has already been established, it may not be continued without a written authorisation from the top management.

The obliged entity shall obtain the data referred to in paragraph 1, items 1 to 4 of this Article by inspecting the identity documents and business documentation submitted to it by a bank or other similar institution with the seat in a foreign country, and the data referred to in paragraph 1, item 5 by accessing public or other available sources.

The obliged entity shall not establish or continue a correspondent relationship with a bank or other similar institution whose registered office is located in a foreign country if:

- 1) it has not previously obtained the data referred to in paragraph 1 of this Article;
- 2) the employed person in the obliged entity who is responsible for establishing a correspondent relationship has not previously obtained a written authorisation from the obliged entity's top management;
- 3) a bank or other similar institution with the seat located in a foreign country has not established a system for the prevention and detection of money laundering and terrorism financing or if is not required to apply the regulations in the area of prevention and detection of money laundering and terrorism financing in accordance with the regulations of the foreign country in which it has its registered office, or where it is registered;

4) a bank or other similar institution with its registered office located in a foreign country operates as a shell bank, or if it establishes correspondent or other business relationships or carries out transactions with shell banks.

The obliged entity shall specifically provide for and document, in the contract based on which a correspondent relationship is established, the obligations related to the prevention of money laundering and terrorism financing for each contracting party. The obliged entity shall keep the contract in accordance with the law.

The obliged entity may not establish a correspondent relationship with a foreign bank or other similar institution based on which such an institution may use the account with the obliged entity to operate directly with its customers.

#### Emerging technologies and new services

##### Article 37

An obliged entity shall assess the risk of money laundering and terrorism financing in relation to a new service it provides within the scope of its business, new business practice, as well as of the manner of providing the new service, prior to its introduction.

The obliged entity shall assess the risk of using modern technologies for the provision of the existing or new services.

The obliged entity shall undertake additional measures to mitigate and manage money laundering and terrorism financing risks referred to in paragraphs 1 and 2 of this Law.

##### Official

##### Article 38

An obliged entity shall establish a procedure for determining whether a customer or the beneficial owner of a customer is an official. Such procedure shall be laid down in an internal act of the obliged entity, in line with the guidelines adopted by the body referred to in Article 104 of this Law that is competent for the supervision of the implementation of this Law by the obliged entity.

If a customer or the beneficial owner of a customer is an official, the obliged entity shall, apart from the actions and measures referred to in Article 7, paragraph 1 of this Law do the following:

- 1) obtain data on the origin of property which is or which will be the subject matter of a business relationship or transaction, using the identification documents and other documentation submitted by the customer. If it is not possible to obtain such data as described, the obliged entity shall obtain a written statement on the origin of the property directly from the customer;
- 2) obtain data on the total property owned by the official, using publically available and other sources, as well as directly from the customer;
- 3) ensure that the employee of the obliged entity who carries out the procedure for establishing a business relationship with an official shall, before establishing such a relationship, obtain written consent from the top management;
- 4) monitor with special attention the transactions and other business activities of an official for the period of duration of the business relationship.

If the obliged entity establishes that a customer or a beneficial owner of the customer became an official during the business relationship, it shall apply the actions and measures referred to in



paragraph 2, items 1, 2 and 4 of this Article, whereas for the continuation of the business relationship with such a person a written consent shall be obtained from the top management.

The provisions of paragraphs 1 to 3 of this Article are also implemented in relation to a close family member and a close associate of the official.

Identification and verification of identity without the customer's physical presence (non-face-to-face customer)

#### Article 39

If when identifying and verifying the identity a customer or a legal representative and/or a person authorised to represent a legal person or a person under foreign law is not physically present in the obliged entity, the obliged entity shall, apart from the actions and measures referred to in Article 7, paragraph 1, items 1 to 5 of this Law, apply one or more of the following additional measures:

- 1) obtaining additional documents, data, or information based on which it shall verify the identity of a customer;
- 2) conducting additional inspection of submitted identity documents or additional verification of customer data;
- 3) ensuring that, before the execution of other customer transactions in the obliged entity, the first payment shall be carried out from an account of the customer opened with a bank or a similar institution in accordance with Article 17, paragraphs 1 and 2 of this Law;
- 4) obtaining the data on the reasons for absence of the customer;
- 5) other measures laid down by the body referred to in Article 104 of this Law.

#### Off-shore legal person

#### Article 40

An obliged entity shall set out a procedure for establishing whether a customer or a legal person which exists in the ownership structure of the customer is an off-shore legal person. If it is established that it is, the obliged entity shall, in addition to the actions and measures referred to in Article 7, paragraph 1, items 1 to 5 of this Law also take the following additional measures:

- 1) determine the reasons for the establishment of a business relationship, or execution of a transaction amounting to EUR 15,000 or more, when the business relationship has not been established in the Republic of Serbia;
- 2) additionally inspect the data on the ownership structure of the legal person;

If the customer referred to in paragraph 1 of this Article is a legal person with a complex ownership structure, the obliged entity shall obtain from the beneficial owner or legal representative of the customer a written statement on the reasons for the existence of such a structure.

In case referred to in paragraph 2 of this Article, the obliged entity shall consider whether there are reasons for suspicion of money laundering or terrorism financing and make an official note which it keeps in accordance with the law.

Countries which do not implement international standards in the area of the prevention of money laundering and terrorism financing

#### Article 41

When establishing a business relationship or carrying out a transaction amounting to EUR 15,000 or more, in case when a business relationship has not been established, with a customer from a country which has strategic deficiencies in the system for the prevention of money laundering and terrorism financing, the obliged entity shall apply enhanced customer due diligence actions and measures referred to in paragraph 2 of this Article. The strategic deficiencies primarily include:

- 1) legal and institutional framework of the country, especially the criminalisation of the criminal offences of money laundering and terrorism financing, customer due diligence actions and measures, provisions governing the keeping of data, provisions governing reporting of suspicious transactions, authorisations and procedures of the relevant state bodies of the country in relation to money laundering and terrorism financing;
- 2) effectiveness of the system for the fight against money laundering and terrorism financing in eliminating money laundering and terrorism financing risks.

In case referred to in paragraph 1 of this Article, the obliged entity shall:

- 1) apply the actions and measures from Article 35, paragraph 2 in the manner and scope proportionate to high risk associated with having a business relationship with such customer;
- 2) obtain data on the origin of the property which is the subject matter of the business relationship or transaction;
- 3) obtain additional information on the purpose and intended nature of the business relationship or transaction;
- 4) conduct additional inspection of submitted identity documents;
- 5) undertake other additional measures to eliminate the risks.

The Ministry competent for finance, National Bank of Serbia and Securities Commission, either independently or at a request of the relevant international organisation, may determine if having a business relationship with a country which has strategic deficiencies in its system for the prevention of money laundering and terrorism financing is especially risky, and may implement the following measures:

- 1) prohibit the financial institutions for whose registration they are relevant from establishing branches and business units in such countries;
- 2) prohibit the establishment of branches and business units of financial institutions from such countries;
- 3) limit financial transactions and business relationships with customers from such countries;
- 4) request financing institutions to assess, amend and, if necessary, break correspondent or similar relationships with financial institutions from such countries;
- 5) other adequate measures.

If a business relationship is already established, the obliged entity shall apply measures referred to in paragraph 1 of this Article.

The minister, at a proposal of the APML, establishes a list of countries with the strategic deficiencies, taking into consideration the lists determined by relevant international institutions and reports on the

assessment of the systems for fight against money laundering and terrorism financing issued by international institutions.

## f2) Simplified customer due diligence actions and measures

### General provisions

#### Article 42

An obliged entity may apply simplified customer due diligence actions and measures in the circumstances referred to in Article 8, paragraph 1, items 1 to 3 of this Law, except where there are reasons for suspicion of money laundering or terrorist financing with respect to a customer or transaction, if the customer is:

- 1) the obliged entity referred to in Article 4, paragraph 1, items 1 to 7, 10, 11 and 16 of this Law, except for insurance brokers and agents;
- 2) the person referred to in Article 4, paragraph 1, items 1 to 7, 10, 11 and 16 of this Law, except for insurance brokers and agents from a foreign country on the list of countries that apply international standards in the area of prevention of money laundering and terrorism financing at the European Union level or higher;
- 3) a state body, body of an autonomous province or body of a local self-government unit, public agency, public service, public fund, public institute or chamber;
- 4) a company whose issued securities are included in a regulated securities market located in the Republic of Serbia or in a country where the international standards applied regarding the submission of reports and delivery of data to the competent regulatory body are at the European Union level or higher;
- 5) a person representing a low risk of money laundering or terrorism financing as established in accordance with Article 6, paragraph 5 of this Law.

Except in the cases specified under paragraph 1 of this Article, the obliged entity may apply simplified customer due diligence actions and measures also in the cases when it assesses, in accordance with the provisions of Article 6 of this Law, that the nature of the business relationship, form or manner of the transaction, customer business profile, or other circumstances related to the customer, poses insignificant or low level of money laundering or terrorism financing risk.

When applying simplified customer due diligence actions and measures, the obliged entity shall implement an adequate level of monitoring of business operations of the customer so as to be able to detect unusual and suspicious transactions.

### Customer data obtained and verified

#### Article 43

In cases where, based on this Law, simplified customer due diligence actions and measures are applied, the obliged entity shall obtain the following data:

- 1) when establishing the business relationship referred to in Article 8, paragraph 1, item 1 of this Law:
  - (1) the data referred to in Article 99, paragraph 1, items 1, 2, 5, 6 and 14 of this Law,
  - (2) the data referred to in Article 99, paragraph 1, item 13 of this Law, except for the case referred to in Article 42; paragraph 1, items 3 and 4 of this Law;

2) when carrying out a transaction referred to in Article 8, paragraph 1, items 2 and 3 of this Law:

(1) the data referred to in Article 99, paragraph 1, items 1, 2 and 7 to 10 of this Law,

(2) the data referred to in Article 99, paragraph 1, item 13 of his Law, except in the case referred to in Article 42 paragraph 1 items 3 and 4 of this Law.

For a customer who is a natural person, when establishing a business relationship from Article 8, paragraph 1, item 1 of this Law or when carrying out a transaction from Article 8, paragraph 1, items 2 and 3 of this Law, the obliged entity shall obtain the data referred to in Article 99, paragraph 1, items 3, 5 to 10 and 13 of this Law.

*e) Restriction of business transactions with customers*

Prohibition of provision of services allowing for concealment of the customer's identity

Article 44

The obliged entity shall not open or maintain anonymous accounts for customers, or issue coded or bearer savings books, or provide any other services that directly or indirectly allow for concealing the customer identity.

Prohibition of business transactions with shell banks

Article 45

An obliged entity may not enter into or continue a correspondent relationship with a bank which operates or which may operate as a shell bank, or with any other similar institution which can reasonably be assumed that it may allow a shell bank to use its accounts.

Restriction of cash transactions

Article 46

A person engaged in the business of selling goods or real estate or provision of services in the Republic of Serbia may not accept cash payments from customer or third party in the amount of EUR 10,000 or more in its RSD equivalent.

The restriction laid down in paragraph 1 of this Article shall also apply if the payment for goods or a service is carried out in more than one connected cash transactions which total the RSD equivalent of EUR 10,000 or more.

**3. Reporting of information, data, and documentation to the APML**

*Reporting obligation and deadlines*

Article 47

The obliged entity shall furnish the APML with the data specified in Article 99, paragraph 1, items 1 to 3 and 7 to 10 of this Law in case of any cash transaction amounting to the RSD equivalent of EUR 15,000 or more, immediately after such a transaction has been carried out and no later than three business days following the execution of transaction.

The obliged entity shall furnish the APML, before the transaction is executed, with the data specified in Article 99, paragraph 1 of this Law whenever there are reasons for suspicion of money laundering or terrorist financing with respect to the transaction or customer, and shall indicate in its report the time when the transaction is to be carried out. In a case of urgency, such report may be delivered also

by telephone, in which case it shall consequently be sent to the APML in writing no later than the next business day.

The reporting obligation for transactions referred to in paragraph 2 of this Article shall also apply to a planned transaction, irrespective of whether or not it has been carried out.

An auditing company and independent auditor, entrepreneur and legal person providing accounting services and tax advisor shall inform the APML whenever a customer seeks advice concerning money laundering or terrorism financing, promptly and no later than three days following the day when the customer requested such advice.

If, in cases referred to in paragraphs 2 and 3 of this Article, the obliged entity is unable to act in accordance with paragraph 2 of this Article, either due to the nature of a transaction, because a transaction has not been carried out, there is a risk it would prevent gathering and verifying the information on beneficial owner, or for any other justified reason, it shall send the data to the APML as soon as possible and no later than immediately after it has learned of the reasons for suspicion of money laundering or terrorism financing. The obliged entity shall make a written statement of the reasons why it did not act as prescribed.

The obliged entity shall send to the APML the data referred to in paragraphs 1 to 4 of this Article following a procedure laid down by the Minister.

The Minister shall specify more closely the manner and reasons under which the obliged entity shall not be required to report to the APML the cash transaction referred to in paragraph 1 of this Article.

#### **4. Application of actions and measures by the obliged entity's business units and majority-owned subsidiaries located in foreign countries**

##### *Obligation to apply actions and measures in foreign countries*

##### Article 48

An obliged entity shall ensure that the actions and measures for the prevention and detection of money laundering and terrorism financing equivalent to those laid down in this Law are applied to the same extent in its business units and majority-owned subsidiaries with their registered office located in a foreign country, in line with a law regulating operations of companies, unless this is explicitly contrary to the regulations of such country.

An obliged entity which is a part on an international group shall apply programmes and procedures relevant for the whole group, including the procedures for the exchange of information for the purpose of customer due diligence actions, mitigation and elimination of the money laundering and terrorism financing risk, as well as other actions and measures with the aim of preventing money laundering and terrorism financing. The obliged entity which is a part of an international group may exchange with other members of the group the data and information on transactions and persons about whom there are reasons for suspicion of money laundering and terrorism financing and which have been reported to the APML as such, except if the APML requests differently.

If a business unit or majority-owned subsidiary of an obliged entity is located in a country which does not implement international standards in the area of the prevention of money laundering and terrorism financing, the obliged entity shall provide for enhanced control of application of the actions and measures laid down in paragraph 1 of this Article.

If appropriate measures laid down in paragraph 3 of this Article are not enough, in especially justifiable cases the state body from Article 104 of this Law and the APML may decide on application of special supervisory measures.

If regulations of a foreign country do not permit the application of actions and measures for the prevention and detection of money laundering or terrorism financing to the extent laid down in this Law, the obliged entity shall immediately inform the APML and the state body referred to in Article 104 of this Law thereof, for the purpose of deciding on the appropriate measures to eliminate the risk of money laundering or terrorism financing.

The obliged entity shall, on time and regularly, send to its business units or majority-owned subsidiaries in a foreign country updated information on the procedures concerning the prevention and detection of money laundering and terrorism financing, and particularly concerning customer due diligence actions and measures, reporting to the APML, record keeping, internal control, and other circumstances related to the prevention and detection of money laundering or terrorism financing.

The obliged entity shall determine in its internal acts the manner of conducting control of the implementation of the procedures for the prevention of money laundering and terrorism financing at the level of the group.

## **5. Compliance officer, training and internal control**

### *a) Compliance officer*

#### Appointment of the compliance officer and his deputy

##### Article 49

An obliged entity shall appoint a compliance officer and his deputy to carry out certain actions and measures for the prevention and detection of money laundering and terrorism financing, in accordance with this Law and regulations enacted based on this Law.

If the obliged entity has only employee only, that employee shall be regarded compliance officer.

#### Requirements to be fulfilled by the compliance officer

##### Article 50

The compliance officer from Article 49 of this Law shall meet the following requirements:

- 1) to be employed at the obliged entity in a position with powers allowing for an effective, efficient and good quality performance of all tasks laid down in this Law;
- 2) not to have been sentenced by a final court decision or subject to any criminal proceedings for criminal offences prosecuted *ex officio* rendering him unsuited for the job of a compliance officer;
- 3) be professionally qualified for the tasks of prevention and detection of money laundering and terrorism financing;
- 4) be familiar with the nature of the obliged entity's business in the areas vulnerable to money laundering or terrorism financing.

Deputy compliance officer shall meet the same requirements as the person referred to in paragraph 1 of this Article.

#### Responsibilities of the compliance officer

##### Article 51

The compliance officer shall carry out the following tasks in preventing and detecting money laundering and terrorism financing:

- 1) ensure that a system for the prevention and detection of money laundering and terrorism financing is established, operational and further developed, and initiate and recommend to the management appropriate measures for its improvement;
- 2) ensure a proper and timely delivery of data to the APML under this Law;
- 3) participate in the development of internal acts;
- 4) participate in the development of internal control guidelines;
- 5) participate in the setting up and development of the IT support;
- 6) participate in the development of professional education, training and improvement programmes for employees in the obliged entity;

A deputy compliance officer shall replace the compliance officer in his absence and shall perform other tasks in accordance with the internal regulations of the obliged entity.

The compliance officer shall be independent in carrying out his tasks and shall be directly responsible to the top management.

#### Responsibilities of the obliged entity

##### Article 52

The obliged entity shall provide the compliance officer with the following:

- 1) unrestricted access to data, information, and documentation required to perform his tasks;
- 2) appropriate human, material, IT, and other work resources;
- 3) adequate office space and technical conditions for an appropriate level of protection of confidential data accessible to the compliance officer;
- 4) ongoing professional training;
- 5) replacement during absence;
- 6) protection with respect to disclosure of data about him to unauthorised persons, as well as protection of other procedures which may affect an uninterrupted performance of his duties;

Internal organisational units, including the top management in the obliged entity, shall provide assistance and support to the compliance officer in the carrying-out of his tasks, as well as advise him regularly about facts which are, or which may be, linked to money laundering or terrorism financing. The obliged entity shall set out a cooperation procedure between the compliance officer and other organisational units.

The obliged entity shall send to the APML the data on the name and position of the compliance officer and his deputy, as well as the data concerning the name and position of the member of top management responsible for implementation of this Law, including any changes of such data, no later than 15 days from the date of the appointment.

#### *b) Education, training and specialisation*

##### Regular training obligation

### Article 53

The obliged entity shall provide for regular professional education, training and development of employees carrying out the tasks of prevention and detection of money laundering and terrorism financing.

The professional education, training and specialisation shall include familiarising with the provisions of the Law, regulations drafted based on the Law, and internal documents, reference books on the prevention and detection of money laundering and terrorism financing, including the list of indicators for identifying customers and transactions in relation to which there are reasons for suspicion of money laundering or terrorism financing.

The obliged entity shall develop annual professional education, training and development programmes for the employees in the area of prevention and detection of money laundering and terrorism financing, no later than until March for the current year.

#### *c) Internal control, internal audit and integrity of employees*

##### Internal control and internal audit

### Article 54

An obliged entity shall provide for a regular internal control of execution of tasks for the prevention and detection of money laundering and terrorism financing, within the scope of the activities undertaken for the purpose of efficient managing of money laundering and terrorism financing risk. The obliged entity shall carry out internal control in line with the established money laundering and terrorism financing risk.

The obliged entity shall organise an independent internal audit, whose remit includes regular assessment of adequacy, reliability and efficiency of the system for managing money laundering and terrorism financing risk, when a law regulating the operations of the obliged entity requires an independent internal audit, or when the obliged entity assesses that, given the size and nature of its business, there is a need to have independent internal audit within the meaning of this Law.

##### Integrity of employees

### Article 55

The obliged entity shall establish the procedure under which, at the time of recruitment for a job involving the application of the provisions of this Law and the regulations passed under this Law, the candidate for such a job is checked in order to establish whether they have been convicted for any of the criminal offences through which illegal proceeds are acquired or any of the criminal offences linked to terrorism.

Other criteria shall be evaluated too in the procedure referred to in paragraph 1 of this Article based on which it is established whether the candidate for the job referred to in paragraph 1 of this Article meets the high professional and moral qualities.

#### *d) By-laws for carrying out certain tasks by obliged entities*

##### Methodology for the carrying-out of tasks by the obliged entity

### Article 56



At the proposal of the APML, the Minister prescribes in more detail the manner of internal audit, storage and protection of data, record-keeping and training of the employees in obliged entities as referred to by the Law.

### III ACTIONS AND MEASURES TAKEN BY LAWYERS

#### **Establishing and verifying the identity of a customer**

##### Article 57

When identifying and verifying the identity of a customer in the event referred to in Article 8, paragraph 1, item 1 of this Law, the lawyer shall obtain the data referred to in Article 103, items 1 to 5 of this Law.

When identifying and verifying the identity of a customer in the event referred to in Article 8, paragraph 1, item 2 of this Law, the lawyer shall obtain the data referred to in Article 103, items 1 to 3 and 6 to 9 of this Law.

When identifying and verifying the identity of a customer in the event referred to in Article 8, paragraph 1, items 4 and 5 of this Law, the lawyer shall obtain the data referred to in Article 103 of the Law.

The lawyer shall identify and verify the identity of a customer or its representative, procura holder or empowered representative and obtain the data referred to in Article 103, items 1 and 2 of this Law by inspecting a personal identity document of such persons in their presence, or the original or certified copy of the documentation from an official public register, which may not be older than three months after the date of its issue, or by directly accessing an official public register.

The lawyer shall identify and verify the identity of a beneficial owner of a customer that is a legal person or person under foreign law in other legal form by obtaining the data referred to in Article 103, item 3 of this Law, by means of inspecting the original or certified copy of the documentation from an official public register which may not be older than six months after the date of its issue. If it is not possible to obtain the required data from such sources, the data shall be obtained by inspecting the original or certified copy of a document or other business documentation submitted by a representative, procura holder or empowered representative of the legal person.

The lawyer shall obtain the other data referred to in Article 103 of this Law by inspecting the original or certified copy of an identity document or other business documentation.

The lawyer shall obtain a written statement from the customer concerning any missing data other than the data referred to in Article 103, items 11 to 13 of this Law.

#### **Reporting to the APML on persons and transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing**

##### Article 58

If the lawyer, when carrying out tasks referred to in Article 4, paragraph 2 of this Law, establishes that there are reasons for suspicion of money laundering or terrorism financing concerning a person or transaction, he shall inform the APML thereof, before the carrying out of the transaction, and indicate in the report the time when the transaction should be executed. In a case of urgency, such report may be delivered also by telephone, in which case it shall consequently be sent to the APML in writing no later than the next business day.

The reporting obligation referred to in paragraph 1 of this Article shall also apply to a planned transaction, irrespective of whether or not the transaction was later carried out.

If the lawyer is unable to act in accordance with paragraphs 1 and 2 of this Article, either due to the nature of a transaction, or because a transaction has not been carried out, or for any other justified reasons, he shall send the data to the APML as soon as possible but no later than immediately after he has learned of the reasons for suspicion of money laundering or terrorism financing. The lawyer shall make a written statement explaining the reasons why he did not act as prescribed.

Where a customer requests advice from the lawyer concerning money laundering or terrorist financing, the lawyer shall report it to the APML promptly and no later than three days after the day when the customer requested the advice.

The lawyer shall file the reports to the APML electronically, by registered mail or by courier. In case of urgency, such report may be filed also by telephone, with a subsequent notification electronically, by registered mail or by courier, on the next working day at the latest.

### **Requesting data from the lawyer**

#### Article 59

If the APML assesses that there are reasons for suspicion of money laundering or terrorism financing in relation to certain transactions or persons, it may request from the lawyer data, information and documentation required for detecting and proving money laundering and terrorism financing.

The APML may also request from the lawyer data and information referred to in paragraph 1 of this Article concerning the persons that have participated or cooperated in transactions or business activities of a person with respect to which there are reasons for suspicion of money laundering or terrorism financing.

The lawyer is required to provide the APML with data, information and documentation referred to in this Article without delay but no later than within eight days following the reception of the request. The APML may set in its request a shorter deadline for providing data, information and documentation if it is necessary for deciding on a temporary suspension of a transaction or in other urgent cases.

The APML may, due to the size of documentation or for other justified reasons, set a longer deadline for the provision of the documentation.

### **Exemptions**

#### Article 60

The lawyer shall not be required to act as laid down in the provisions of Article 58, paragraph 1 and 2 of this Law, in relation to any data which he obtains from a customer or about a customer when ascertaining its legal position or when representing it in court proceedings, or in relation to court proceedings, including any advice provided concerning the initiation or evasion of such proceedings, irrespective of whether such data have been obtained before, during, or after the court proceedings.

Under the conditions specified in paragraph 1 of this Article the lawyer shall not be obliged to send the data, information or documentation at the APML's request referred to in Article 59 of this Law. In this case he shall send a written report to the APML stating the reasons why he did not comply with its request, without delay and no later than within 15 days following the date of receipt of such request.

## **Obligation to develop and apply a list of indicators**

### Article 61

The lawyer is required to develop a list of indicators for recognising persons and transactions in respect of whom there are reasons to suspect money laundering or terrorism financing.

When developing the list referred to in paragraph 1 of this Article, the lawyer considers the complexity and size of a transaction, unusual manner of conducting the transaction, value of or connection between transactions which do not have economic or legal purpose, and/or are not in line with or are in disproportion to usual and/or expected business activities of the client, as well as other circumstances related to the client's status or other characteristics.

When establishing if there are reasons for suspicion of money laundering or terrorism financing, the lawyer is required to apply the list of indicators as referred to in paragraph 1 of this Article and also to consider other circumstances that indicate the reasons for suspicion of money laundering or terrorism financing.

When developing the list of indicators from paragraph 1 of this Article, the lawyer shall also include in the list the indicators published on the APML's website.

## **Record keeping**

### Article 62

The lawyer shall keep records of the following data:

- 1) details of customers, business relationships and transactions referred to in Article 8 of this Law;
- 2) data sent to the APML pursuant to Article 58 of this Law.

## **IV ACTIONS AND MEASURES TAKEN BY NOTARIES PUBLIC**

### **Establishing the identity of a customer**

#### Article 63

A notary public shall identify a customer in line with the regulations which govern the activity of notaries public.

### **Reporting to the APML on persons and transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing**

#### Article 64

In a notary public, when drafting a notarial deed and verifying a private identification document (notarisation), established that in relation to a customer or transaction there are reasons to suspect money laundering or terrorism financing, he shall inform the APML thereof without delay.

If the notary public, either due to the nature of transaction or other justified reason, cannot act as laid down in paragraph 1 of this Article, it shall inform the APML thereof as soon as possible. The notary public shall make a written statement explaining the reasons why he did not act as prescribed.

The notary public shall file the reports to the APML electronically. In a case of urgency, such report may be delivered also by telephone, in which case it shall consequently be sent to the APML electronically no later than the next business day.

## **Obligation to provide data**

#### Article 65

A notary public is required to provide to the APML all available data, information and documentation necessary to detect and prove money laundering and terrorism financing, at its request, without delay and no later than eight days following the receipt of such request.

The APML may set in its request a shorter deadline for the provision of the data, information and documentation if it is necessary for deciding on a temporary suspension of a transaction or in other urgent cases.

A notary public may request from the APML to be given a longer deadline for the provision of the data, information and documentation if, due to its size or other justifiable reason, he assesses that he cannot act as required within the originally determined deadline.

#### **Obligation to develop and apply a list of indicators**

#### Article 66

The Chamber of Notaries Public shall develop a list of indicators which notaries public are obligated to use in each specific case.

#### **Record keeping**

#### Article 67

A notary public shall keep records of the data on customers and transactions reported to the APML as laid down by the Rules of Procedure of Notaries Public.

#### V INDICATORS FOR RECOGNISING REASONS FOR SUSPICION

#### **Cooperation in developing a list of indicators**

#### Article 68

The authorities referred to in Article 104 of this Law shall develop lists of indicators for recognising persons and transactions in respect of which there are reasons to suspect money laundering or terrorism financing, which shall be published on the APML's website.

Other persons too may participate in developing the lists of indicators, on invitation.

#### **Obligation to develop and apply a list of indicators**

#### Article 69

The obliged entity shall develop a list of indicators for recognising persons and transactions in respect of which there are reasons to suspect money laundering or terrorism financing. When developing the list of indicators, the obliged entity shall also incorporate the indicators developed by the authorities referred to in Article 104 of this Law in accordance with Article 68 of this Law.

When developing the list referred to in paragraph 1 of this Article, the obliged entity shall consider the complexity and size of a transaction, unusual method of conducting the transaction, value of or connection between transactions which do not have economic or legal purpose, and/or are not in line with or are in disproportion with usual and/or expected business activities of the client, as well as other circumstances related to the customer's status or other characteristics.

When establishing if there are reasons for suspicion of money laundering or terrorism financing, the obliged entity shall apply the list of indicators as referred to in paragraph 1 of this Article and also to

consider other circumstances that indicate the existence of the reasons for suspicion of money laundering or terrorism financing.

## VI COOPERATION OF RELEVANT AUTHORITIES, NATIONAL RISK ASSESSMENT AND THE ANALYSIS OF THE SYSTEM'S EFFICIENCY AND EFFECTIVENESS

### **Cooperation of relevant authorities and national risk assessment**

#### Article 70

The Government shall establish a coordinating body in order to ensure an efficient cooperation and coordination of competent authorities' tasks performed for the purpose of preventing money laundering and the financing of terrorism.

The national money laundering and terrorism financing risk assessment shall be in a written form and updated at least once in three years.

### **Analysis of efficiency and effectiveness of the system**

#### Article 71

The analysis of the efficiency and effectiveness of the system for the prevention and detection of money laundering and terrorism financing shall be conducted at least once a year.

For the purpose of performing tasks referred to in paragraph 1 of this Article, the APML shall keep the following records:

- 1) on persons and transactions referred to in Article 47 of this Law;
- 2) on issued orders for the temporary suspension of a transaction referred to in Articles 75 and 82 of this Law;
- 3) on issued orders for the monitoring of financial transactions of a customer referred to in Article 76 of this Law;
- 4) on received initiatives referred to in Article 77 of this Law;
- 5) on data reported to the competent state bodies in accordance with Article 78 of this Law;
- 6) on data received and sent in accordance with Articles 80 and 81 of this Law;
- 7) on data on misdemeanours, economic offences and criminal offences related to money laundering and terrorism financing;
- 8) on deficiencies, illegalities and imposed measures in the course of supervision referred to in Article 104 of this Law;
- 9) on notifications referred to in Article 112 of this Law.

The authorities referred to in Article 104 of this Law, ministry in charge of internal affairs, ministry in charge of judiciary, public prosecutor's offices and courts shall regularly provide the APML with the data and information on proceedings concerning misdemeanours, economic offences and criminal offences related to money laundering and terrorism financing, about their perpetrators, and about the seizure/confiscation of the proceeds from crime, all for the purpose of compilation and analysis referred to in paragraph 1 of this Article.

The authorities referred to in Article 104 of this Law and the ministry in charge of internal affairs shall provide the APML with the following data:

- 1) date of submission of a report or request for initiation of a minor offence proceeding;
- 2) name, surname, date and place of birth, citizen's unique identification number (hereinafter referred to as: UPIN), or the business name and seat of the person against which a report or request has been filed;
- 3) legal qualification of the offence, as well as the place, time and manner of commission of the offence;
- 4) legal qualification of the predicate offence, as well as the place, time and manner of commission of the offence;

The Republic Public Prosecutor's Office and any other competent prosecutor's office is required to provide the APML with the following data:

- 1) date of indictment;
- 2) name, surname, date and place of birth, UPIN, or the business name and seat of the indicted person;
- 3) legal qualification of the offence and place, time and manner of commission of the offence;
- 4) legal qualification of the predicate offence, and place, time and manner of commission of the offence;

Courts are required to provide the APML with following data:

- 1) name, surname, date and place of birth, UPIN, or the business name and seat of the person against which the proceedings have been initiated;
- 2) legal qualification of the offence, type and amount of assets seized or confiscated;
- 3) type of punishment and sentence;
- 4) latest court decision passed in the proceedings at the time of reporting;
- 5) data on the letters rogatory received and sent in relation to the criminal offences referred to in paragraph 3 of this Article or to predicate offences;
- 6) data on all received and sent requests for seizure or confiscation of proceeds regardless of the type of criminal offence.

The ministry in charge of judiciary is required to provide the APML with requests for mutual legal assistance received and sent in relation to criminal offences referred to in paragraph 3 of this Article, as well as the information on seized or confiscated property.

Competent state authorities which are provided by the APML with the notification referred to in Article 78 of this Law are required to provide the APML with information on measures and decisions taken.

The authorities referred to in paragraph 3 of this Article are required to provide the APML with information referred to in paragraphs 4 to 7 of this Article once a year, at the latest until the end of February of a current year for the previous year, as well as at the APML's request.

The manner of providing data and information referred to in paragraph 3 of this Article shall be laid down by the Minister, at the proposal of the APML.

## VII ADMINISTRATION FOR THE PREVENTION OF MONEY LAUNDERING

## **1. General provisions**

### Article 72

The Administration for the Prevention of Money Laundering is hereby established as an administrative authority under the ministry competent for finance.

The APML shall perform financial-intelligence activities: it shall collect, process, analyse and disseminate to the competent authorities information, data and documentation obtained in line with this Law, and perform other activities related to the prevention and detection of money laundering and terrorism financing in accordance with law.

## **2. Detection of money laundering and terrorism financing**

### *Requesting data from the obliged entities*

### Article 73

If the APML finds that there are reasons to suspect money laundering or terrorism financing in respect of certain transactions or persons, it may request the following from the obliged entity:

- 1) data from the customer and transaction records kept by the obliged entity based on Article 99, paragraph 1 of this Law;
- 2) information about the customer's money and assets held with the obliged entity;
- 3) data on turnover of customer's money or assets by the obliged entity;
- 4) data on other business relations of a customer established by the obliged entity;
- 5) other data and information necessary for detecting or proving money laundering or terrorism financing.

The APML may also request from the obliged entity data and information referred to in paragraph 1 of this Article concerning the persons that have participated or cooperated in transactions or business activities of a person in respect to whom there are reasons to suspect money laundering or terrorism financing.

In the cases referred to in paragraphs 1 and 2 of this Article, the obliged entity is required to provide the APML, at its request, with all the necessary documentation.

The obliged entity is required to provide the APML with data, information and documentation referred to in this Article without delay but no later than eight days following the reception of the request, or to enable the APML to access the data, information or documentation electronically, free of charge. The APML may set in its request a shorter deadline for providing data, information and documentation if it is necessary for deciding on a temporary suspension of a transaction or in other urgent cases.

The APML may, due to the size of documentation or for other justified reasons, set a longer deadline for providing documentation, or inspect the documentation on the obliged entity's premises. The APML's staff inspecting the documentation will present the official identity card and badge with ID number.

The form of the official identity card and design of the official badge is prescribed by the Minister.

The data, information and documentation from this Article are provided in the manner prescribed by the Minister, at the proposal of the APML.

*Requesting data from the competent state authorities and holders of public authority*

Article 74

In order to assess whether there are reasons to suspect money laundering or terrorism financing in relation to certain transactions or persons, the APML may request data, information and documentation necessary for detecting and proving money laundering or terrorism financing, from the state authorities, organizations and legal persons entrusted with public authorities.

The APML may request from the authorities and organizations referred to in paragraph 1 of this Article, data, information and documentation necessary for detecting and proving money laundering or terrorism financing, which is related to persons who participated or cooperated in transactions or business activities of persons in respect to whom there are reasons to suspect money laundering and terrorism financing.

The authorities and organisations referred to paragraph 1 of this Article are required to provide the APML in writing with requested data, within eight days following the receipt of the request, or to enable the APML access to data and information, free of charge.

The APML may request the provision of data in urgent cases within the deadline shorter than stipulated in paragraph 3 of this Article.

*Temporary suspension of a transaction*

Article 75

The APML may issue a written order to the obliged entity for a temporary suspension of a transaction if it assesses that there is grounded suspicion of money laundering or terrorism financing in respect to a transaction or person conducting the transaction, of which it informs the competent authorities so that they take measures within their competence.

The APML's Director may, in urgent cases, issue an oral order for temporary suspension of a transaction, which shall be confirmed in writing on the next working day at the latest.

Temporary suspension of a transaction on the basis of paragraphs 1 and 2 of this Article may last 72 hours following the moment of temporary suspension of a transaction. If the deadline referred to in this paragraph falls on non-working days, the APML may issue an order to extend the deadline for additional 48 hours.

During the course of temporary suspension of a transaction the obliged entity is required to abide by the APML orders concerning the transaction or the person conducting it.

The competent authorities referred to in paragraph 1 of this Article are required to undertake without delay measures within their competence and to promptly inform the APML thereof.

If within the deadline referred to in paragraph 3 of this Article the APML establishes that there is no grounded suspicion of money laundering or terrorism financing, the APML is required to inform the obliged entity that it is allowed to conduct the transaction.

If the APML does not inform the obliged entity on the results of the actions undertaken within the deadline referred to in paragraph 3 of this Article, the obliged entity is to understand that it is allowed to conduct the transaction.

The obliged entity may temporarily suspend a transaction for a maximum of 72 hours if it has reason to suspect money laundering or terrorism financing in respect to a transaction or person which is



conducting the transaction or for whom the transaction is being conducted, and if the suspension is required for a timely fulfilment of obligations stipulated in this Law.

*Monitoring of customer's financial activities*

Article 76

If the APML finds that there are reasons to suspect money laundering or terrorism financing in respect to certain transactions or persons, it may issue a written order to the obliged entity to monitor all transactions or business operations of such persons that are conducted in the obliged entity.

The APML may issue the order referred to in paragraph 1 of this Article in relation to persons that have participated or cooperated in transactions or business activities of a person with respect to whom there are reasons to suspect money laundering or terrorism financing.

The obliged entity is required to inform the APML of each transaction or business operation within the deadlines specified in the order referred to in paragraph 1 of this Article.

Unless otherwise provided in the order, the obliged entity is required to report each transaction or business operation to the APML before a transaction or a business activity is conducted, as well as to indicate in the notification the deadline for the transaction or business operation to be completed.

If due to the nature of a transaction or a business operation or for other justified reasons the obliged entity cannot act in line with paragraph 4 of this Article, it is required to inform the APML of the transaction or operation right after they are conducted, and the following working day at the latest. The obliged entity is required to provide reasons in the notification as to why it did not act in line with paragraph 4 of this Article.

The measure referred to in paragraph 1 of this Article shall last for three months from the day when the order was issued. This measure may be extended by one month at a time, but for no more than six months following the day the order was issued.

*Initiative to the APML to initiate a procedure*

Article 77

If there are reasons to suspect money laundering or terrorism financing, or a predicate crime, in relation to certain transactions or persons, the APML may also initiate a procedure to collect data, information and documentation as provided for in this Law, and take other actions and measures within its competence, at a written and justified initiative of a court, public prosecutor, police, Security Information Agency, Military Security Agency, Military Intelligence Agency, Tax Administration, Customs Administration, National Bank of Serbia, Securities Commission, competent inspectorates and state authorities competent for state audit and fight against corruption.

If there are reasons for suspicion of money laundering, terrorism financing or a predicate criminal offence in respect of certain transactions the state authority referred to in paragraph 1 of this Article may request from the APML data and information necessary for proving the criminal offences.

The APML shall refuse to initiate the procedure on the basis of the initiative referred to in paragraph 1 of this Article or refuse the request referred to in paragraph 2 of this Article if they do not justify the reasons of suspicion of money laundering or terrorism financing, as well as in cases when it is obvious that such reasons do not exist.

In the event referred to in paragraph 3 of this Article, the APML is required to inform the initiator in writing of the reasons why it did not initiate the procedure based on such initiative.

### *Dissemination of data to competent authorities*

#### Article 78

If the APML finds, based on the obtained data, information and documentation, that there are reasons to suspect money laundering or terrorism financing in relation to a transaction or person, it is required to inform the competent state authorities thereof in writing, so that they may undertake measures within their competence, and provide them with obtained documentation.

#### *Feedback*

#### Article 79

The APML is required to provide the obliged entity and the state authority referred to in Article 112 of this Law which notified the APML on a person or transaction in respect to whom there are reasons to suspect money laundering or terrorism financing, with the feedback on the outcome of their notifications.

The feedback referred to in paragraph 1 of this Article shall include the following:

- 1) number of the submitted reports on transactions or persons in relation to which there are reasons to suspect money laundering or terrorism financing;
- 2) outcome of the notifications;
- 3) information that the APML holds on money laundering and terrorism financing techniques and trends;
- 4) description of cases from the practice of the APML and other competent state authorities.

### **3. International cooperation**

#### *Requesting data from foreign countries*

#### Article 80

The APML may request data, information and documentation necessary for the prevention and detection of money laundering or terrorism financing from the competent authorities of foreign countries.

The APML may use data, information and documentation, obtained on the basis of paragraph 1 of this Article only for the purposes prescribed by this Law.

The APML may not disseminate the data, information and documentation obtained on the basis of paragraph 1 of this Article to another state authority without prior consent of the state authority of the foreign country that is competent for the prevention and detection of money laundering and terrorism financing, which provided the data to the APML.

The APML may not use the data, information and documentation, obtained on the basis of paragraph 1 of this Article, contrary to the conditions and restrictions determined by the state authority of the foreign country that provided the data to the APML.

#### *Dissemination of data to the competent state authorities of foreign countries*

#### Article 81

The APML may disseminate data, information and documentation related to transactions or persons for whom there are reasons to suspect money laundering or terrorism financing to the state authorities

of foreign countries competent for the prevention and detection of money laundering and terrorism financing at their written and justified request, or at its own initiative.

The APML may reject the request referred to in paragraph 1 of this Article if the dissemination of such data would compromise or could compromise the course of a criminal procedure in the Republic of Serbia.

The APML shall inform in writing the state authority of the foreign country that requested the data, information or documentation of the refusal of the request, and indicate in the notification the reasons for rejection.

The APML may set conditions and restrictions under which an authority of a foreign country is allowed to use the data, information and documentation referred to in paragraph 1 of this Article.

*Temporary suspension of a transaction at the request of the competent authority of a foreign country*

#### Article 82

The APML may, under the conditions set out in this Law and under the condition of reciprocity, issue a written order to temporarily suspend the execution of a transaction, also on the basis of a written and justified request of a state authority of a foreign country competent for the prevention and detection of money laundering and terrorism financing.

The provisions of Article 75 of this Law shall apply on the temporary suspension of execution of transaction referred to in paragraph 1 of this Article, *mutatis mutandis*.

The APML may reject the request referred to in paragraph 1 of this Article if dissemination of such data would compromise or may compromise the course of criminal procedure in the Republic of Serbia, of which it shall notify the competent authority of the requesting foreign country in writing, stating the reasons for rejection.

*Request for a temporary suspension of a transaction to the competent authority of a foreign country*

#### Article 83

The APML may request from the authority of a foreign country that is competent for the prevention and detection of money laundering and terrorism financing to suspend temporarily a transaction if there are reasonable grounds to suspect money laundering or terrorism financing in relation to a transaction or person.

### **4. Prevention of money laundering and terrorism financing**

#### Article 84

The APML performs the following activities for preventing money laundering and terrorism financing, i.e. it:

- 1) monitors the implementation of this Law and undertakes actions and measures within its competence in order to remedy the observed irregularities;
- 2) participates in the development of basic points for improving the legislative framework in the area of prevention and detection of money laundering and terrorism financing;
- 3) participates in the development of the list of indicators for recognizing transactions and persons with respect to which there are reasons to suspect money laundering or terrorism financing;

- 4) drafts and provides opinions on the application of this Law and regulations adopted on the basis of this Law, in cooperation with supervisory authorities;
- 5) prepares and gives recommendations for a uniform implementation of this Law and regulations passed on the basis of this Law by the obliged entity;
- 6) plans and conducts the training of the APML staff and cooperates in the professional education, training and development of the obliged entity staff in relation to the implementation of legislation governing the prevention of money laundering and terrorism financing;
- 7) initiates procedures to conclude cooperation agreements with competent state authorities, competent state authorities of foreign countries and international organisations;
- 8) concludes cooperation agreements with state authorities in charge of public administration tasks in the area of civil engineering and building construction, and other areas exposed to the money laundering or terrorist financing risk, and jointly develops guidelines and recommendations concerning the prevention and detection of money laundering and terrorist financing with respect to legal persons and entrepreneurs engaging in this type of business;
- 9) participates in international cooperation in the area of detection and prevention of money laundering and terrorism financing;
- 10) publishes statistics in relation to money laundering and terrorism financing;
- 11) informs the public on money laundering and terrorism financing manifestations;
- 12) performs other activities in accordance with the law.

## **5. Other responsibilities**

### *Work reports*

#### Article 85

The APML submits report on its work to the Government, not later than 31 March of the current year for the previous year.

The report referred to in paragraph 1 of this Article necessarily includes statistical data on money laundering or terrorism financing manifestations and trends, as well as data on the APML's activities.

## VIII CONTROL OF CROSS-BORDER TRANSPORTATION OF BEARER NEGOTIABLE INSTRUMENTS

### **Declaring transportation of bearer negotiable instruments**

#### Article 86

Any natural person crossing the state border carrying bearer negotiable instruments amounting to EUR 10,000 or more either in RSD or foreign currency, is required to declare it to the competent customs body.

The declaration referred to in paragraph 1 of this Article contains the data referred to in Article 100, paragraph 1 of this Law.

The Minister prescribes the form and content of the declaration, procedure to file and fill out the declaration as well as the manner to inform natural persons crossing the state border of this obligation.

### **Customs control**

## Article 87

The competent customs authority, when conducting customs control in accordance with law, shall control the fulfilling of the requirement referred to in Article 86 of this Law.

The competent customs authority controls if bearer negotiable instruments are located in a postal parcel or in goods consignment (cargo).

### **Reasons to suspect money laundering or terrorism financing**

## Article 88

If the competent customs authority establishes that a natural person carries across the state border bearer negotiable instruments in the amount below the one referred to in Article 86, paragraph 1 of this Law, or such instruments are found in a postal parcel or in goods consignment (cargo) and there are reasons to suspect money laundering or terrorism financing, it is required to collect the data referred to in Article 100, paragraph 2 of this Law.

The competent customs body shall temporarily detain non-declared bearer negotiable instruments and shall deposit them into the account of the body competent for conducting misdemeanour proceedings, held with the National Bank of Serbia. The competent customs body shall temporarily detain the instruments also when it assesses that there is grounded suspicion that such funds, regardless of their amount, are related to money laundering or terrorism financing. A receipt shall be issued on any bearer negotiable instruments seized.

### **Provision of data to the APML**

## Article 89

The competent customs authority is required to provide the APML with the data referred to in Article 100, paragraph 1 of this Law on each declared or undeclared cross-border transfer of bearer negotiable instruments within three days of the date of such a transfer, and where there are reasons to suspect money laundering or terrorism financing it shall also state the reasons therefor.

The competent customs authority is required to provide the APML with the data referred to in Article 100, paragraph 2 of this Law within the time set in paragraph 1 of this Article in case of any cross-border transfer of bearer negotiable instruments in an amount below the one referred to in Article 86, paragraph 1 of this Article, if there are reasons to suspect money laundering or terrorism financing.

## IX PROTECTION AND STORAGE OF DATA AND RECORD KEEPING

### **1. Data protection**

#### *Prohibition of disclosure (No Tipping-Off)*

## Article 90

The obliged entity, and/or its staff, including the members of executive, supervisory and other governing authority, as well as other persons having access to the data referred to in Article 99 of this Law, must not disclose to the customer or the third party the following:

- 1) that the APML has been sent or is being sent the data, information and documentation on a client or a transaction suspected of being related to money laundering or terrorism financing;
- 2) that based on Articles 75 and 82 of this Law the APML has issued an order to suspend temporarily the transaction;

- 3) that based on Article 76 of this Law the APML has issued an order to monitor financial operations of the customer;
- 4) that a procedure against a customer or a third party has been initiated or may be initiated in relation to money laundering or terrorism financing.

The prohibition referred to in paragraph 1 of this Article does not apply to the following situations:

- 1) when the data, information and documentation obtained and maintained by the obliged entity is necessary to establish facts in a criminal procedure and if such data are requested by the competent court in line with the law;
- 2) if the data referred to in item 1 of this Article is requested by the authority referred to in Article 104 of this Law in the supervision of the implementation of the provisions of this Law;
- 3) if the auditing company, licensed auditor, legal or natural person offering accounting services or the services of tax advising attempt to dissuade a customer from illegal activities;
- 4) when the obliged entity acts in line with Article 48, paragraph 2 of this Law;
- 5) when information exchange occurs between two or more obliged entities in cases related to the same customer and the same transaction, on condition that these obliged entities are from the Republic of Serbia or a third country that prescribes obligations related to the prevention of money laundering and terrorism, which are equivalent to the requirements as prescribed by the Law, on condition that they engage in the same line of business as well as being subject to professional secrecy and personal data protection laws.

#### *Data confidentiality*

##### Article 91

Data, information and documentation obtained by the APML in line with this Law is classified within the meaning of the law governing classification and protection of classified data.

Dissemination of data, information and documentation referred to in paragraph 1 of this Article to the competent state authorities and foreign state authorities competent for the prevention and detection of money laundering and terrorism financing shall be conducted in accordance with the provisions of the law governing classification and protection of classified data and regulations passed based on that law.

Provision, by obliged entities, of data, information and documentation to the APML, to a correspondent bank in line with Article 36 of this Law, in line with Articles 11 to 15 of this Law and to the third party in line with Articles 30 to 32 of this Law, shall not be considered breach of business, bank or professional secrecy.

The obliged entity is required to apply the provisions of this Law regardless of professional secrecy requirements.

#### *Exemption from responsibility*

##### Article 92

The obliged entity and/or its employees shall not be liable for damage done to customers and third parties unless it is proved that the damage has been caused intentionally or through gross negligence, if in line with this Law they:

- 1) obtain and process data, information and documentation about customers;
- 2) provide the APML with information and documentation about their customers;
- 3) comply with the order of the APML to temporarily suspend a transaction or to monitor financial operations of a customer;
- 4) temporarily suspend a transaction in line with Article 75, paragraph 8 of this Law.

The obliged entity and/or its staff are not subject to disciplinary or criminal liability for breach of business, bank and professional secrecy if they:

- 1) provide the APML with data, information and documentation in accordance with this Law;
- 2) process data, information and documentation in order to check customers or transactions in respect to which there are reasons to suspect money laundering or terrorism financing.

*Protection of integrity of compliance officers and employees*

Article 93

The obliged entity is required to undertake necessary measures to protect the compliance officer and the staff implementing the provisions of this Law, from hostile acts against their physical and mental integrity.

*Use of data, information and documentation*

Article 94

The APML, other state authorities or a public authority holder, the obliged entity and its staff can use the data, information and documentation obtained on the basis of this Law solely for the purposes set out in law.

**2. Keeping of data**

*Data keeping period at the obliged entity*

Article 95

The obliged entity shall keep the data and documentation in relation to a customer, business relationship established with a customer, a conducted risk analysis and a conducted transaction, obtained in line with this Law, for at least 10 years from the date of termination of the business relationship, execution of a transaction, and/or from the most recent access to a safe-deposit box or entry in a casino.

The obliged entity is required to keep the data and documentation on the compliance officer, deputy compliance officer, training provided for the relevant staff and conducted internal controls, for five years after the compliance officer ceases to be in the position, from the training received or from the internal control conducted.

*Data keeping period at the competent customs authority*

Article 96

The competent customs authority is required to keep the data obtained in accordance with this Law for a period of at least 10 years from the date it was obtained.

*Data keeping period at the APML*

## Article 97

The APML shall keep the data in the records it keeps in line with this Law for a period of at least 10 years from the day it was obtained.

### **3. Records**

#### *Record-keeping*

## Article 98

The obliged entity keeps the records of:

- 1) details of customers, business relationships and transactions referred to in Article 8 of this Law;
- 2) data sent to the APML pursuant to Article 47 of this Law.

The competent customs authority keeps records of:

- 1) declared and undeclared cross-border transfers of bearer negotiable instruments amounting to EUR 10,000 or more in RSD or foreign currency;
- 2) cross-border transfers or attempted cross-border transfers of bearer negotiable instruments in the amount lower than EUR 10,000 in RSD or in foreign currency if there are reasons to suspect money laundering or terrorism financing.

#### *Content of records kept by obliged entities*

## Article 99

Records of data on customers, business relationships and transactions referred to in Article 98, paragraph 1, item 1 of this Law shall contain:

- 1) business name and legal form, address, registered office, registration number and tax identification number (hereinafter referred to as: TIN) of a legal person or entrepreneur establishing a business relationship or conducting a transaction, and/or the one for which a business relationship is established or a transaction is conducted;
- 2) name and surname, date and place of birth, permanent or temporary residence, unique personal number of a representative, empowered representative or procura holder, who in the name of or on behalf of a customer - a legal person, a person under foreign law, a company service provider, an entrepreneur, or a person under civil law, establishes a business relationship or conducts a transaction, as well as the type and number of their identity document, its date and place of issue;
- 3) name and surname, date and place of birth, permanent or temporary residence and unique personal number of the natural person, their legal representative and empowered representative, as well as of the entrepreneur establishing a business relationship or conducting a transaction, and/or the one for whom a business relationship is established or a transaction conducted, as well as the type and number of their personal document, name of the issuer, date and place of issue;
- 4) name and surname, date and place of birth and permanent or temporary residence of a natural person entering a casino or accessing a safe-deposit box;
- 5) purpose and intended nature of a business relationship, as well as information on the type of a customer's line of business and business activities;



- 6) date of establishing of a business relationship, and/or date and time of entrance into a casino or access to a safe-deposit box;
- 7) date and time of transaction;
- 8) amount and currency of the transaction;
- 9) the intended purpose of the transaction, name and surname and permanent residence, and/or the business name and registered office of the beneficiary of the transaction;
- 10) manner in which a transaction is conducted;
- 11) data and information on the origin of assets that are or that will be the subject of a business relationship or transaction;
- 12) information on the existence of reasons for suspicion of money laundering or terrorism financing.
- 13) name and surname, date and place of birth and permanent or temporary residence of the customer's beneficial owner;
- 14) name of the persons under civil law.

The records of data provided to the APML in accordance with Article 47 of this Law shall contain the data referred to in paragraph 1 of this Article.

*Content of the records kept by the competent customs authority*

Article 100

Records of declared and undeclared bearer negotiable instruments across the state border amounting to EUR 10,000 or more in RSD or foreign currency shall contain the following:

- 1) name and surname, place of residence, date and place of birth and citizenship of the person transferring the instruments, as well as the passport number including the date and place of issue;
- 2) business name, address and registered office of the legal person, and/or name, surname, place of permanent or temporary residence, date and place of birth and citizenship of the instrument's owner or the person for whom the cross-border transfer is conducted, as well as the passport number, including the date and place of issue;
- 3) business name, address and registered office of the legal person, and/or name, surname, place of permanent or temporary residence, date and place of birth and citizenship of the recipient of such instruments;
- 4) type of the instruments;
- 5) amount and currency of the bearer negotiable instruments that are being transported;
- 6) origin of the bearer negotiable instruments that are being transported;
- 7) purpose for which the instruments will be used;
- 8) place, date and time of the state border crossing;
- 9) means of transport used to transport the instruments;
- 10) route (country of departure and date of departure, transit country, country of destination and date of arrival), transport company and reference number (e.g. flight number);

11) data on whether or not the bearer negotiable instruments have been declared;

Records on cross-border transfer of bearer negotiable instruments in the amount below EUR 10,000 in RSD or in foreign currency if there are reasons to suspect money laundering or terrorism financing shall contain:

- 1) name, surname, place of permanent residence, date and place of birth and citizenship of the person declaring or not declaring such instruments;
- 2) business name and registered office of the legal person, and/or name, surname, place of permanent residence and citizenship of the owner of such instruments, or of the person for which the cross-border transfer of such instruments is being conducted;
- 3) business name, address and registered office of the legal person, and/or name, surname, place of permanent or temporary residence, date and place of birth and citizenship of the recipient of such instruments;
- 4) type of the instruments;
- 5) amount and currency of the bearer negotiable instruments that are being transported;
- 6) origin of the bearer negotiable instruments that are being transported;
- 7) purpose for which the instruments will be used;
- 8) place, date and time of the state border crossing;
- 9) means of transport used to transport the instruments;
- 10) information on the existence of reasons for suspicion of money laundering or terrorism financing.

*Content of records kept by the APML*

Article 101

Records of orders for a temporary suspension of a transaction shall contain:

- 1) business name of the obliged entity to which the order was issued;
- 2) date and time of issuance of the order;
- 3) amount and currency of the transaction which is temporarily suspended;
- 4) name and surname, place of permanent or temporary residence, date and place of birth and unique personal number of the natural person requesting the transaction which has been temporarily suspended;
- 5) name and surname, place of permanent or temporary residence, date and place of birth and unique personal number of the natural person, or the business name, address and registered office of the legal person which is the recipient of the instruments, or the data about the account into which such instruments are transferred;
- 6) data about the state authority which is informed on the temporary suspension of a transaction.

Records of the issued orders for monitoring financial operations of a customer shall contain:

- 1) business name of the obliged entity to which the order was issued;
- 2) date and time of issuance of the order;

3) name and surname, place of permanent or temporary residence, date and place of birth and unique personal number of the natural person, or the business name, address and registered office of the legal person to which the order applies.

Records on the initiatives referred to in Article 77 of this Law contain:

- 1) name and surname, place of permanent or temporary residence and UPIN of the natural person, or the business name, seat, registry number and TIN of the legal person with respect to which there are reasons for suspicion of money laundering or terrorism financing;
- 2) data on the transaction for which there are reasons to suspect money laundering or terrorism financing (amount, currency, date and/or period of transaction);
- 3) information on the existence of reasons for suspicion of money laundering or terrorism financing.

Records of data transferred to the competent state authorities in accordance with Article 78 of this Law shall contain:

- 1) name and surname, date and place of birth, place of permanent or temporary residence and unique personal number of the natural person, and/or the business name, registered office, registration number and TIN of the legal person with respect to which the APML has disseminated the data, information and documentation to the competent state authority;
- 2) data on the transaction for which there are reasons to suspect money laundering or terrorism financing (amount, currency, date of transaction, and/or the time of transaction);
- 3) information on the existence of reasons for suspicion of money laundering or terrorism financing.
- 4) data on the authority to which the data were disseminated.

Records of data received and sent in accordance with Articles 80 and 81 of this Law shall contain:

- 1) name of the country or authority to which the APML disseminates or from which it requests data, information and documentation;
- 2) data on the transactions or persons of which the APML disseminates or requests the data referred to in paragraph 1 of this Article.

*Content of the records kept by competent state authorities*

Article 102

Records of the data on misdemeanours, economic offences and criminal offences referred to in Article 71, paragraphs 4 to 7 of this Law shall contain:

- 1) date of report, of indictment, or when the procedure was initiated;
- 2) name, surname, date and place of birth, and/or business name and registered office of the person reported or charged, or of the person against whom the procedure has been initiated;
- 3) legal qualification of the offence, as well as the place, time and manner of commission of the offence;
- 4) legal qualification of the predicate offence, as well as the place, time and manner of commission of the offence;
- 5) type and amount of the seized or confiscated proceeds from a criminal offence, economic offence or misdemeanour;

- 6) type of sanction; amount and/or duration of sentence;
- 7) latest court decision passed in the procedure at the time of reporting;
- 8) data on the incoming and outgoing letters rogatory in relation to the criminal offences of money laundering and terrorism financing or predicate offences;
- 9) data on the incoming and outgoing requests for seizure or confiscation of illegal proceeds regardless of the type of criminal offence, economic offence, or misdemeanour.
- 10) data on the incoming and outgoing extradition requests in relation to the criminal offences of money laundering or terrorism financing.

Records on misdemeanours and measures imposed in the conduct of supervision referred to in Article 104 of this Law shall contain:

- 1) name, surname, date and place of birth, place of permanent or temporary residence, citizenship and unique personal identification number of the natural person, including their position and responsibilities in case of the responsible person and authorised person of a legal person;
- 2) business name, address, registered office, registration number and TIN of the legal person;
- 3) description of a misdemeanour, and/or irregularities;
- 4) data on the measures imposed.

Records of the notifications referred to in Article 112 of this Law shall contain:

- 1) name and surname, date and place of birth, place of permanent or temporary residence and unique personal number, and/or business name, registered office, registration number and TIN of the legal person to which facts apply, which are related or may be related to money laundering or terrorism financing;
- 2) data on the transaction to which the facts related to or which may be related to money laundering or terrorism financing apply (amount, currency, date, and/or the time of a transaction);
- 3) description of the facts which are related to or which may be related to money laundering or terrorism financing.

#### *Content of the records kept by lawyers*

#### Article 103

Records of data on customers, business relationships and transactions maintained by lawyers pursuant to Article 62 of this Law shall contain:

- 1) name and surname, date and place of birth, place of permanent or temporary residence, UPIN, type, number, place and date of issue of a personal identity document of the natural person and entrepreneur, or the business name, address, seat, registry number and TIN of the legal person and entrepreneur to whom the lawyer provides services;
- 2) name and surname, date and place of birth, place of permanent or temporary residence, unique personal identification number, type, number, place and date of issue of the personal document of the representative of the legal person or legal representative or empowered representative of the natural person who establishes a business relationship or carries out a transaction for and on behalf of such legal or natural person;

- 3) name and surname, date and place of birth and permanent or temporary residence of the customer's beneficial owner;
- 4) purpose and intended nature of a business relationship, as well as information on the type of business activities of a customer;
- 5) date of establishing a business relationship;
- 6) date of transaction;
- 7) amount and currency of the transaction;
- 8) the intended purpose of the transaction, name and surname and permanent residence, and/or the business name and registered office of the beneficiary of the transaction;
- 9) manner in which the transaction is conducted;
- 10) data and information on the origin of assets that are or that will be the subject of a business relationship or transaction;
- 11) name and surname, date and place of birth, place of permanent or temporary residence and unique personal identification number of the natural person and entrepreneur, or the business name, address and seat, registry number and TIN of the legal person and entrepreneur with respect to which there are reasons for suspicion of money laundering or terrorism financing;
- 12) data on the transaction with respect to which there are reasons for suspicion of money laundering or terrorism financing (amount and currency of transaction, date and time of transaction);
- 13) information on the existence of reasons for suspicion of money laundering or terrorism financing.

## X SUPERVISION

### **1. Authorities competent for supervision**

#### *Authorities competent for supervision and their powers*

##### Article 104

The following authorities are required to conduct the supervision of the implementation of this Law by the obliged entities, lawyers and notaries public:

- 1) APML;
- 2) National Bank of Serbia;
- 3) Securities Commission;
- 4) State authority competent for inspectional supervision in the area of foreign and currency exchange operations and games of chance;
- 5) Ministry competent for supervisory inspection in the area of trade;
- 6) Bar Association of Serbia;
- 7) Ministry competent for postal communication;
- 8) Chamber of Notaries Public.

If the authority referred to in paragraph 1 of this Article in the course of supervision finds irregularities or illegalities in the implementation of this Law, it shall take one of the following measures:

- 1) require that the irregularities and deficiencies be remedied within the deadline it sets, or
- 2) file a request to the competent state authority to institute an appropriate procedure;
- 3) take other measures and activities within its competences.

If it is authorised by the law to issue operating licences to obliged entities, the authority referred to in paragraph 1 of this Article may temporarily or permanently bar the obliged entity from performing business activities in particularly justified cases.

In supervision process the authority referred to in paragraph 1 of this Article uses a risk-based approach. Exercising supervision, the authority referred to in paragraph 1 of this Article is required to:

- 1) have a clear understanding of money laundering and terrorism financing risks in the Republic of Serbia;
- 2) have direct and indirect access to all relevant information on specific country-related and international risks related to customers and the obliged entities' services;
- 3) adjust dynamics of supervision and measures undertaken in supervision process to money laundering and terrorism financing risks in the obliged entity, as well as to perceived risk in the Republic of Serbia.

The assessed money laundering and terrorism financing risks at the obliged entity referred to in paragraph 4 of this Article, including the risk of non-compliance with actions and measures on the basis of this Law, shall be reviewed by the authority referred to in paragraph 1 of this Article periodically and in case a significant change occurs in the managerial or organisational structure of the obliged entity, and in the obliged entity's operations.

#### *Competence of the APML in supervision*

#### Article 105

The APML shall conduct onsite and offsite supervision of the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, items 9, 13 and 14 of this Law.

When conducting supervision, the APML staff engaged in supervision shall identify themselves using the official identity card and badge.

Offsite supervision shall be conducted by checking the documentation that the obliged entities provide to the APML at its request immediately, and no later than 15 days from the date of the request.

Offsite supervision shall be initiated and run *ex officio* and is conducted through inspection of business books and other documentation of the obliged entity by the APML staff.

For the purpose of conducting supervision, the APML shall develop checklists, which are published on the website of the APML. The content of the checklists shall be reviewed twice a year as a minimum.

The law regulating supervisory inspection shall apply on the onsite supervision procedure, *mutatis mutandis*.

#### *Offsite supervision*

## Article 106

The obliged entity shall provide the APML with data, information and documentation necessary for exercising supervision immediately, but no later than 15 days following the request.

For the purpose of undertaking activities referred to in paragraph 1 of this Article a Conclusion may be issued.

The Conclusion referred to in paragraph 2 of this Article shall not be appealable.

### *Onsite supervision*

## Article 107

Onsite supervision shall be conducted on the basis of a supervision plan, which shall be developed on an annual basis. The supervision plan shall be classified with a degree of confidentiality.

The APML's Director or a person appointed by the Director, shall issue a written order on the basis of the annual supervision plan. Supervision begins by serving the supervised entity or a person present with the order.

If the supervised entity, and/or the person present refuses to be served with the order, supervision shall be considered to have begun by presenting the order to the supervised entity and/or the person present.

When in line with the Law the order has not been issued, supervision shall begin by the first action the APML staff undertakes with that aim.

The APML staff may inform the obliged entity of their arrival.

The APML staff shall make a report about the completed onsite supervision within 15 days from the completion of supervision and to provide the obliged entity with the report. The report shall contain the findings and measures which have been recommended and/or ordered.

The obliged entity may provide the APML with objections to the report referred to in paragraph 6 of this Article within 15 days of the date of the delivery of the report.

If the APML staff decide that the objections to the report are founded, they will make a supplement to the report.

The obliged entity shall be provided with the supplement to the report and it is entitled to provide the APML with objections within the deadline of eight days since the report supplement has been received.

### *Conclusion*

## Article 108

In case when an obliged entity makes onsite supervision impossible, the APML staff issue a conclusion ordering the obliged entity to enable supervision immediately, and within three days from the date the conclusion has been received, at the latest.

Making onsite supervision impossible shall be understood to mean the following:

- 1) preventing of inspectors from accessing documentation;
- 2) submitting incorrect data intentionally or through gross negligence;

- 3) failure to create conditions for onsite supervision to the APML staff;
- 4) failure to provide the requested data and documentation that the obliged entity is required to have within certain deadline.

*Competence of the National Bank of Serbia in supervision*

Article 109

The National Bank of Serbia supervises the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, item 1 of this Law in accordance with the law which regulates operations of banks.

The National Bank of Serbia supervises the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, item 4 of this Law in accordance with the law which regulates operations of voluntary pension funds management companies.

The National Bank of Serbia supervises the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, item 5 of this Law in accordance with the law which regulates operations of financial leasing.

The National Bank of Serbia supervises the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, item 6 of this Law in accordance with the law which regulates the operations of insurance.

The National Bank of Serbia supervises the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, items 10, 11 and 16 of this Law in accordance with the law which regulates provision of payment services.

The National Bank of Serbia supervises the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, items 17 of this Law by applying, *mutatis mutandis*, the provisions of the law governing the provision of payment services on supervision of payment institutions, including the imposition of measures against the obliged entity that can be imposed on payment institutions according to that law.

If the obliged entity referred to in Article 4, paragraph 1, item 17, fails to act upon the measures imposed based on paragraph 6 of this Article, the National Bank of Serbia may pass a decision imposing the measure of prohibition of business operations and, in case of companies, also a decision indicating that conditions have been met to initiate the procedure of forced liquidation over such company, where justified.

The National Bank of Serbia shall deliver the decision referred to in paragraph 7 of this Article to the organisation in charge of keeping the companies register in order to enter the appropriate change of data, or in order to conduct the procedure of forced liquidation, or to strike out the business entity from the register.

*Other competent supervisory authorities*

Article 110

The Securities Commission shall supervise the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, item 1 of this Law when it involves custody operations and operations of banks authorised to engage in broker-dealer activities, and in Article 4, paragraph 1, items 3 and 7 of this Law, in line with the law regulating capital market, the law regulating takeovers of joint stock companies and the law regulating the operations of investment funds.



The state authority competent for supervisory inspection in the area of foreign and currency exchange operations and games of chance shall supervise the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, items 2, 8 and 15 of this Law, in line with the law regulating supervisory inspection.

The ministry competent for supervisory inspection in the area of trade shall supervise the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, item 12 of this Law, in line with the law regulating supervisory inspection.

The Bar Association of Serbia shall supervise the implementation of this Law by lawyers.

The ministry competent for supervisory inspection in the area of trade shall supervise the implementation of the provisions of Article 46 of this Law.

The ministry competent for postal and telecommunication services shall supervise the implementation of this Law by the obliged entities referred to in Article 4, paragraph 1, item 16 of this Law.

The Chamber of Notaries Public shall supervise the implementation of this Law by notaries public.

The authorities competent for supervision are required to provide each other upon request with all the data and information necessary for supervision of the implementation of this Law.

## **2. Providing the APML with information on supervision**

### *Provision of information on measures undertaken in supervision*

#### Article 111

The authorities referred to in Article 104 of this Law are required to inform the APML immediately in writing of the measures undertaken in the completed supervision, of any irregularities or illegal acts found as well as of any other relevant facts in relation to the supervision, and to provide a copy of the document that they have produced.

The notification referred to in paragraph 1 of this Article shall contain the data referred to in Article 102, paragraph 2 of this Law.

The authority that has found irregularities and illegal acts also notifies other authorities referred to in Article 104 thereof, if the findings are relevant for their work.

### *Informing APML of the facts linked to money laundering and terrorism financing*

#### Article 112

The authorities competent for supervision are required to inform the APML in writing if, while undertaking activities within their competence, they establish and/or detect facts that are or that may be related to money laundering or terrorism financing.

The authority referred to in paragraph 1 of this Article may, in cooperation with the APML, shall provide the data, information and documentation on transactions and persons in respect of whom there are reasons to suspect money laundering or terrorism financing, to an authority of a foreign country which performs similar tasks, upon that authority's written and justified request, or at its own initiative.

The authority referred to in paragraph 1 of this Article may set conditions and restrictions under which the authority of a foreign country can use the data, information and documentation referred to in paragraph 2 of this Article.

### *Reporting the violations of this Law*

#### Article 113

The authority referred to in Article 104 of this Law is required to prescribe a mechanism facilitating reporting of violations of the Law by the obliged entities and/or their staff, to the APML.

As a minimum, the mechanism referred to in paragraph 1 shall include the following:

- 1) a procedure for receiving reports on violations of the Law and for undertaking activities following the reports;
- 2) adequate protection of the obliged entities' staff who report violations of the Law;
- 3) adequate protection of the person allegedly responsible for the violation of the Law;
- 4) protection of personal data of the person reporting the violation and of the employee who was reported for the violation of the Law;
- 5) rules ensuring confidentiality in relation to the person reporting the violation of this Law, unless it is necessary for the purpose of investigation or judicial procedure.

The obliged entity is required to prescribe with an internal document the procedures for internal reporting of violations of the Law through a special and anonymous channel of communication, in line with the size of the obliged entity and the nature of its business.

### **3. Issuing of recommendations and guidelines**

#### Article 114

The authority referred to in Article 104 of this Law can issue recommendations and/or guidelines for the implementation of this Law, independently or in cooperation with other authorities.

## XI PENAL PROVISIONS

#### Article 115

The National Bank of Serbia imposes measures and sanctions to the obliged entity referred to in Article 4, paragraph 1, item 1 of the Law in line with the law regulating the operation of banks.

The National Bank of Serbia imposes measures and sanctions to the obliged entity referred to in Article 4, paragraph 1, item 4 of the Law in line with the law regulating the operation of voluntary pension funds management companies.

The National Bank of Serbia imposes measures and sanctions to the obliged entity referred to in Article 4, paragraph 1, item 5 of the Law in line with the law regulating the operation of financial leasing.

The National Bank of Serbia imposes measures and sanctions to the obliged entity referred to in Article 4, paragraph 1, item 6 of the Law in line with the law regulating the operation of insurance.

The National Bank of Serbia imposes measures and sanctions to the obliged entity referred to in Article 4, paragraph 1, items 10, 11 and 16 of this Law in line with the law regulating the provision of payment services.

#### Article 116

The sanctions laid down in Articles 117 to 120 of this Law shall be imposed for the violations of the Law by the obliged entities referred to in Article 4, paragraph 1, items 2, 3, 7 to 9, and 12 to 17 of this

Law, when it involves custody operations of an authorised bank, and Article 4, paragraphs 2 and 3 of this Law.

### **Economic offences**

#### Article 117

A legal person shall be punished for an economic offence with a fine amounting from RSD 1,000,000 to RSD 3,000,000 if:

- 1) it fails to establish the identity of the beneficial owner of the customer (Article 25, paragraph 1);
- 2) fails to inform the APML of cases where there are reasons for suspicion of money laundering or terrorism financing with respect to a transaction or customer, or when a customer requests advice in relation to money laundering or terrorism financing, or fails to inform it within the required deadlines and in the required manner (Article 47, paragraphs 2–6);
- 3) it fails to provide work conditions for the compliance officer as specified in this Law (Article 52, paragraphs 1 and 2);
- 4) fails to send to the APML, at its request, the requested data, information and documentation, or fails to send them within the set timeframes and in the specified manner (Article 73);
- 5) fails to suspend the transaction temporarily based upon the order of the APML or fails to obey, during the period of the suspension of the transaction, the orders of the APML relating to such transaction or person carrying out such transaction (Article 75);
- 6) fails to act in accordance with the order of the APML to monitor the financial transactions of the customer, fails to inform the APML on all transactions and tasks carried out by the customer and/or fails to inform it within the set timeframe (Article 76);
- 7) the obliged entity, and/or its staff, including the members of the executive, supervisory and other governing body, violate the no tipping-off requirement (Article 90);
- 8) does not keep the data and documentation obtained in accordance with this Law at least 10 years from the date of termination of a business relationship, execution of transaction or the latest access to a safe-deposit box or entry into a casino (Article 95);

The responsible person in the legal person shall also be punished for an economic offence with a fine in the amount from RSD 50,000 to RSD 200,000.

#### Article 118

A legal person shall be punished for an economic offence with a fine amounting from RSD 100,000 to RSD 2,000,000 if it:

- 1) fails to develop a money laundering and terrorism financing risk analysis (Article 6);
- 2) establishes a business relationship with a customer without having conducted required actions and measures and/or fails to terminate the relationship if it has been established (Articles 7 and 9);
- 3) conducts a transaction without having conducted required measures (Articles 7 and 10);
- 4) fails to collect the information on the payer and payee and fails to include them into the form or message accompanying the transfer of funds throughout the chain of payment (Article 11, paragraph 1);

- 5) fails to verify the accuracy of the collected data in the manner prescribed in Articles 17 to 23 of this Law before the transfer of funds (Article 11, paragraphs 6 and 8);
- 6) fails to check if the information on the payer and payee have been included into the form or message accompanying the transfer of funds (Article 12, paragraph 1);
- 7) fails to develop procedures for verifying the completeness of the information referred to in Articles 11 to 15 of this Law (Article 12, paragraph 2);
- 8) fails to verify the identity of the payee, unless it has already been verified in line with Articles 17 to 23 of the Law (Article 12, paragraph 3);
- 9) fails to develop procedures on how to proceed in case a transfer of funds does not contain complete information referred to in Article 11, paragraphs 3 to 5 of this Law (Article 13, paragraph 1);
- 10) fails to consider if the lack of accurate and complete information referred to in Article 11, paragraphs 3 to 5 of the Law provides a reason for suspicion of money laundering or terrorism financing; or it fails to make a note, which it keeps in line with the law (Article 13, paragraph 4);
- 11) fails to ensure that all the data on the payer and payee be kept in the form or message accompanying the transfer of funds (Article 14, paragraph 1);
- 12) fails to develop risk-based procedures on how to proceed in case the electronic message for transfer of funds does not contain the information referred to in Article 11, paragraphs 3 to 5 of this Law (Article 14, paragraph 2);
- 13) fails to reject to transfer funds, to suspend transfer of funds temporarily and to request from the payer's provider of payment services the information referred to in Article 11, paragraphs 3 to 5 of this Law, which is missing in the electronic message for the transfer of funds (Article 14, paragraph 3);
- 14) fails to identify and verify the identity of the client which is a natural person, of the customer's legal representative, of the customer - natural person's empowered representative and fails to obtain all the required information or fails to do so in a required manner (Article 17);
- 15) identifies and verifies the customer's identity on the basis of a qualified electronic certificate in contravention to the provisions of Article 18 (Article 18, paragraph 1);
- 16) fails to identify and verify the identity of the customer who is an entrepreneur (Article 19, paragraph 1);
- 17) fails to identify and verify the identity of the customer that is a legal person (Article 20, paragraph 1);
- 18) fails to identify and verify the identity of the legal person's and person under the foreign law's representative (Article 21, paragraph 1);
- 19) fails to identify and verify the identity of the procura holder or empowered representative of a legal person, person under foreign law and entrepreneur (Article 22);
- 20) fails to identify and verify the identity of the person under civil law, of a person authorised to represent such other person or fails to obtain all the required data (Article 23);
- 21) fails to identify and verify the identity of the customer in accordance with Article 24 of this Law (Article 24);

- 22) fails to obtain the data on the beneficial owner in a required manner (Article 25);
- 23) fails to verify the identity of the beneficial owner of the customer (Article 25, paragraph 6);
- 24) fails to identify a life insurance beneficiary (Article 26);
- 25) fails to establish if the insurance beneficiary and the beneficial owner of the beneficiary are officials (PEPs) (Article 26, paragraph 4);
- 26) fails to inform the top management before the disbursement of the insured sum and fails to perform enhanced CDD measures (Article 26, paragraph 6);
- 27) fails to collect the data and information on the origin of property (Article 28);
- 28) relies for certain CDD measures on the third party from a country identified by relevant international institutions as a country that does not apply international standards for the prevention of money laundering and terrorism financing, or does not apply them adequately (Article 31, paragraph 2);
- 29) establishes business relationship with a customer contrary to the provisions referred to in Article 33 of this Law (Article 33);
- 30) fails to do enhanced CDD measures referred to in Articles 35 to 41 of this Law in cases when in line with Article 6 of this Law, it assesses that due to the nature of business relationship, form and manner of transaction, customer's business profile, and/or other circumstances related to the customer, there is or there might be a high money laundering or terrorism financing risk (Article 35, paragraph 2);
- 31) fails to obtain required data, information and documentation, and/or fails to do so in a required manner when establishing correspondent relationship with a bank or another similar institution, whose registered office is in a foreign country which is not on the list of countries that apply international standards for the combat against money laundering and terrorism financing at the level of the European Union or higher (Article 36, paragraphs 1 and 3);
- 32) fails specifically to provide for and document, in the contract based on which correspondent relationship is established, obligations of each contracting party, in terms of preventing and detecting money laundering and terrorism financing, and if it fails to keep the contract in line with the law (Article 36, paragraph 5);
- 33) establishes correspondent relationship with a foreign bank or another similar institution, based on which the foreign institution may use the account kept at the obliged entity to operate directly with its customers (Article 36, paragraph 6);
- 34) fails to establish a procedure for determining if a customer or the beneficial owner of a customer is an official (PEP) (Article 38, paragraph 1);
- 35) fails to conduct measures and actions prescribed in Article 38, paragraph 2 and 3 if the customer or its beneficial owner is an official (PEP) (Article 38, paragraphs 2 and 3);
- 36) establishes a business relationship without the physical presence of the customer, without having undertaken additional measures (Article 39);
- 37) fails to establish a procedure for determining if the customer or a legal person appearing in the customer's ownership structure is an offshore legal person (Article 40, paragraph 1);

- 38) fails to undertake additional measures if the customer or its beneficial owner is from an offshore country (Article 40);
- 39) fails to apply additional measures when establishing a business relationship or conducting transactions with a customer from a country identified by relevant international institutions as a country which does not implement international standards in the prevention of money laundering and terrorism financing, or does not apply them adequately (Article 41, paragraph 1);
- 40) applies simplified due diligence measures contrary to the conditions set out in Article 42 of this Law (Articles 42);
- 41) opens, issues or maintains an anonymous account, coded or bearer savings book, or provides other services that directly or indirectly allow for concealing the customer identity (Article 44);
- 42) establishes or continues a correspondent relationship with a bank operating or which may operate as a shell bank, or with any other similar institution for which it can reasonably be assumed that it may allow a shell bank to use its accounts (Article 45);
- 43) accepts cash for the payment of goods and real estate or services amounting to the RSD equivalent of EUR 10,000, regardless of whether the payment is conducted in a single or in more than one interrelated cash transactions (Article 46);
- 44) fails to report to the APML on each cash transaction amounting to the RSD equivalent of EUR 15,000 or more (Article 47, paragraph 1);
- 45) does not ensure that the measures for the prevention and detection of money laundering and terrorism financing prescribed in this law, be implemented to the equal extent in its branches and majority-owned subsidiaries, having their seat located in a foreign country (Article 48);
- 46) fails to appoint the compliance officer or his deputy in order to perform the tasks laid down in this Law (Article 49);
- 47) fails to ensure that the tasks of the compliance officer and deputy compliance officer, referred to in Article 49 of this Law, are carried out by a person who meets the requirements stipulated under Article 50 of this Law (Article 50);
- 48) fails to develop a list of indicators for the identification of persons and transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing (Article 69, paragraph 1);
- 49) does not apply the list of indicators for the identification of persons and transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing (Article 69, paragraph 3);
- 50) fails to include into the list of indicators the indicators whose inclusion is mandatory pursuant to the law and the by-laws passed pursuant to this Law (Article 69, paragraph 1);
- 51) does not use the data, information and documentation obtained under this Law only for the purposes laid down in the law (Article 94);
- 52) does not keep records of the data in accordance with this Law (Article 98, paragraph 1);
- 53) the records that it keeps in line with this Law do not contain all the required data (Article 99, paragraph 1);

The responsible person in the legal person shall also be punished with a fine in the amount from RSD 10,000 to RSD 150,000.

#### Article 119

A legal person shall be punished for an economic offence with a fine amounting from RSD 50,000 to RSD 1,000,000 if it:

- 1) fails to do money laundering and terrorism financing risk analysis in line with the guidelines issued by the authority referred to in Article 104 of this Law, competent for supervising the implementation of this Law by the legal person, and/or the analysis does not contain risk assessment for each group or type of customer, business relationship, service it provides within its line of business or transaction (Article 6, paragraphs 1 and 2);
- 2) fails to make an official note or to keep it in line with the law in cases when it cannot conduct the actions and measures referred to in Article 7, paragraph 1, items 1 to 4 of this Law (Article 7, paragraph 3);
- 3) fails to obtain all the required data or does not obtain it in the required manner when establishing the identity of a customer which is a legal person (Article 20, paragraphs 2 to 5);
- 4) fails to obtain the written statement of a customer if it doubts the veracity of the data obtained or of the documentation presented (Article 20, paragraph 6);
- 5) fails to obtain all the data in a required manner when establishing the identity of the representative of a customer which is a legal person (Article 21);
- 6) fails to obtain all the data on the person authorised to represent the person under civil law in a required manner (Article 23);
- 7) fails to obtain the required data or does not obtain them in a required manner when establishing the identity of a customer or its legal representative or empowered representative upon the person's entrance into a casino or accessing a safe-deposit box (Article 24);
- 8) fails to monitor business operations of a customer with due care, on a scale and with frequency corresponding to the risk perceived in the risk analysis referred to in Article 6 of this Law (Article 29);
- 9) relies for customer due diligence measures on the third party without having checked if the third party meets the conditions prescribed by this Law or in cases when such third party has identified and verified the customer's identity without its presence (Article 30, paragraphs 3 and 4);
- 10) relies for customer due diligence measures on the third party when the party is an offshore legal person or an anonymous society or the party is an offshore legal person or a shell bank (Article 31, paragraphs 1 and 3);
- 11) fails to undertake additional measures and actions to eliminate the reasons to doubt the veracity of the documentation provided by the third party and fails to make an official note on the measures and actions undertaken (Article 32, paragraphs 3 to 5);
- 12) fails to consider whether it will in future rely for customer due diligence and customer monitoring and fails to make an official note of the measures taken (Article 32, paragraph 6);

13) establishes or continues correspondent relationship with a bank or other similar institution having the registered office in a foreign country contrary to the provisions of Article 36, paragraphs 2 and 4 of this Law (Article 36, paragraphs 2 and 4);

14) fails to assess money laundering or terrorism financing risk in line with Article 37, paragraphs 1 and 2 and fails to take additional measures to mitigate and manage the risks perceived (Article 37);

15) fails to inform the APML of the name and work position of the compliance officer and his deputy, of the name and position of the member of top management responsible for implementation of this Law, as well as of any changes of such data, within the set timeframe (Article 52, paragraph 3);

16) fails to provide for regular professional education, training and development for the staff working on the prevention of money laundering and terrorism financing (Article 53, paragraphs 1 and 2);

17) fails to develop the annual programme for professional education, training and improvement of the employees and/or fails to develop it within the set timeframe (Article 53, paragraph 3);

18) fails to conduct a regular internal control of tasks dealing with the prevention and detection of money laundering and terrorism financing (Article 54);

19) fails to establish the procedure for checking if, when hiring a person for the position which entails the implementation of this Law and relevant bylaws, the applicant has previous convictions for criminal offences generating illegal proceeds or for terrorism-related criminal offences, or fails to use the procedure (Article 55);

20) fails to undertake necessary measures to protect the compliance officer and the staff implementing the provisions of this Law from hostile actions aimed at their physical and mental integrity (Article 93).

The responsible person in the legal person shall also be punished with a fine in the amount ranging from RSD 10,000 to RSD 100,000 if he commits any of the acts referred to under paragraph 1 of this Article.

### **Misdemeanours**

#### Article 120

Entrepreneur shall be fined for a misdemeanour in the amount ranging from RSD 50,000 to RSD 500,000, if they commit any of the acts referred to in Article 117 of this Law.

Entrepreneur shall be fined for a misdemeanour in the amount ranging from RSD 30,000 to RSD 300,000 if they commit any of the acts referred to in Article 118 of this Law.

Entrepreneur shall be fined for a misdemeanour in the amount ranging from RSD 20,000 to RSD 200,000 if they commit any of the acts referred to in Article 119 of this Law.

Natural person shall be fined for a misdemeanour in the amount ranging from RSD 5,000 to RSD 150,000 if they commit any of the acts referred to in Articles 117 and 118 of this Law.

Natural person shall be fined for a misdemeanour in the amount ranging from RSD 5,000 to RSD 50,000 if they fail to declare to the competent customs authority bearer negotiable instruments amounting to EUR 10,000 or more in RSD or foreign currency that they carry across the state border (Article 86, paragraph 1).



Natural person shall be fined for a misdemeanour in the amount ranging from RSD 5,000 to RSD 50,000 if the declaration referred to in Article 86 of this Law does not contain all the required data (Article 86, paragraph 2).

### **Misdemeanours for which a lawyer may be held liable**

#### Article 121

The lawyer shall be punished for misdemeanour with a fine amounting from RSD 10,000 to RSD 150,000 if he:

- 1) fails to inform the APML of cases where there are reasons for suspicion of money laundering or terrorism financing with respect to a transaction or customer, or when a customer requests advice in relation to money laundering or terrorism financing, or fails to inform it within the required deadlines and in the required manner (Article 58);
- 2) fails to send to the APML, at its request, the requested data, information and documentation, or fails to send them within the set timeframes and in the specified manner (Article 59);

### **Misdemeanours for which a notary public may be held liable**

#### Article 122

The notary public shall be punished for misdemeanour with a fine amounting from RSD 10,000 to RSD 150,000 if he:

- 1) fails to inform the APML of cases where there are reasons for suspicion of money laundering or terrorism financing with respect to a transaction or customer or fails to inform it within the required deadlines and in the required manner (Article 64);
- 2) fails to send to the APML, at its request, the requested data, information and documentation, or fails to send them within the set timeframes and in the specified manner (Article 65);

### **Notice on the decision imposing a sanction or another measure**

#### Article 123

The authority referred to in Article 104 of this Law shall post on its official web page a notice on the final decision imposing sanction or another measure against the obliged entity for violating the Law and shall do so immediately after the person against which the sanction or another measure is imposed has been informed of the decision.

The notice referred to in paragraph 1 of this Article shall contain the information on the type and nature of violation, as well as on the identity of the person against which the sanction or another measure has been imposed.

If the authority referred to in paragraph 1 of this Article finds that the measure of disclosing the identity of the person against which the sanction or another measure has been imposed is in disproportion to the gravity of the violations of the Law, or if it would jeopardize the stability of the financial market of the Republic of Serbia or an ongoing investigation, the supervisory authority:

- 1) shall postpone posting the notice referred to in paragraph 1 of this Article until the reasons referred to in this paragraph cease to exist;
- 2) post the notice referred to in paragraph 1 of this Article without personal details of the person against which the sanction or another measure has been imposed, in which case the posting of

personal data can be delayed for a reasonable period of time, on condition there is prediction that the reasons for not posting the personal data will cease to exist in the said period;

3) will not post the notice referred to in paragraph 1 of this Article if it finds that acting as referred to in items 1 and 2 of this paragraph is not enough to ensure the stability of the financial market, as well as when it finds that posting the notice is in disproportion to the imposed sanction or another measure.

The notice referred to in paragraph 1 of this Article must be available on the official website five years following the posting. The period in which personal information shall be accessible on the official website is one year following the posting.

## XII TRANSITIONAL AND FINAL PROVISIONS

### Article 124

The obliged entity shall apply actions and measures referred to in Articles 5 and 6 of this Law on the clients with whom business relationship was established before this Law entered into force one year after this Law enters into force.

The obliged entity shall pass the internal acts referred to in Article 5 paragraph 3, Article 6 paragraph 6, Article 11 paragraph 7, Article 12 paragraph 2, Article 13 paragraph 1, Article 14 paragraph 2, Article 35 paragraph 2, Article 38 paragraph 1, Article 48 paragraph 7, and Article 113 paragraph 3 of this Law within three months of the date of entry into force of this Law.

### Article 125

The Minister shall pass the regulations referred to in Article 6 paragraph 6, Article 41 paragraph 5, Article 47 paragraphs 6 and 7, Articles 56, Article 71 paragraph 10, Article 73 paragraphs 6 and 7, Article 86 paragraph 3, within four months of the date of entry into force of this Law.

The regulations passed pursuant to the Law on the Prevention of Money Laundering and the Financing of Terrorism (Official Gazette of RS, Nos. 20/09, 72/09, 91/10 and 139/14) shall continue to apply until the regulations based on this Law are passed, unless they are in contravention to this Law.

### Article 126

The Law on the Prevention of Money Laundering and Terrorism Financing (Official Gazette of RS, Nos. 20/09, 72/09, 91/10 and 139/14) shall cease to have effect on the date of entry into force of this Law.

### Article 127

The Administration for the Prevention of Money Laundering established based on the Law on the Prevention of Money Laundering (Official Gazette of RS, 107/05) shall continue to operate in line with the powers established by this Law.

### Article 128

This Law shall enter into force on the eighth day following its publication in the Official Gazette of the Republic of Serbia and it shall take effect as of 1 April 2018.