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## **LAW**

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

Official Gazette of Republic of Serbia, No 113 of 17 December 2017, 91 of 24 December 2019, 153 of 21 December 2020

*PUBLISHER'S NOTE: The Law amending the Law on the Prevention of Money Laundering and the Financing of Terrorism (Official Gazette of the Republic of Serbia, No 153/2020) entered into force on the eight day following its publication in the Official Gazette of the Republic of Serbia, i.e. on 29 December 2020, and shall be take effect on the expiry of six months following its entry into force, i.e. on 29 June 2021. The provisions of Articles 6, 7 and 8 of this Law (amending Articles 18, paragraph 8; Article 19, paragraph 7; and Article 21, paragraph 7 of the Law on the Prevention of Money Laundering and the Financing of Terrorism (see Article 20 of the Law - 153/2020-33) (the text of the Law before 153-2020 amendments can be seen on the right side of the Pravnoinformacioni sistem website, 'Consolidated Text Versions' section).*

## **I GENERAL 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, activities referred to in paragraph 1 of this Article conducted outside the territory of the Republic of Serbia shall also be considered money laundering.\***

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) 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.

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## **Terms**

### **Article 3\***

**For the purpose of this Law, the terms below shall have the following meaning:\***

- 1) property means things, money, rights, digital assets, 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 is a legal form of organisation which does not exist in national legislation (e.g. trust, anstalt, fiduciae, fideicommissum, etc.) whose purpose is to manage and dispose with property.\***
- 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, including the payment transaction within the meaning of the law governing the provision of payment services\*, and transaction involving digital assets within the meaning of the law governing digital assets\*\*;\***
- 8) cash transaction means the physical acceptance or provision of cash;\***
- 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) beneficial owner of a company or other legal person means the following:\***

**(1) a natural person who owns, indirectly or directly, 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 gives him the right to influence substantially 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 persons 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 following:\***

**(1) provision of banking services by one bank as correspondent to another bank as respondent, including the services of opening and maintaining current and other accounts and the related services, such as cash flow management, international transfers of money and value, cheque clearing and foreign exchange transactions,\***

**(2) relationships between banks and/or credit institutions, and between banks and/or credit institutions and other financial institutions in which similar services are provided by the correspondent institution to respondent, including relationships that are established for the purpose of executing transactions using financial instruments or transferring money or value;\***

**15) shell bank means a foreign bank or other financial institution performing operations which are equivalent to those of a bank or other 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) digital assets, virtual currency, digital token, transaction involving digital assets, issuing of digital assets, digital assets issuer and digital asset address shall have the meaning established in the law governing digital assets;\*\***

**17) digital asset service provider means a legal person offering one or more than one services involving digital assets laid down in the law governing digital assets;\*\***

**18) personal document means a valid document with a photo issued by the competent State body;\***

**19) 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., 111/09, 121/12, 104/13, 108/14, 94/16 and 30/19);\***

**20) 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;\***

**21) 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;**

**22) 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;\***

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

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

**25) 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;\***

**26) 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;\***

**27) 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 the Republic of 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 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;\***

**28) 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;\***

**29) 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).\***

**30) 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;**

**31) 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, including the payment transaction which is being carried out:\***

**(1) by credit transfer, direct debit or money remittance within the meaning of the law governing payment services,\***

**(2) by using a payment card, payment instrument that serves for disposing with electronic money, mobile phone or any other digital or IT device with similar features;\***

**32) batch file transfer is a set of individual money transfers grouped in order to be transferred jointly;\***

**33) 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;\***

**34) 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;\***

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

**36) 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;\***

**37) 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;\***

**38) 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;\***

**39) unique transaction identifier means a combination of letters, number and/or symbols that the payment service provider determines for a payment transaction in accordance with the rules of operation of the payment system, or the system of settlements or system for the exchange of messages used for money transfers, which allows for availability of data concerning the money and payer and payee in a certain payment transaction;\***

**40) predicate criminal offence means a criminal offence which generated the property subject to the criminal offence of money laundering, regardless of whether or not the offence was committed in the Republic of Serbia or abroad;\***

**41) unusual transaction means a transaction deviating from standard business operations of an obliged entity's customer;\***

**42) payment service of execution of remittance has the meaning laid down in the law governing the provision of payment services;\***

**43) games of chance means games that offer players, on payment of consideration, the chance of realising a reward in money, things, services or rights, the win or loss depending not on the player's knowledge or skill, but on chance or on the outcome of an uncertain event, such as lotteries, casino games, poker games and betting, which are played in casinos or using electronic communication devices, or any other communication technology;\***

**44) financial group means a group of persons in the financial sector consisting of the ultimate parent company of a legal person, its subordinated companies and associated companies of the subsidiaries of the legal person, and related legal persons;\***

**45) ultimate parent company of a legal person, subordinated company, associated company and related company have the meaning laid down in the law governing banks.\***



\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

### **Obligated entities**

#### Article 4

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

- 1) banks;
- 2) authorised **bureaux de change and business entities\*** performing currency 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 licensed to perform life-insurance business and insurance brokerage companies when they perform life-insurance brokering; 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 operator headquartered in the Republic of Serbia, established according to the law governing postal services, offering payment services under the law governing the provision of payment services;\***
- 16a) persons engaging in postal communication;\***
- 17) digital asset service providers .\*\***

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 public notaries when they draft or certify (solemnise) documents in relation to transactions referred to in paragraph 2 of this Article.\***

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

## 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 compliance with 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 on 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 Serbia** \*and 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.

\*Official Gazette of RS, No. 91/2019

### *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) in accordance with this Law, guidelines issued by the authority in charge of supervising compliance with this Law, and money laundering and terrorism financing risk assessment developed at the national level.\***

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 compliance with 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 finance (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 shall classify 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.

\*Official Gazette of RS, No. 91/2019

## **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 or **by using electronic identification devices in line with the law\***;
- 3) identify the beneficial owner and verify their identity in the cases specified in this Law;
- 4) obtain and **assess the 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 on 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.

**If conducting the CDD referred to in paragraph 1 of this Article would raise suspicion with the customer that the obliged entity is conducting CDD in order to submit data to the APML, the obliged entity shall cease the conduct of the CDD and make an official note thereof in writing and send it to the APML.\***

\*Official Gazette of RS, No. 91/2019

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), regardless of whether it is a single transaction or several interrelated transactions, in case when a business relationship has not been established, in case when a business relationship has not been established;\***
- 3) when executing a money transfer exceeding the amount of EUR 1,000 or its RSD equivalent, regardless of whether it is a single transaction or several interrelated transactions, in case when a business relationship has not been established;\***
- 4) when there are reasons for suspicion on 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 performing currency exchange operations 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 it is a single transaction or more than one interrelated transactions.\***

**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 it is a single transaction or more than one interrelated transactions.\***

**The obliged entity shall apply the CDD actions and measures referred to in Article 7 of this Law also in the course of business relationship at a frequency and intensity that is in line with the assessed risk for and changed circumstances of the customer.\***

\*Official Gazette of RS, No. 91/2019

Customer due diligence in the course of establishing 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 establishing 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 executing 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 payment order form or in the electronic message accompanying the money transfer from the payer to the payee.\***

**The data on the payer shall include the following:\***

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

**If the data concerning the address or address of the registered office of the payer has not been obtained, one of the following details shall be obtained:\***

- 1) national identification number (e.g. unique personal identification number or Company Registration Number in case of legal entities);\***
- 2) number of the personal ID document, date and place of birth, or unique identifier.\***

**Data on the payee shall include the following:\***

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

**Notwithstanding paragraphs 2 and 3 of this Article, in case of batch file transfer by one payer, individual money transfers which are part of such transfer need not include data referred to under paragraphs 2 and 3 of this Article, under the condition that the data referred to in paragraphs 2 to 4 of this Article are included in the batch file transfer and that each individual money transfer includes at least the number of the payer's payment account, or unique transaction identifier if the money transfer is carried out without opening a payment account. This exception shall not apply on batch file transfers by one payer where the registered office of the payer's payment service provider and payees' payment service providers is located in the Republic of Serbia.\***

**Where the amount of the money transfer, including the amount of payment transactions related to that transfer, does not exceed EUR 1,000 or its RSD equivalent, the payer's payment service provider must ensure that the money transfer includes at least the following data on the payer:\***

- 1) name and surname, or name of the payer;\***
- 2) payment account number, or unique transaction identifier, if the money transfer is carried out without opening a payment account.\***

**The payment service provider shall verify accuracy of the data on the payer obtained as laid down in Articles 17 to 23 of this Law, before executing a money transfer.\***

**The payment service provider is also considered to have verified accuracy of the obtained data on the payer before the money transfer if it has previously established a business relationship with the payer and identified and verified the identity of that person as set out Articles 17 to 23 of this Law, and if it acts in accordance with Article 29 of this Law.\***

**Notwithstanding paragraph 7 of this Article, the payment service provider is not required to verify accuracy of the obtained data on the payer under the following conditions:\***

- 1) there are no reasons for suspicion on money laundering or terrorism financing;\***
- 2) the amount of the money transfer, including the amount of payment transactions that are related to that transfer, does not exceed EUR 1,000 or its RSD equivalent; \***
- 3) the payment service provider did not receive the money that is to be transferred in cash or in anonymous e-money.\***

**The payment service provider shall develop procedures for verifying completeness of data referred to in this Article.\***

**In line with risk assessment, the payment service provider may verify accuracy of the obtained data regardless of the amount of the money transferred.\***

\*Official Gazette of RS, No. 91/2019

Obligations of the payee's payment service provider

#### **Article 12\***

**The payee's payment service provider shall verify whether the data on the payer and payee of a money transfer are included as set out in Article 11 of this Law, in the payment order form or electronic message accompanying the money transfer.\***

**The payment service provider shall develop procedures for verifying completeness of the data referred to in paragraph 1 of this Article.\***

**If a money transfer exceeds EUR 1,000 or its RSD equivalent, the payment service provider shall, before approving the payee's payment account or making the money available to this person, verify accuracy of the data obtained on this person as set out in Articles 17 to 23 of this Law, except if the payee has already been identified and his identity verified as laid down in Articles 17 to 23 of this Law and payment service provider acts in accordance with Article 29 of this Law, while there are no reasons for suspicion on money laundering or terrorism financing.\***

**Where the amount of the money transfer, including the value of the payment transactions related to that transfer, does not exceed EUR 1,000 or its RSD equivalent, the payee's payment service provider is not required to verify accuracy of the obtained data on the payee, except if:\***



**1) money is made available to the payee in cash or in anonymous e-money.\***

**2) there are reasons for suspicion on money laundering or terrorism financing.\***

**In line with risk assessment, the payment service provider may check the identity of the payee regardless of the amount of the money transferred.\***

\*Official Gazette of RS, No. 91/2019

Missing information

### **Article 13\***

**The payee's payment service provider shall develop, using a risk-based approach, procedures for money transfers that do not include complete data as referred to in Article 11 of this Law.\***

**Where the money transfer does not include complete data as referred to in Article 11 of this Law, in line with risk assessment, the payee's payment service provider shall identify in its internal acts situations when it will:\***

**1) refuse executing a money transfer;\***

**2) suspend execution of the money transfer until it has received any missing data, which it must request from the intermediary in that transfer, or from the payer's payment service provider;\***

**3) carry out a money transfer and request, at the same time or subsequently, any missing data from the intermediary in the transfer or payer's payment service provider.\***

**If the payment service provider frequently fails to provide accurate and complete data as set out in Article 11 of this Law, the payee's payment service provider shall warn them thereof, notifying the deadline by which they should comply with this Law. If the payment service provider fails to comply with this Law even after receiving such warning and after the deadline left has expired, the payee's payment service provider shall refuse any future money transfers received from this person, or restrict or terminate business cooperation with such person.\***

**In the case referred to in paragraph 3 of this Article, the payee's payment service provider shall:\***

**1) inform the National Bank of Serbia about the payment service provider that frequently fails to provide accurate and complete data as set out in Article 11 of this Law, and about any measures taken with**

respect to such person as provided for under paragraph 3 of this Article;\*

2) consider whether the lack of accurate and complete data referred to in Article 11 in tandem with any other circumstances, constitutes reason for suspicion on money laundering or terrorism financing - of which it shall report to the APML if it finds reason for suspicion on money laundering or terrorism financing, whereas in the opposite case it shall make a note which it shall keep in accordance with the law.\*

\*Official Gazette of RS, No. 91/2019

Obligations of intermediaries in a money transfer

#### **Article 14\***

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

**The intermediary in a money transfer shall develop, using a risk-based approach, procedures to be applied in case the money transfer electronic message does not include data referred to in Article 11 of this Law.\***

**Where the money transfer does not include complete data referred to in Article 11 of this Law, in line with risk assessment, the intermediary in a money transfer shall identify in its internal acts situations when it will:\***

- 1) refuse executing a money transfer;\***
- 2) suspend the money transfer until it has received any missing data, which it must request from the other intermediary in that transfer, or from the payer's payment service provider;\***
- 3) carry out further money transfer and request, at the same time or subsequently, any missing data from the other intermediary in that transfer, or from the payer's payment service provider.\***

**If the payment service provider frequently fails to provide accurate and complete data in accordance with Article 11 of this Law, the intermediary in a money transfer shall warn them thereof, notifying the deadline by which they should comply with this Law. If the payment service provider fails to comply with this Law even after receiving such a warning and after the deadline left has expired, the intermediary in a money transfer shall refuse any future money transfers received from this person, or restrict or terminate business cooperation with such person.\***

**In the case referred to in paragraph 4 of this Article, the intermediary in a money transfer shall:\***

**1) inform the National Bank of Serbia about the payment service provider that frequently fails to provide accurate and complete data in accordance with Article 11 of this Law, and about any measures taken with respect to such person in accordance with paragraph 4 of this Article;\***

**2) consider whether the lack of accurate and complete data referred to in Article 11 in tandem with any other circumstances, constitutes reason for suspicion on money laundering or terrorism financing - of which it shall report to the APML if it finds reason for suspicion on money laundering or terrorism financing, whereas in the opposite case it shall make a note which it shall keep in accordance with the law.\***

\*Official Gazette of RS, No. 91/2019

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

#### **Article 15\***

**The provisions of Articles 11–14 of this Law shall not apply in the following situations:\***

**1) when the money transfer is executed in order to pay taxes, fines or other public charges, and the payer's payment service provider and payee's payment service provider have registered offices in the Republic of Serbia;\***

**2) when the money transfer is executed in order to pay the payee for telecommunication services, electricity, gas, steam or water distribution services, waste collection, treatment and disposal services, residential building maintenance services or other similar permanent services rendered, under the following conditions:\***

**(1) the amount of the money transfer should not exceed RSD 60,000,\***

**(2) collection for the services referred to in this item should be carried out by approval of the payee's payment account which is used for such collections only,\***

**(3) the payee's payment service provider should be able through such person, based on the unique transaction identifier or other data accompanying the money transfer, to obtain data on the person which has a contract with the payee concerning the provision of services referred to in this item,\***

**(4) the payer's payment service provider and payee's payment service provider should have registered offices in the Republic of Serbia;\***

**3) where a money transfer is only carried out for the purpose of purchasing goods or services by using a payment card, e-money**

payment instrument, mobile phone or any other digital or IT device with similar characteristics, under the condition that the payer and payee are not natural persons not performing business activity, and that the number of such card, instrument or device, or unique identifier, accompanies such transfer in a manner that allows for data on the payer to be obtained through such number or identifier;\*

4) when the payer and payee are payment service providers acting for themselves and on their own behalf;\*

5) when the payer withdraws cash from his account;\*

6) when the conditions referred to in Article 16, paragraph 1 of this Law have been met.\*

\*Official Gazette of RS, No. 91/2019

### **b1) Special provisions related to digital asset transactions\*\***

\*Official Gazette of RS, No. 153/2020

#### **Obligations of the digital asset service provider\***

\*Official Gazette of RS, No. 153/2020

#### **Article 15a\***

**Digital asset service provider shall obtain data on all persons involved in a digital asset transaction, and if other digital asset service provider takes part in the execution of a digital asset transaction, it shall ensure that such data are provided to such other digital asset service provider.\***

**The data on the persons referred to in paragraph 1 of this Article shall include:\***

**1) names and surnames, or registered names of the persons involved in digital asset transactions, and data on whether it is the initiator or beneficiary of the transaction;\***

**2) address of permanent or temporary residence or registered office of the person involved in a digital asset transaction;\***

**3) digital asset address used for executing the digital asset transaction, or an appropriate unique digital asset transaction identifier.\***

**The initiator of the transaction referred to in paragraph 2, item 1) of this Article is the client which initiates a digital asset transaction at the digital asset service provider.\***

**The beneficiary of the transaction referred to in paragraph 2, item 1) of this Article is the person for whose benefit the transaction referred to in paragraph 3 of this Article is conducted.\***

**The data referred to in paragraph 2 of this Article shall be provided to the other digital asset service provider simultaneously with the execution of the digital asset transaction and in a manner that ensures integrity of such data and protection from unauthorised access to such data.\***

**The digital asset service provide shall verify accuracy of the data obtained on the digital asset transaction initiator by checking the identity of such person as laid down under Articles 17 to 23 of this law.\***

**The digital asset service provider is deemed to have verified the accuracy of the data obtained on the digital asset transaction initiator if it has previously established a business relationship with such person and identified and verified the identity of that person as laid down under Articles 17 to 23 of this Law, unless there is suspicion on money laundering or the financing of terrorism.\***

**Based on risk assessment, the digital asset service provider may always additionally verify accuracy of the obtained data.\***

**The digital asset service provider shall prepare procedures for verifying completeness of the data referred to in this Article.\***

**The transaction initiator's digital asset service provider shall keep the data referred to in this Article in line with this Law and to provide it without delay at the request of supervisory authority, APML or other competent authority.\***

\*Official Gazette of RS, No. 153/2020

#### **Obligations of transaction beneficiary's digital asset service provider\***

\*Official Gazette of RS, No. 153/2020

#### **Article 15b\***

**Transaction beneficiary's digital asset service provider shall check whether it has been provided with the data referred to in Article 15a of this Law.\***

**The payment service provider referred to in paragraph 1 of this Article shall develop procedures for verifying completeness of the data referred to in paragraph 1 of this Article.\***

**The payment service provider referred to in paragraph 1 of this Article shall verify accuracy of the data obtained on the transaction beneficiary by verifying the identity of such beneficiary as laid down under Articles 17 to 23 of this Law.\***

**The service provider referred to in paragraph 1 of this Article is deemed to have verified accuracy of the data referred to in paragraph 3 of this**

**Article if it has previously established a business relationship with such person and identified and verified the identity of that person as laid down under Articles 17 to 23 of this Law, unless there is suspicion on money laundering or the financing of terrorism.\***

**Based on risk assessment, the service provider referred to in paragraph 1 of this Article may always additionally verify accuracy of the obtained data.\***

**The transaction beneficiary's digital asset service provider shall keep the data referred to in this Article in line with this Law and to provide it without delay at the request of supervisory authority, APML or other competent authority.\***

\*Official Gazette of RS, No. 153/2020

#### **Missing information\***

\*Official Gazette of RS, No. 153/2020

#### **Article 15c\***

**Transaction beneficiary's digital asset service provider shall, using a risk based approach, develop operating procedures for situations where it has not been provided with accurate and complete data referred to in Article 15a of this Law.\***

**For cases referred to in paragraph 1 of this Article, the payment service provider referred to in paragraph 1 of this Article shall in its internal acts establish the situations in which it will:\***

- 1) refuse to execute the transaction;\***
- 2) suspend execution of the transaction until it has received any missing data, which it must request from the transaction initiator's digital asset service provider;\***

**The digital asset service provider may not execute a digital asset transaction unless it has not been provided with accurate and complete data referred to in Article 15a of this Law.\***

**If the transaction initiator's digital asset services provider frequently fails to provide accurate and complete data as set out in Article 15a of this Law, the service provider referred to in paragraph 1 of this Article shall warn them thereof, notifying the deadline by which they should comply with this Law. If the digital asset service provider fails to comply with this Law even after receiving such warning and after the deadline left has expired, the service provider referred to in paragraph 1 of this Article shall refuse any future transaction execution from this person, or restrict or terminate business cooperation with such person.\***

**For cases referred to in paragraph 4 of this Article, the service provider referred to in paragraph 1 of this Article shall shall:\***

**1) inform the supervisory authority about the digital asset service provider that frequently fails to provide accurate and complete data in accordance with Article 15a of this Law, and about any measures taken with respect to such person in accordance with paragraph 4 of this Article;\***

**2) consider whether the lack of accurate and complete data referred to in Article 15a of this Law, in tandem with any other circumstances, constitutes reason for suspicion on money laundering or terrorism financing - of which it shall report to the APML if it finds reason for suspicion on money laundering or terrorism financing, whereas in the opposite case it shall make a note which it shall keep in accordance with the law.\***

\*Official Gazette of RS, No. 153/2020

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

#### **Exemption in case of electronic money issuing\***

\*Official Gazette of RS, No. 153/2020

#### **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 150 that can only be used in the Republic of Serbia;\***

**2) the maximum amount of stored electronic money does not exceed the RSD equivalent of EUR 150;\***

**3) the money stored on a payment instrument is only used for purchasing goods or services;\***

**4) the money stored on a payment instrument may not be used in remote commerce, within the meaning of the law governing trade, for initiating a payment transaction through internet or using remote communication devices, if the amount of the payment transaction exceeds the RSD equivalent of EUR 50;\***

**5) the payment instrument may not be funded by anonymous e-money;\***

**6) an electronic money issuer monitors transactions or business relationship to a satisfactory extent which enables it to detect unusual or suspicious transactions.\***

**The provisions of paragraph 1 of this Article shall not apply in case of reasons for suspicion on money laundering or terrorism financing, as well as in case of redemption of e-money for cash or in cases of withdrawal of cash in the value of the e-money, where the amount redeemed exceeds the RSD equivalent of EUR 50.\***

\*Official Gazette of RS, No. 91/2019

#### **Exemption in case of provision of digital asset services\***

\*Official Gazette of RS, No. 153/2020

#### **Article 16a\***

**Digital asset service provider is not obliged to establish business relationship with a customer and/or perform CDD in relation to that business relationship if a risk analysis found a low ML/TF risk and if all of the following conditions have been met:\***

**1) the value of an individual digital asset transaction is lower than RSD 15,000, regardless of whether this is one or more than one interrelated transactions, where the value of such transactions by a particular client may not exceed RSD 40,000 a month, or RSD 120.000 a year;\***

**2) the digital asset service provider has secured a tested and confirmed technical solution which allows for the provision of a copy or of the client's personal ID document printout, client's face photo and copy of the document from which the address of permanent or temporary residence can be established if the client's personal ID document does not contain the address (e.g. a copy of other official document or phone bill or public utility bill containing such data);\***

**3) the digital asset service provider monitors digital asset transaction to a satisfactory extent which enables it to detect unusual or suspicious transactions.\***

**The digitalised (e.g. scanned or photographed) document referred to in paragraph 1 item 2) of this Article shall also be considered photocopy or extract printout referred to in paragraph 1 item 2 of this Article.\***

**The digital asset service provider intending to apply the exemption referred to in paragraph 1 of this Article, shall notify the supervisory authority thereof no later than 30 days after the commencement of application of such exemption, and submit with the notification the proof demonstrating that it has in place the technical solution referred to in paragraph 1 item 2) of this Law. The timeframe referred to in this**



**paragraph shall be counted from the date of submission of proper documentation referred to in paragraph 1 item 2) of this Article.\***

**The provisions of paragraph 1 of this Article shall not apply where there are reasons for suspicion on money laundering or terrorism financing with respect to customer or digital asset transaction, or if there is suspicion as to the veracity or credibility of the data obtained as laid down in paragraph 1 item 2) of this Article;\***

**The digital asset service provider referred to in paragraph 1 of this Article shall apply the provisions of Articles 15a, 15b and 15c of this Law, except that the identity of the person referred to in Articles 15a, 15b and 15c of this Law shall be verified in accordance with the provisions of this Law.\***

**The provisions of this Article shall not apply on the client which is a legal person or entrepreneur.\***

\*Official Gazette of RS, No. 153/2020

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

d1) Identifying and verifying the identity of a customer

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

Article 17

An obliged entity shall identify 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 in such a manner for objective reasons, 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 person referred to in paragraphs 1 and 3 of this Article, the obliged entity shall obtain a photocopy or print-out of a personal document of such person. The digitalised document referred to in paragraphs 2 and 4 of this Article within also be considered photocopy or print-out of a personal document referred to in this paragraph. The photocopy or print-out of the personal document kept in written form shall contain the date, time, and the personal name of the person who inspected that document. The photocopy or print-out of the personal document in the electronic form shall contain a qualified electronic stamp or qualified electronic signature in line with the law governing electronic signature, with an attached time stamp. The obliged entity shall keep the photocopies or print-out of the personal document referred to in this paragraph in paper or electronic form in accordance with law.\***

\*Official Gazette of RS, No. 91/2019

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 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 whose registered office is 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 of the customer are as follows:

- 1) The customer's qualified electronic certificate should be issued by a certification body which is included in the register kept by the competent body in accordance 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 fulfillment of conditions listed in paragraph 1, items 3 and 4 of this Article.

When identifying 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 identifying 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 identifying and verifying the identity of a natural

person using a qualified electronic certificate and shall identify and verify the identity in accordance with Article 17 of this Law.

**The supervisory authority referred to in Article 104 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 (video-identification procedure)\*.**

**The obliged entity conducting the procedure referred to in paragraph 8 of this Article shall conduct that procedure based on consent of the person whose identify is being established and verified in that procedure and is obliged to keep the video-audio recording produced in the course of that procedure in accordance with the provisions of this Law and law governing protection of personal data.\***

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

Identifying and verifying the identity of an entrepreneur

#### **Article 19\***

**The obliged entity shall identify 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 the obliged entity shall keep in accordance with the law.\***

**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, in which case it shall obtain a photocopy of the extract from the register which it shall keep according to law.\***

**The digitalised document referred to in paragraphs 2 and 4 of this Article, including a print-out of the entrepreneur's personal ID document, shall also be considered photocopy of the documentation**

**referred to in paragraphs 2 and 4 of this Article. The photocopy of the document kept in paper form shall contain the date, time, and the name of the person who inspected that document. The photocopy of the document in the electronic form shall contain a qualified electronic stamp or qualified electronic signature in line with the law governing electronic signature, with an attached time stamp. The obliged entity shall keep the photocopies referred to in this paragraph in paper or electronic form in accordance with 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.\***

**The supervisory authority referred to in Article 104 may specify in more detail other methods and requirements for identifying and verifying the identity of entrepreneur by means of electronic communications and without a mandatory physical presence of such person in the obliged entity that is supervised under this Law (video-identification procedure).\***

**The obliged entity conducting the procedure referred to in paragraph 7 of this Article shall conduct that procedure based on consent of the person whose identify is being established and verified in that procedure and is obliged to keep the video-audio recording produced in the course of that procedure in accordance with the provisions of this Law and law governing protection of personal data.\***

**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.\***

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

Identifying and verifying the identity of a legal person

#### **Article 20\***

**An obliged entity shall identify 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 the obliged entity shall keep in accordance with the law.\***

**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, in which case it shall obtain a photocopy of the extract from the register which it shall keep according to law.\***

**The digitalised document referred to in paragraphs 2 and 4 of this Article shall also be considered photocopy of the documentation referred to in paragraphs 2 and 4 of this Article. The photocopy of the document kept in paper form shall contain the date, time, and the name of the person who inspected that document. The photocopy of the document in the electronic form shall contain a qualified electronic stamp or qualified electronic signature in line with the law governing electronic signature, with an attached time stamp. The obliged entity shall keep the photocopies referred to in this paragraph in paper or electronic form in accordance with 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.\***

\*Official Gazette of RS, No. 91/2019

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

## **Article 21\***

**An obliged entity shall identify 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 designate the person authorised to represent the legal person in case the documentation from the register does not contain this information. A photocopy of the documentation or extract from the register referred to in this paragraph shall be kept by the obliged entity in accordance with law. Digitalised document referred to in this paragraph shall also be considered a photocopy of the documentation referred to in this paragraph. The photocopy of the document kept in paper form shall contain the date, time, and the name of the person who inspected that document. The photocopy of the document in the electronic form shall contain a qualified electronic stamp or qualified electronic signature in line with the law governing electronic signature, with an attached time stamp. The obliged entity shall keep the photocopies referred to in this paragraph in paper or electronic form in accordance with law.\***

**Provisions of Article 17, paragraphs 2 and 6 of this Law shall apply, *mutatis mutandis*, on the procedure for verifying the identity of the representative of a legal person and on 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 identifying 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 identifying and verifying the identity of the representative of a person under foreign law and obtaining data on such person.\***

**If a legal person or person under foreign law is represented by a legal person, the obliged entity shall identify 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 identification and verification of identity of the representative of a legal person representing the legal person or a person under foreign law.\***

**The supervisory authority referred to in Article 104 may specify in more detail other methods and requirements for verifying the identity of a legal persons representative by means of electronic communications and without a mandatory physical presence of such person in the**

**obliged entity that is supervised under this Law (video-identification procedure).\***

**The obliged entity conducting the video identification procedure referred to in paragraph 7 of this Article shall conduct the video identification procedure based on consent of the person whose identify is being established and verified in that procedure and is obliged to keep the video-audio recording produced in the course of that procedure in accordance with the provisions of this Law and law governing protection of personal data.\***

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

Identifying 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 photocopy of which it shall keep in accordance with law.\***

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

**In the case referred to in paragraph 1 of this Article, the obliged entity shall identify the representative of a legal person by inspecting the original or 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 by inspecting the documents which designate the person authorised to represent the legal person in case the document from the register does not contain this information. A photocopy of the documentation or extract from the register referred to in this paragraph shall be kept by the obliged entity in accordance with law.\***

**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 shall keep in accordance with 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.\***



**The digitalised document referred to in paragraphs 1 and 3 of this Article shall also be considered photocopy of the documentation referred to in paragraphs 1 and 3 of this Article. The photocopy of the document kept in paper form shall contain the date, time, and the name of the person who inspected that document. The photocopy of the document in the electronic form shall contain a qualified electronic stamp or qualified electronic signature in line with the law governing electronic signature, with an attached time stamp. The obliged entity shall keep the photocopies referred to in this paragraph in paper or electronic form in accordance with law.\***

**If the obliged entity, when identifying 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 5 of this Article shall apply, *mutatis mutandis*, on the procedure for identifying 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.\***

\*Official Gazette of RS, No. 91/2019

Identifying 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;\***

**obtain the data referred to in Article 99, paragraph 1, items 2 and 14 of this Law.\***

**The obliged entity shall identify 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 shall keep in accordance with law. The obliged entity shall identify 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 ID document of the authorised representative in his presence, the photocopy or print-out of which it shall keep in accordance with law. 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 shall keep in accordance with law.\***

**The digitalised document referred to in paragraph 2 of this Article shall also be considered photocopy of the document referred to in paragraph 2 of this Article. The photocopy of the document kept in paper form shall contain the date, time, and the name of the person who inspected that document. The photocopy of the document in the electronic form shall contain a qualified electronic stamp or qualified electronic signature in line with the law governing electronic signature, with an attached time stamp. The obliged entity shall keep the photocopies referred to in this paragraph in paper or electronic form in accordance with 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.\***

\*Official Gazette of RS, No. 91/2019

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 identify 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, **and a written statement of the client in the casino stating under material and criminal liability that it is taking part in the games of chance for and on his/her own behalf\*.**

\*Official Gazette of RS, No. 91/2019

d2) Identification of the beneficial owner of a customer

Identifying the beneficial owner of a legal person and person under foreign law

#### Article 25\*

**The obliged entity shall identify the beneficial owner of a customer that is a legal person or person under foreign law in line with Article 3 paragraph 1, items 11 and 12, of this Law, and obtain 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 data may be also obtained by directly accessing the official public register in accordance with the provisions of Article 20, paragraphs 4 and 7 of this Law in which case the obliged entity shall obtain a copy of the extract from that register which it shall keep in accordance with the law. Digitalised document referred to in this paragraph shall also be considered a photocopy of the documentation referred to in this paragraph. The photocopy of the document kept in paper form shall contain the date, time, and the name of the person who inspected that document. The photocopy of the document in the electronic form shall contain a qualified electronic stamp or qualified electronic signature in line with the law governing electronic signature, with an attached time stamp. The obliged entity shall keep the photocopies referred to in this paragraph in paper or electronic form in accordance with 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, or a print-out of that document.\***

**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 document 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.\***

**If it obtains beneficial ownership data from records established based on a special law governing the central records of beneficial owners, the obliged entity shall not be exempt from the obligation to take actions and measures for identifying the beneficial owner under this Law which it shall perform based on the customer risk assessment.\***

\*Official Gazette of RS, No. 91/2019

Identifying 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 - insurance policy holder, obtain the data concerning the name of the insurance beneficiary.\***

**Where the beneficiary of an insurance policy is not identified by a name, 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 insurance policy, at the moment of payout of the insured amount, exercising the rights from redemption, advance payment or pledging of the insurance policy.\***

**The obliged entity shall identify and verify the identity of the beneficiary of an insurance policy at the moment of payout of the insured amount, exercising the rights from redemption, advance payment or pledging of the life insurance policy.\***

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

**If the beneficiary of an insurance policy is categorised as posing high money laundering or terrorism financing risk, the obliged entity shall take reasonable measures to identify the beneficial owner of such beneficiary no later than at the moment of payout of the insured amount, exercising the rights from redemption, advance payment or pledging of the insurance policy.\***

**Where the obliged entity establishes a high money laundering and terrorism financing risk in relation to an insurance policy, it shall also take, in addition to the actions and measures referred to in Article 7 of this Law, the following measures: inform the top management member thereof before the payout of the insured amount and apply enhanced customer due diligence.\***

**If the obliged entity cannot identify the beneficiary of an insurance policy or the beneficial owner of the insurance policy beneficiary, it shall make an official note in writing, and consider whether there are reasons**

**for suspicion on money laundering or terrorism financing. The obliged entity shall keep the official note in accordance with the law.\***

\*Official Gazette of RS, No. 91/2019

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.

**Data concerning digital asset address\***

\*Official Gazette of RS, No. 153/2020

**Article 28a\***

**The obliged entity referred to in Article 4 paragraph 1 item 17) of this Law shall, as part of the CDD, also obtain the digital asset address that the client is currently using or used to execute the digital asset transaction, and if the client uses several addresses, then all the virtual currency addresses.\***

\*Official Gazette of RS, No. 153/2020

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, **or periodically examining\***, 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.

\*Official Gazette of RS, No. 91/2019

*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.

**The third party referred to in paragraph 1 of this Article means:\***

**1) obliged entity referred to in Article 4, paragraph 1, items 1), 3), 4), 7), 9)–11), 13) and 16) of this Law, insurance companies licensed to perform life-insurance business and life-insurance agents;\***

**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, keep records in an equal or similar manner as specified in this Law, and is supervised in the performance of its tasks**

**for the prevention and detection of money laundering and terrorism financing in an adequate manner;\***

**3) the obliged entity referred to in Article 4, paragraph 1, item 2) of this Law, only if it performs the business of intermediary in the provision of payment services and in relation to that intermediation.\***

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 obligor shall not be exempt from responsibility for a proper application of customer due diligence actions and measures in accordance with this Law.

\*Official Gazette of RS, No. 91/2019

#### 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 take additional measures to eliminate the reasons for doubting 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 on 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 doubting the veracity of the documentation, or on money laundering or terrorism financing, it shall consider if it will rely on such third party for customer due diligence in 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 identified 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 technologies and services, in accordance with the risk assessment;
- 3) when establishing a business relationship referred to in 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 his 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.

\*Official Gazette of RS, No. 91/2019

Correspondent relationship with banks and other similar institutions from foreign countries

#### **Article 36\***

**When establishing a correspondent relationship with a respondent - 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 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, and the name and registered office 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 country where the registered office is located or in the country of registration is subject to supervision by the competent state authority and that it is required to apply the legislation of that country related to 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 and the respondent's nature of business, establish the quality of its supervision and assess its reputation, 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 ensure 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 and that it has assessed the measures and actions taken by the respondent in relation to prevention of money laundering and terrorism financing.\***

**Prior to establishing a correspondent relationship with a respondent, the obliged entity shall obtain a written authorisation from a member of its top management referred to in Article 52, paragraph 3 of this Law, whereas if such a relationship has already been established, it may not be continued without a written authorisation from that top management member.\***

**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 whose registered office is 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 respondent 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 obliged entity's employee responsible for establishing a correspondent relationship has not previously obtained a written authorisation from a member of the obliged entity's top management referred to in Article 52, paragraph 3 of this Article;\***

**3) a bank or other similar institution with the registered office in a foreign country has not established a system for the prevention and detection of money laundering and terrorism financing or it is not required to apply the legislation in the area of prevention and detection of money laundering and terrorism financing in accordance with the legislation of the foreign country in which its registered office is located, or the obliged entity has assessed the actions and measures taken by the respondent in the anti-money laundering and terrorism financing area as inappropriate;\***

**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 institution is able to use the account with the obliged entity by allowing its clients to use this account directly.\***

\*Official Gazette of RS, No. 91/2019

New 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 compliance with 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 member** \*of the top management **referred to in Article 52 paragraph 3 of this Law**\*;
- 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 **member**\* of the top management **referred to in Article 52 paragraph 3 of this Law**\*.

The provisions of paragraphs 1 to 3 of this Article also apply with respect to a close family member and a close associate of the official.

\*Official Gazette of RS, No. 91/2019

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 establishing a business relationship, or executing 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 on 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 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 refer in particular to:\***

- 1) legal and institutional framework of the country, especially the criminalisations 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, availability of accurate and credible information on beneficial owners of legal persons and persons under foreign law;\***
- 2) powers and procedures of relevant state authorities of these countries in relation to money laundering and terrorism financing;\***
- 3) effectiveness of the system for the fight against money laundering and terrorism financing in eliminating money laundering and terrorism financing risks.\***

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

- 1) apply the actions and measures referred to in Article 35, paragraph 2 in the manner and to the extent proportionate to the high risk associated with having a business relationship with such customer;\***
- 2) obtain additional information on the beneficial owner of the customer;\***
- 3) obtain data on the origin of the property which is the subject-matter of the business relationship or transaction;\***
- 4) obtain additional information on the purpose and intended nature of the business relationship or transaction;\***
- 5) conduct additional checks of the submitted documents;\***
- 6) obtain approval of the top management member referred to in Article, paragraph 3 of this Article for the purpose of establishing or continuing business relationship;\***

**7) monitor, with due care, the transactions and other business activities of the customer in the course of the business relationship;\***

**8) take any other adequate measures to eliminate 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 apply 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 establishing 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 or, if necessary, terminate correspondent or similar relationships with financial institutions from such countries;\***

**5) any other adequate measures proportionate to the risks and deficiencies found in the system for the fight against money laundering and terrorism financing.\***

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

**The minister shall establish, at the proposal of the APML, a list of countries with strategic deficiencies, taking into account the lists developed by relevant international institutions and reports by international institutions concerning the assessment of systems for the fight against money laundering and terrorism financing.\***

\*Official Gazette of RS, No. 91/2019

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 on 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 enterprises**,\* 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.

**The Minister, at the APML's proposal, shall specify in more detail the manner and reasons based on which the obliged entity shall classify the customer, business relationship, service provided within their business activity or transaction as low money laundering or terrorism financing risk, according to the findings of the National Money Laundering Risk Assessment and National Terrorism Financing Risk Assessment, based on which it shall take simplified customer due diligence actions and measures.\***

\*Official Gazette of RS, No. 91/2019

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 referred to in 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, **anonymous safe deposit boxes\***, or provide any other services that directly or indirectly allow for concealing the customer identity.

**Digital asset service provision that directly or indirectly allows for concealment of client identity and execution of transactions using such digital assets shall be prohibited.\*\***

**Issuing of the digital assets referred to in paragraph 2 of this Article shall be prohibited.\*\***

**Digital asset issuer and digital asset service provider may not use IT resources (software components, hardware components or information assets) that allow for and/or facilitate concealment of client identity and/or prevent and/or hinder digital asset transaction monitoring.\*\***

**The provisions of this Article are without prejudice to the application of measures and activities aimed to safeguard the security of information systems in accordance with legislation.\*\***

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

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.

\*Official Gazette of RS, No. 91/2019

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 on 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 on 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 in more detail 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. Implementation of actions and measures in obliged entity's business units and majority-owned subsidiaries\***

\*Official Gazette of RS, No. 91/2019

##### ***Obligation to implement actions and measures in obliged entity's business units and majority-owned subsidiaries\****

\*Official Gazette of RS, No. 91/2019

#### **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, regardless of whether their place of business is in the Republic of Serbia or in foreign countries.\***

**An obliged entity which is a part on a financial 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, procedures for managing compliance of operations with these risks at group level, procedure for establishing and checking the obliged entity's recruitment requirements in order to ensure high standards for employment, procedure for providing regular professional education, training and improvement for employees in charge of preventing and detecting money laundering and terrorism financing in accordance with the annual programme of**

**professional education, training and improvement, obligation to conduct regular internal control and organisation of an independent internal audit in line with the law, and other actions and measures with the aim of preventing money laundering and terrorism financing.\***

**The authority referred to in Article 104 of this Law that supervises obliged entities which are financial institutions may specify in more detail the content of the programme referred to in paragraph 2 of this Article.\***

**The obliged entity which is a member of a financial group whose highest parent company has a registered office abroad may apply this group's programme only if such programme ensures compliance with all its obligations under this Law, other regulations and international standards in the anti-money laundering and countering the financing of terrorism area, and if such programme is not contrary to the regulations of the Republic of Serbia.\***

**The obliged entity which is a part of a financial group may exchange with other members of the group the data and information on transactions and persons about which there are reasons for suspicion on money laundering and terrorism financing and which have been reported to the APML as such, except if the APML requests differently.\***

**The data and information referred to in paragraph 5 of this Article shall also include information, data and analyses concerning transactions or activities appearing unusual (if such analyses have been made), suspicious transaction reports, information and data constituting reason for filing a suspicious transaction report and information on whether such transaction has already been reported to the competent authority as suspicious.\***

**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 7 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.\***

**The authority referred to in Article 104 of this Law may specify in closer detail special measures referred to in paragraph 8 of this Article.\***

**If legislation of a foreign country does not permit implementation of the 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 authority referred to in Article 104 of this Law thereof, for the purpose of taking appropriate measures to eliminate the risk of money laundering or terrorism financing.\***

**The appropriate measures referred to in paragraph 10 of this Article shall also include measures requiring an obliged entity to ensure additional controls of its business units and majority owned subsidiaries operating abroad, and a partial or complete termination of activities through such business unit or subsidiary.\***

**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 in its business units and majority-owned subsidiaries.\***

**The provisions of this Article shall also apply, mutatis mutandis, on the obliged entity which is member of a non-financial group within the meaning of the law governing the business of such obliged entity.\***

\*Official Gazette of RS, No. 91/2019

## **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.\*

**5) have a licence to perform the tasks of a compliance officer in case that the obliged entity is required, by the regulation referred to in paragraph 3 of this Law, to ensure that its compliance officer has such a licence.\***

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

**The APML shall issue a licence to the compliance officer and deputy compliance officer. The licence shall be issued based on the results of a professional examination. The Minister shall, at the APML's proposal, and upon obtaining opinion from the supervisory authorities referred to in Article 104 of this Law, lay down the content and method of taking of the professional exam and the criteria based on which it is established whether an obliged entity is required to ensure that its compliance officer and deputy compliance officer have a licence for performing the tasks of a compliance officer.\***

\*Official Gazette of RS, No. 91/2019

#### 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 obliged entity's internal regulations.

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 compliance with 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.

**Professional education, training and development shall include familiarising with the provisions of the Law, regulations drafted based on this 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 on money laundering or terrorism financing, and with the provisions of legislation governing freezing of assets with the aim of preventing terrorism and proliferation of weapons of mass destruction and legislation governing personal data protection.\***

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.

\*Official Gazette of RS, No. 91/2019

*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 referred to in Article 4\*** of this Law 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.

\*Official Gazette of RS, No. 91/2019

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 AND PUBLIC NOTARIES\***

\*Official Gazette of RS, No. 91/2019

**Identifying 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 and public notary 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 and public notary 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 and public notary shall obtain the data referred to in Article 103 of this Law.\***

**The lawyer and public notary 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 from the date of its issue, or by directly accessing an official public register or through electronic exchange of data.\***

**The lawyer and public notary shall identify and verify the identity of a beneficial owner of a customer by obtaining the data referred to in Article 103, item 3 of this Law, by means of inspecting the personal ID document of that person in his/her presence and by a statement that**

**the customer acts on his/her own behalf, or by inspection the original or certified copy of documentation from an official public register which may not be older than six months from 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 and public notary 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 or by means of electronic identification devices in accordance with the law.\***

**The lawyer and public notary 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.\***

**The lawyer and public notary shall use the data, information and documentation obtained under this Law only for the purposes laid down in the law;\***

\*Official Gazette of RS, No. 91/2019

#### **Other actions and measures taken by lawyers and public notaries\***

\*Official Gazette of RS, No. 91/2019

#### **Article 57a\***

**The lawyer and public notary shall, in accordance with this law, develop and regularly update a risk analysis, establish a procedure for determining whether a customer or beneficial owner of a customer is an official, whether the customer or legal entity appearing in the ownership structure of the customer is an offshore legal entity, apply enhanced CDD when establishing a business relationship with a customer from a country with strategic AML/CFT deficiencies, and assess the risk arising from new technologies and new services.\***

\*Official Gazette of RS, No. 91/2019

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

##### **Article 58**

If the lawyer **or public notary\***, when carrying out tasks referred to in **Article 4, paragraphs 2 and 3\*** of this Law, establishes that there are reasons for suspicion on 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 **or public notary**\* are 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 on money laundering or terrorism financing. The lawyer or **public notary**\* shall make a written statement explaining the reasons why they did not act as provided for.

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

The lawyer **or public notary**\* 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.

\*Official Gazette of RS, No. 91/2019

#### **Requesting data from the lawyer or public notary\***

\*Official Gazette of RS, No. 91/2019

#### Article 59

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

The APML may also request from the lawyer **or public notary**\* 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 on money laundering or terrorism financing.

The lawyer **or public notary**\* 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 lawyer **or public notary\*** to provide the documentation.

\*Official Gazette of RS, No. 91/2019

## **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.

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

\*Official Gazette of RS, No. 91/2019

### **Article 60a\***

**The lawyer or public notary, or their staff or other persons having access to the data referred to in Article 103 of this Law, must not disclose to the customer or any 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 or access to safe-deposit box;\***
- 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 shall 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 compliance with the provisions of this Law.\***

\*Official Gazette of RS, No. 91/2019

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

#### Article 61

The lawyer **or public notary\*** shall develop a list of indicators for recognising persons and transactions with respect to which there are reasons to suspect money laundering or terrorism financing.

When developing the list referred to in paragraph 1 of this Article, the lawyer **or public notary\*** shall consider 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 determining whether there are reasons for suspicion on money laundering or terrorism financing, the lawyer **or public notary\*** 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 on money laundering or terrorism financing.

When developing the list of indicators referred to in paragraph 1 of this Article, the lawyer **or public notary\*** shall also include the list of indicators published on the APML's website.

\*Official Gazette of RS, No. 91/2019

### **Record keeping**

#### Article 62

The lawyer **or public notary\*** shall keep the following records:

1) details of customers, business relationships and transactions referred to in Article 8 of this Law **in accordance with Article 103 of this Law\***;

2) data sent to the APML pursuant to Article 58 of this Law.

\*Official Gazette of RS, No. 91/2019

*Chapter IV ACTIONS AND MEASURES TAKEN BY PUBLIC NOTARIES has been deleted (see Article 44 of this Law - 91/2018-64)*

*Titles of Articles 63-67 have been deleted (see Article 44 of this Law- 91/2018-64)*

*Articles 63-67*

*have been deleted (see Article 44 of the Law - 91/2019-64)*

## 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 with 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 determining whether there are reasons for suspicion on 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 on 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 done in a written form and updated at least once in three years.

**The risk assessment summary referred to in paragraph 2 of this Article shall be made available to the public and may not contain classified information.\***

\*Official Gazette of RS, No. 91/2019

### **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, unique personal 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 the obliged entity to provide 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, **including access to a safe-deposit box\***, if it finds grounded suspicion on money laundering or terrorism financing with respect to a transaction or person conducting the transaction, of which it shall inform the competent authorities so that they may take measures within their competence.

The APML's Director may, in urgent cases, issue an oral order for temporary suspension of a transaction, **including access to a safe-deposit box\***, which shall be confirmed in writing on the next working day at the latest.

Temporary suspension of a transaction, **including access to a safe-deposit box\***, 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, **including access to a safe deposit box\***, 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 determines that there is no grounded suspicion on money laundering or terrorism financing, the APML is required to inform the obliged entity that it is allowed to conduct the transaction **including the access a safe-deposit box\***.

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 deemed to be allowed to conduct the transaction **including the access the safe-deposit box\***.

The obliged entity may temporarily suspend a transaction **including access to a safe-deposit box\***, for a maximum of 72 hours if it has reasonable suspicion on money laundering or terrorism financing with respect to a transaction or person conducting the transaction or for whom the transaction is being conducted, and if the suspension is necessary for timely fulfilment of obligations laid down in this Law.

\*Official Gazette of RS, No. 91/2019

*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 on 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 on 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 supervisory authorities listed in Article 104 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.

\*Official Gazette of RS, No. 91/2019

### **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 only use the data, information and documentation obtained on the basis of paragraph 1 of this Article 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 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, **and further dissemination of information to any other authority of a foreign country may not be made without a prior consent of the APML\***.

\*Official Gazette of RS, No. 91/2019

### *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 is grounded suspicion on 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 compliance with this Law and takes 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 compliance with 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 shall submit a work report to the Government, no later than 31 March of the current year for the previous year.

The report referred to in paragraph 1 of this Article shall include at least statistical data, information on money laundering or terrorism financing manifestations and trends, and information concerning 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, shall declare the competent customs authority.

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

The Minister shall lay down the format and content of the declaration form, procedure for filing and filling-out the declaration form, and the method of notifying natural persons crossing the state border of this obligation.

### **Customs control**

#### Article 87



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

The competent customs authority shall control 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 threshold 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 authority shall temporarily detain bearer negotiable instruments if undeclared or if it finds that there is grounded suspicion that such funds, regardless of their amount, are related to money laundering or terrorism financing. The competent customs authority shall deposit the temporarily detained foreign currency instruments to the account or safe custody of the National Bank of Serbia, and RSD instruments to the account of the National Bank of Serbia within two working days of their detention. A receipt shall be issued for any bearer negotiable instruments detained.\***

\*Official Gazette of RS, No. 91/2019

### **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 include the reasons for suspicion.

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 timeframe set in paragraph 1 of this Article in case of any cross-border transfer of bearer negotiable instruments in an amount below the threshold 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 for temporary suspension of transaction **including access to safe-deposit box**;<sup>\*</sup>
- 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 compliance with 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.

<sup>\*</sup>Official Gazette of RS, No. 91/2019

*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 based on Article 36 of this Law, \* in accordance with Articles 11-15c of this Law\*\*, a third party in accordance with Articles 30 to 32 of this Law, or branches and majority-owned subsidiaries of the obliged entity, or exchange of data, information or documentation within the group based on Article 48 of this Law, shall not be considered breach of any business, bank or professional secrecy rules.\***

**When exchanging data referred to in paragraph 3 of this Article, the obliged entity shall take particular account of application of the no-tipping off requirements referred to in Article 90 of this Law.\***

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

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

#### *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, when 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 shall within the timeframe set in paragraph 1 of this Article also keep the audio-video recording of the identification and verification of identity produced in the video-identification procedure in accordance with the regulation referred to in Article 18, paragraph 8, Article 19, paragraph 7, and Article 21, paragraph 7 of this Law.\***

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.

**Upon expiry of the timeframe referred to in paragraphs 1 and 3 of this Article, the obliged entity shall treat the data referred to in paragraphs 1 to 3 of this Article in accordance with the law governing protection of personal data under the condition that these data are not data used by competent state authorities for special purposes.\***

\*Official Gazette of RS, No. 91/2019

*Period for which data is kept by the competent customs authority*

Article 96

The competent customs authority shall keep the data obtained in accordance with this Law for at least 10 years from the date it was obtained.

*Period for which data is kept by the APML*

Article 97

The APML shall keep the data in the records it holds in accordance with this Law for at least 10 years from the date it was obtained.

**3. Records**

*Record-keeping*

Article 98

The obliged entity shall keep the following records:

- 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 shall keep the following records:

- 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 on 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 person under civil law.\*\*

**15) virtual currency address.\*\***

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

**The records of data referred to in paragraph 1 of this Article shall also contain an audio-video recording produced in the video-identification procedure in accordance with the regulation referred to in Article 18, paragraph 8, Article 19, paragraph 7, and Article 21, paragraph 7 of this Law.\***

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

*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 on 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 on 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 on 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 on 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*

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 course 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.

The records of the notifications referred to in **Articles 112 and 112a\*** of this Law shall contain as follows:

- 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.

\*Official Gazette of RS, No. 91/2019

*The content of the records kept by the lawyer **or public notary**\**

\*Official Gazette of RS, No. 91/2019

#### Article 103

The records of data on customers, business relationships and transactions maintained by the lawyer **or public notary** \*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 beneficial owner of the customer, to which a lawyer or public notary provides services, and a statement from the customer stating that he is acting on his own behalf;\***

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 on money laundering or terrorism financing;

12) data on the transaction with respect to which there are reasons for suspicion on money laundering or terrorism financing (amount and currency of transaction, date and time of transaction);

13) information on the existence of reasons for suspicion on money laundering or terrorism financing.

\*Official Gazette of RS, No. 91/2019

#### **4. Registers\***

\*Official Gazette of RS, No. 91/2019

##### ***Single register of safe-deposit boxes\****

\*Official Gazette of RS, No. 91/2019

#### **Article 103a\***

**The National Bank of Serbia shall keep a Single register of safe-deposit boxes in electronic form.\***

**The Single register of safe-deposit boxes shall include the following data concerning the safe-deposit box user who is a natural person:\***

**1) date of entering into and termination of safe-deposit box agreement and the period to which the agreement is concluded;\***

**2) name and surname of safe-deposit box user;\***

**3) unique personal identification number, or other identification for users who do not have citizenship of the Republic of Serbia (e.g. passport number or record number assigned by the competent state authority);\***

**4) address of the permanent or temporary residence of the safe-deposit box user;\***

**5) data listed in items 2 to 4 of this paragraph concerning the persons authorised to access the user's safe-deposit box.\***

**The Single register of safe-deposit boxes shall include the following data concerning the safe-deposit box user which is a legal person:\***

- 1) date of entering into and termination of safe-deposit box agreement and the period to which the agreement is concluded;\***
- 2) registered name or abbreviated registered name of the safe-deposit box user;\***
- 3) address of the registered office of the safe-deposit box user;\***
- 4) registration number of the safe-deposit box user;\***
- 5) tax identification number of the safe-deposit box user;\***
- 6) any other data laid down by the National Bank of Serbia.\***

**Banks providing safe-deposit box services to customers shall regularly provide to the National Bank of Serbia data referred to in paragraphs 2 and 3 of this Article and shall be accountable for accuracy of such data.\***

**The National Bank of Serbia shall be accountable for ensuring that the data referred to in paragraph 4 of this Article are identical to the data in the Unique register of safe-deposit boxes.\***

**The data in the Single register of safe-deposit boxes shall not be publicly available, and shall be subject to the legislation governing the banking secrecy and protection of personal data.\***

**The National Bank of Serbia shall specify the conditions for and method of keeping the Single register of safe-deposit boxes, method and timeframes for submission of data kept in that register, and the method of inspection of such data.\***

\*Official Gazette of RS, No. 91/2019

### ***Single register of remittance beneficiaries\****

\*Official Gazette of RS, No. 91/2019

### **Article 103b\***

**The National Bank of Serbia shall keep a Single register of remittance service beneficiaries in electronic form (hereinafter: Single register of remittance beneficiaries).\***

**The Single register of remittance beneficiaries shall include the following data concerning the beneficiary of a remittance service (hereinafter: remittance beneficiary):\***

- 1) name and surname of remittance beneficiary;\***
- 2) unique personal identification number, or other identification of the remittance beneficiary who does not have citizenship of the Republic of Serbia (e.g. passport number or record number assigned by the competent state authority);\***

**3) address of the permanent or temporary residence of the remittance beneficiary;\***

**Banks and other persons providing remittance services in accordance with the law shall regularly provide to the National Bank of Serbia data referred to in paragraph 2 of this Article and shall be accountable for accuracy of such data.\***

**The National Bank of Serbia shall be accountable for ensuring that the data referred to in paragraph 3 of this Article are identical to the data in the Unique register of remittance beneficiaries.\***

**The data in the Single register of remittance beneficiaries shall not be publicly available and shall be subject to the professional secrecy provisions of the legislation governing the provision of payment services and provisions of legislation governing the protection of personal data.\***

**The National Bank of Serbia shall specify the conditions for and method of keeping the Single register of remittance beneficiaries, method for submission of data kept in that register, and the method of inspection of such data.\***

\*Official Gazette of RS, No. 91/2019

## 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 compliance with this Law by the obliged entities, lawyers and public notaries:

1) APML;

2) National Bank of Serbia;

3) Securities Commission;

**4) authority competent for supervision in the area of tax advisory services;\***

**4a) authority competent for supervision in the area of 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 public notaries.

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) submit a request to the competent state body instituting an appropriate procedure;
- 3) take other measures and activities within its competences.

**If it issues operating licences or approvals to obliged entities based on the law, the authority referred to in paragraph 1 of this Article may prohibit on a temporary or permanent basis the operation of an obliged entity, or revoke an obliged entity's operating licence or approval in particularly justified cases.\***

The authority referred to in paragraph 1 of this Article shall apply a risk-based approach in the course of supervision. When conducting 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 failure to apply actions and measures on the basis of this Law **and law governing the freezing of assets with the aim of preventing terrorism and proliferation of weapons of mass destruction\***, shall be reviewed by the authority referred to in paragraph 1 of this Article periodically and in case of a significant change of the management or organisational structures of the obliged entity, or of the obliged entity's method of operation.

\*Official Gazette of RS, No. 91/2019

#### *Supervisory competences of the APML*

#### Article 105

The APML shall conduct onsite and offsite supervision of compliance with this Law by the obliged entities referred to in Article 4, paragraph 1, **items 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*.

\*Official Gazette of RS, No. 91/2019

#### *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.

#### *Supervisory competences of the National Bank of Serbia*

#### Article 109

The National Bank of Serbia shall supervise compliance with 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 shall supervise compliance with this Law by the obliged entities referred to in Article 4, paragraph 1, item 2 of this Law in accordance with the law which regulates foreign-currency operations.\***

The National Bank of Serbia shall supervise compliance with 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 shall supervise compliance with 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 shall supervise compliance with 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 shall supervise compliance with 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.

**National Bank of Serbia shall supervise the implementation of this Law by the obliged entity referred to in Article 4, paragraph 1, item 17) of this Law, which provides virtual currency services, in accordance with the law which regulates digital assets.\*\***

*Earlier paragraphs 8 and 9 have been deleted (see Article 13 of the Law - 153/2020-33).*

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

#### ***Special powers of supervisory authorities\****

\*Official Gazette of RS, No. 91/2019

#### **Article 109a\***

**If it issues operating licences or approvals to obliged entities, the supervisory authority referred to in Article 104 of this Law may at any time, for the purpose of satisfying itself that the requirements have been met for issuing an operating licence or approval or for acquisition of share in an obliged entity or for performance of the function of member of an obliged entity's body in accordance with regulations, obtain data, from the criminal records that are kept in accordance with the law, on convictions or on no convictions for any persons with respect to which such authority is checking the requirements, including their associates.\***

**The concept of associate referred to in paragraph 1 of this Article shall for the specific obliged entity categories referred to in paragraph 1 of this Article have the meaning assigned to it in the law governing the operation of such obliged entity or in a regulation passed pursuant to the law governing the operation of such obliged entity.\***

**The data referred to in paragraph 1 of this Article may only be used by the supervisory authority referred to in Article 104 of this Law for the purposes for which they were obtained and may not disclose them or make them available to any third party.\***

\*Official Gazette of RS, No. 91/2019

*Other competent supervisory authorities*

Article 110

The Securities Commission shall supervise compliance with 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 authorised banks, \* Article 4, paragraph 1, items 3 and 7 of this Law, in accordance with the law governing capital market, the law regulating takeover of joint stock companies and the law governing the operations of investment funds **and Article 4, paragraph 1, item 9 of this Law, in accordance with the law governing the operation of auditors, and Article 4, paragraph 1, item 17) of this law providing digital token services, in accordance with the law governing digital assets\***.

**The supervisory authority for tax advisory services shall supervise the obliged entities under Article 4, paragraph 1, item 15 of this Law for compliance with this Law, in accordance with the law governing the competence and organisation of that authority.\***

**The supervisory authority for the games of chance area shall supervise the obliged entities under Article 4, paragraph 1, item 8 of this Law for compliance with this Law, in accordance with the law governing the competence and organisation of that authority.\***

The ministry competent for supervisory inspection in the area of trade shall supervise compliance with 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 compliance with this Law by lawyers.

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

The ministry competent for postal communication shall supervise the obliged entities **under Article 4, paragraph 1, item 16a** for compliance with this Law\*.

The Chamber of public notaries shall supervise compliance with this Law by public notaries.

*Earlier paragraph 8 is deleted (see Article 61 of this Law - 91/2019-64)*

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

## **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 taken in the completed supervisory examination, of any irregularities or illegal acts found, and of any other relevant facts in relation to the examination, and to provide a copy of the act that they have passed.

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

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

**The authorities competent for supervision shall provide to each other upon request all the data and information necessary for supervision of compliance with this Law.\***

\*Official Gazette of RS, No. 91/2019

*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.

*Earlier paragraphs 2 and 3 have been deleted (see Article 63 of the Law - 153/2019-64).*

### ***Supervisory authorities' international cooperation powers\****

\*Official Gazette of RS, No. 91/2019

## **Article 112a\***

**The competent supervisory authority referred to in Article 104 of this Law may, at its initiative or based on a written and justified request of the competent supervisory authority of a foreign country, exchange data, information and documentation in relation with:\***

**1) legislation in the area of operation of the obliged entity over which that authority performs supervision, and other legislation relevant for the performance of supervision;\***

**2) the sector in which the obliged entity over which that authority performs supervision operates;\***

**3) the performance of supervision over an obliged entity;\***

**4) transactions or persons with respect to which there are reasons for suspicion on money laundering or terrorist financing or any other criminal offence through which proceeds were generated that may be used for money laundering or terrorist financing.\***

**The methods for sharing data, information or documentation can be regulated by the authorities referred to in paragraph 1 of this Article by mutual agreement.\***

**In line with the principle of reciprocity and protection of data confidentiality, the supervisory authorities referred to in paragraph 1 of this Article may request assistance from one another to conduct, within their own remits of responsibility, supervision over an obliged entity which is a member of a group and operates in the requested country.\***

**The authorities referred to in paragraph 1 of this Article shall only use the data, information or documentation for the following purposes:\***

- 1) for performing their duties in line with this Law;\***
- 2) in case of appeals or other legal remedies filed against the decisions of the competent supervisory authority, including court proceedings.\***

**The competent supervisory authority referred to in paragraph 1 of this Article that has found irregularities or illegal acts referred to in Article 111 paragraph 1 of this Law shall also notify other authorities referred to in Article 104 of this Law thereof, if such irregularities or illegal acts are relevant for their work.\***

**The competent supervisory authority referred to in paragraph 1 of this Article may not disclose to or exchange with any third parties any data, information and documentation that it has obtained as part of cooperation referred to in this Article without an express consent of the competent supervisory authority that has shared such data, information or documentation with it, nor can it use them for any purpose other than for the purpose indicated in the consent of that authority, except in justified circumstances in accordance with the law, of which that authority will be immediately notified.\***

**The obligation to keep professional secrets or confidentiality of data in line with the provisions of special legislation governing the powers and functions of the competent supervisory authority referred to in paragraph 1 of this Article shall apply to all persons employed or persons who were employed at that authority.\***

**\*Official Gazette of RS, No. 91/2019**

*Reporting the violations of this Law*

The authority referred to in Article 104 of this Law shall establish a mechanism encouraging reporting of violations of this Law by the obliged entities and/or their staff to that authority.

The mechanism referred to in paragraph 1 shall at least 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 shall lay down with its internal act the procedures for internal reporting of violations of the Law through a special and anonymous channel of communication, in accordance 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 implementing the provisions of this Law, independently or in cooperation with other authorities.

#### XI PENAL PROVISIONS

#### Article 115

The National Bank of Serbia shall impose 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 shall impose measures and sanctions to the obliged entity referred to in Article 4, paragraph 1, item 2 of the Law in line with the law regulating foreign currency operations.\***

The National Bank of Serbia shall impose 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 shall impose 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 shall impose 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 shall impose 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.

**The National Bank of Serbia shall impose measures and sanctions on the obliged entity referred to in Article 4 paragraph 1 item 17) of this Law offering digital asset services in line with the law governing digital assets.\*\***

**In addition to the measures and sanctions that the National Bank of Serbia can impose on the obliged entity under paragraphs 1 to 7 of this Article for violations of this Law and bylaws passed pursuant to this Law, and on the members of their bodies, National Bank of Serbia may impose a measure and/or fine on the compliance officer of the obliged entity referred to in paragraph 1 and 3 to 7 of this Article, and/or his deputy, for the violations of this Law referred to in Articles 117 to 120 of this Law, and for other action in violation of this Law or by-laws passed pursuant to this Law, by application *mutatis mutandis* of provisions on the measures taken and fines imposed on members of bodies of these obliged entities.\*\***

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

#### **Article 115a\***

**The Securities Commission shall impose measures and sanctions on the obliged entity referred to in Article 4 paragraph 1 item 17) of this Law offering digital asset services in line with the law governing digital assets.\***

\*Official Gazette of RS, No. 153/2020

#### 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 15 and 16a) of this Law\***, when it involves custody operations of an authorised bank, and Article 4, paragraphs 2 and 3 of this Law.

\*Official Gazette of RS, No. 153/2020

### **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 identify the beneficial owner of the customer (Article 25, paragraph 1);
- 2) fails to inform the APML of cases where there are reasons for suspicion on 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) fails to 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 information on the payer and payee and fails to include them into the form or message accompanying the money transfer throughout the payment chain (Article 11, paragraph 1);

5) fails to verify accuracy of the collected data as laid down in Articles 17 to 23 of this Law before the money transfer (**Article 11, paragraph 7**)\*;

6) fails to check if the information on the payer and payee have been included into the form or message accompanying the money transfer (Article 12, paragraph 1);

7) fails to develop procedures for verifying completeness of the data **referred to in Article 11 of this Law**\* (Article 12, paragraph 2);

**8) fails to verify accuracy of the collected data on the payee (Article 12, paragraphs 3 and 4)\*;**

9) fails to develop procedures on how to proceed in case a money transfer does not include complete information referred to in Article 11 \*of this Law (Article 13, paragraph 1);

**10) fails to inform the National Bank of Serbia about the payment service provider that frequently fails to provide accurate and complete data in accordance with Article 11 of this Law, and about any measures taken with respect to such person; fails to consider if the lack of accurate and complete data referred to in Article 11 of this Law, in tandem with other circumstances, constitutes reason for suspicion on money laundering or terrorism financing, and fails to notify the APML thereof; or fails to make a note, which it shall keep in accordance 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 money transfer (Article 14, paragraph 1);

12) fails to develop risk-based procedures on how to proceed in case the electronic message accompanying a money transfer does not include the information referred to in Article 11 \* of this Law (Article 14, paragraph 2);

**13) fails to reject a money transfer, fails to temporarily suspend a money transfer and fails to request from the payer's provider of payment services the data referred to in Article 11 of this Law, that is missing in the electronic message accompanying the money transfer, carries out further money transfer and, at the same time or subsequently, fails to request any missing data from the other intermediary in the transfer, or payer's payment service provider (Article 14, paragraph 3);\***

**13a) fails to obtain the data on all persons involved in a digital asset transaction, and if other digital asset service provider takes part in the execution of a digital asset transaction, fails to ensure that such data are provided to such other digital asset service provider in accordance with Article 15a of this Law (Article 15a paragraph 2);\*\***

**13b) fails to verify accuracy of the data obtained on the digital asset transaction initiator by checking the identity of such person as laid down under Articles 17 to 23 of this Law (Articles 15a paragraphs 6 and 7);\*\***

**13c) fails to develop procedures to verify completeness of the data referred to in Article 15a of this Law (Article 15a paragraph 9);\*\***

**13d) fails to check whether the data referred to in Article 15a of this Law have been provided to it (Article 15b paragraph 1);\*\***

**13e) fails to develop procedures to verify completeness of the data referred to in Article 15a of this Law (Article 15b paragraph 2);\*\***

**13f) fails to verify accuracy of the data obtained on the digital asset transaction beneficiary by checking the identity of such beneficiary as laid down under Articles 17 to 23 of this Law (Article 15b paragraphs 3 and 4);\*\***

**13g) fails to develop operating procedures for situations where it has not been provided with accurate and complete data referred to in Article 15a of this Law (Article 15c paragraph 1);\*\***

**13h) ) fails to inform the supervisory authority about the digital asset service provider that frequently fails to provide accurate and complete data in accordance with Article 15a of this Law, and about any measures taken with respect to such person in line with Article 15a of this Law; fails to consider if the lack of accurate and complete data referred to in Article 15a of this Law, in tandem with other circumstances, constitutes reason for suspicion on money laundering or terrorism financing, and/or fails to notify the APML thereof if it find reasons to suspect money laundering or terrorism financing; or fails to make a note (Article 15c paragraph 5.);\*\***

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 identify the beneficial owner of a customer in accordance with Article 3, paragraph 1, items 11 and 12 of this Law, or fails to obtain data on the beneficial owner in the 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 the 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 member before the disbursement of the insured sum or fails to conduct enhanced CDD (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, anonymous safe-deposit boxes,\* or provides other services that directly or indirectly allow for concealing customer's 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) fails not ensure that the measures for the prevention and detection of money laundering and terrorism financing under this Law, are implemented to the equal extent in its branches and majority-owned subsidiaries (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 on money laundering or terrorism financing (Article 69, paragraph 1);

49) fails to apply the list of indicators for the identification of persons and transactions with respect to which there are reasons for suspicion on 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) fails to use the data, information and documentation obtained under this Law only for the purposes laid down in the law (Article 94);

52) fails to 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.

\*Official Gazette of RS, No. 91/2019

\*\*Official Gazette of RS, No. 153/2020

#### 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 compliance with this Law by that 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 fails not obtain them in the required manner when identifying a customer which is a legal person (Article 20, **paragraphs 2 to 6\***);

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 7\***);

5) fails to obtain all the data in a required manner when identifying 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 fails to obtain them in a required manner when identifying a customer or its legal representative or empowered representative upon the person's entrance into a casino or accessing a safe-deposit box, **and a written statement from a customer in a casino whereby the customer states, under material and criminal liability, that it takes part in the games of chance for himself and on his own behalf\***. (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 compliance with 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 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.

\*Official Gazette of RS, No. 91/2019

## **Offences**

### **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 or public notary may be held liable\***

\*Official Gazette of RS, No. 91/2019

### **Article 121\***

**A lawyer or notary public shall be punished for misdemeanour with a fine amounting from RSD 10,000 to RSD 150,000 if he:\***

- 1) fails to develop and apply the list of indicators for recognising persons and transactions with respect to which there are reasons for suspicion on money laundering or terrorism financing (Article 61);\***
- 2) fails to keep records of data in accordance with this Law (Article 62);\***
- 3) fails to develop develop a money laundering and terrorism financing risk analysis, fails to establish a procedure for determining whether a**



**customer or beneficial owner of a customer is an official, fails to establish whether the customer or legal entity appearing in the ownership structure of the customer is an offshore legal entity, fails to apply enhanced CDD when establishing a business relationship with a customer from a country with strategic AML/CFT deficiencies, or fails to assess the risk arising from new technologies and new services (Article 57a);\***

**4) fails to notify the APML in cases when there are reasons for suspicion on 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 when it fails to inform the APML within the required timeframe and in the required manner (Article 58);\***

**5) 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);\***

**6) fails to comply with the no-tipping off rules (Article 60a);\***

**7) fails to use the data, information and documentation obtained under this Law only for the purposes laid down in the law (Article 57, paragraph 8);\***

**8) fails to perform regular internal control or fails to organise an independent internal audit in accordance with Article 54, paragraph 2 of this Law.\***

\*Official Gazette of RS, No. 91/2019

*Earlier heading of Article 122 is deleted (see Article 68 of this Law - 91/2019-64)*

#### *Article 122*

*Deleted (see Article 68 of this Law - 91/2019-64)*

### **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 measures 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 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.

### **PROVISIONS NOT INCORPORATED IN THE CONSOLIDATED VERSION OF THE LAW**

*Law amending the AML/CFT Law: Official Gazette of the Republic of Serbia, No 91/2019-64*

#### **Article 70**

**The obliged entity shall align its internal acts with this law no later than 1 May 2020.**

#### **Article 71**

**The minister of finance shall pass the regulations referred to in Articles 30 and 34 of this Law within four months of date of entry into force of this Law.**

#### **Article 72**

**The licence issued to the compliance officer or deputy compliance officer under the AML/CFT Law (Official Gazette of RS, Nos. 20/09, 72/09, 91/10 and 139/14) shall be valid until the expiry of the period to which it has been issued.**

**The provisions of Article 34 of this Law shall apply as of 1 January 2021 and provisions of Article 56 of this Law as of 1 June 2020.**

#### **Article 73**

**This Law shall enter into force on the eighth day following its publication in the Official Gazette of the Republic of Serbia.**

*Law amending the AML/CFT Law: Official Gazette of the Republic of Serbia, 153/2020-33*

#### **Article 19**

**The regulations passed pursuant to the Law on the Prevention of Money Laundering and the Financing of Terrorism (Official Gazette of RS, Nos. 113/17 and 91/19) shall be brought in line with the provisions of this law within three months of entry into force of this law.**

#### **Article 20**

**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 on expiry of six months following the entry into force of this law.**

**The provisions of Articles 6, 7 and 8 shall take effect on the date of entry into force of this law.**