

Act No 253/2008 Sb.

of 5 June 2008

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

as amended by:

- Act No 227/2009 Sb., amending selected acts in relation to the adoption of the Act on Central Registers (effective from 1 July 2010),
- Act No 281/2009 Sb., amending selected acts in relation to the adoption of the Rules of Tax Procedure (effective from 1 January 2011),
- Act No 285/2009 Sb., amending selected acts in relation to the adoption of the Act on Payment System (effective from 1 November 2009),
- Act No 199/2010 Sb., amending the Act No 586/1992 Sb., Income Tax Code, as amended, and Act No 218/2000 Sb., on Budgetary Rules and in amendments of some related acts (budgetary rules), as amended, and some other acts (effective from 1 January 2011),
- Act No 139/2011 Sb., amending the Act No 284/2009 Sb., on Payment System, as amended by Act No 156/2010 Sb. and certain other acts (effective from 28 May 2011),
- Act No 420/2011 Sb., amending certain acts in connection with the enactment of the Act on Criminal Liability of Legal Entities and Proceedings Against Them (effective from 1 January 2012),
- Act No 428/2011 Sb., amending selected acts in relation to the adoption of the Act on Retirement Savings and Act on Supplementary Pension Savings (effective from 1 January 2013),
- Act No 457/2011 Sb., amending selected acts in relation to the adoption of the Act on the Tax Administration of the Czech Republic (effective from 1 January 2013),
- Act No 18/2012 Sb., amending selected acts in relation to the adoption of the Act on Customs Administration of the Czech Republic (effective from 1 January 2013),
- Act No 377/2012 Sb., amending the Act No 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing Terrorism, as amended (effective from 1 January 2013),
- Act No 399/2012 Sb., on amendment of acts in relation to the adoption of the Act on Premium on Retirement Savings (effective from 1 January 2013),
- Act No 241/2013 Sb., amending certain acts in relation to the adoption of the Act on Investment Companies and Investment Funds and to the adoption of directly applicable European Union legislation laying down the settlement of certain derivatives (effective from 19 August 2013),
- Act No 303/2013 Sb., amending selected acts in relation to the adoption of civil law recodification (effective from 1 January 2014),
- Act No 257/2014 Sb., amending the Act No 383/2012 Sb., on Conditions of Trading with Greenhouse Gas Allowances and certain other Acts (effective from 1 January 2015),
- Act No 166/2015 Sb., amending the Act No 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism, as amended (effective from 1 October 2015),
- Act No 377/2015 Sb., amending selected acts in relation to the adoption of the Act on Termination of Pension Savings (effective from 1 January 2017),
- Act No 188/2016 Sb., amending selected acts in relation to the adoption of the Act on Gambling and Act on Tax on Gambling (effective from 1 January 2017),
- Act No 243/2016 Sb., amending selected acts in relation to the adoption of the Act on Customs (effective from 29 July 2016),
- Act No 368/2016 Sb., amending the Act No 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism, as amended and other related acts (effective from 1 January 2017),
- Act No 183/2017 Sb., amending selected acts in relation to the adoption of the Act on Liability for Offences and Proceedings and the Act on Certain Offences (effective from 1 July 2017),
- Act No 371/2017 Sb., amending selected acts in relation to the adoption of the Act on Payment System (effective from 13 January 2018),
- Act No 94/2018 Sb., amending the Act No 280/2009, Sb., the Tax Code (effective from 5 June 2018) and
- Act No 111/2019 Sb., amending selected acts in relation to the adoption of Act on Processing of Personal Data (effective from 24 April 2019).

The Parliament of the Czech Republic has adopted this Act:

PART ONE INTRODUCTORY PROVISIONS

Section 1

Subject of Law

This Act transposes the relevant European Union legislation¹⁾, follows also the directly applicable European Union legislation²⁾ and shall regulate the following:

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

Section 2

Obligated Entities

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

- a) a credit institution in a form of:
 - 1. a bank,
 - 2. a cooperative savings or credit union,
- b) a financial institution, which is an undertaking other than a credit institution, such as:
 - 1. a central depository, the entity maintaining a register related to a central register of securities maintained by a central depository, the entity maintaining an independent register of investment instruments, the entity maintaining a register related to the independent register of investment instruments⁴⁾,
 - 2. an administrator of investment tools market,
 - 3. a person licensed to provide investment services⁵⁾,
 - 4. an investment company, a self-managed investment fund, a central administrator of the investment fund and a pension company,
 - 5. a person authorized to provide payment services or to issue electronic money³⁾,
 - 6. a person authorized to provide or trade leasing, guarantees, credit or loans,
 - 7. a person authorized to broker savings, leasing, credit or loans,
 - 8. an insurance or re-insurance company, an insurance intermediary and an insurance settlement intermediary performing activities related to life insurance⁷⁾, with exception of an insurance intermediary whose liability for damage is borne by their contracting insurance company,
 - 9. a person authorized to buy and trade in debts and receivables,
 - 10. a person licensed to perform foreign currency exchange under the Act on Bureau-de-change Activity,

¹⁾ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on prevention of the use of the financial system for the purpose of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

²⁾ Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community.

Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing the Regulation (EC) No 1781/2006.

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

⁵⁾ Section 4, Act No 256/2004 Sb., as amended.

³⁾ Act No 370/2017 Sb., the Act on Payment System.

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

11. a person not mentioned in points 1 to 10, authorized to provide or broker payment services or postal services intended to transfer funds,
 12. a person authorized to provide consultancy services to private businesses in matters concerning equity, business strategy, mergers or acquisitions⁹⁾,
 13. a person providing services of financial brokerage,
 14. a person providing services of safekeeping of valuables,
- c) a gambling operator under the Act on Gambling with the exception of an operator of monetary, material, immediate and/or numeral lotteries, bingos or raffles,
 - d) a person authorized to trade or broker with real estate,
 - e) an auditor, tax advisor, or chartered accountant,
 - f) a court bailiff performing other activities of an executor under the Execution Procedure Act as well as safekeeping of money, securities, or other valuables,
 - g) a public notary providing notarized safekeeping services⁸⁾, a lawyer or a public notary providing safekeeping of money, securities, or other client's assets or a lawyer or a public notary required by the client to represent them or to act on their behalf while:
 1. buying or selling real estate, business entity⁹⁾ or its part,
 2. managing customer assets, such as money, securities, business shares, or other assets, including representation of the customer or acting on behalf of the customer in relation to opening bank accounts in a credit institution or foreign credit institution, or opening or managing securities accounts,
 3. establishing, managing or operating a company, business group, or any other similar entrepreneurial entity regardless of its status of a natural/legal person as well as raising and gathering money or other assets for the purpose of establishing, managing or controlling such entity, or
 4. providing services of collection, payments, transfers, deposits or withdrawals in wire or cash transactions, or any other conduct aimed at or directly triggering movement of money,
 - h) a person not mentioned by letter g), providing within its business activity or activity of a trust or activity of other legal arrangement without legal personality following services to another person:
 1. establishing legal persons,
 2. acting on behalf of a legal person or other person in a similar position, should such service be only temporary and related to establishing and managing such legal person,
 3. providing registered office, business address, and possibly other related services to another legal person,
 4. acting as an appointed shareholder on behalf of another person in case this person is not a company whose securities have been accepted for trading at a regulated market and which is a subject to information disclosure requirements equal to those laid down by European Union law, or
 5. acting on their behalf or in their name in activities set forth in letter g),
 - i) a person authorized to trade in items of cultural heritage¹⁰⁾, or items of cultural value¹¹⁾, or to act as intermediary in such services,
 - j) a person authorized to trade in used goods, or intermediary in such trading, or receive used goods in pawn,
 - k) a national administrator of emission trading registry under the Act on conditions of trading with Greenhouse Gas allowances²⁷⁾ (hereinafter „national administrator“),
 - l) a person providing services connected with virtual currency, which should be for the purpose of this Act understood as a digitally stored unit regardless of the existence of its issuer and which is not a fiat currency under the Act on Payment System, but it is accepted as a payment for goods or services by a person other than the issuer.

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

⁹⁾ Section 502, Commercial Code.

¹⁰⁾ Section 2, Act No 20/1987 Sb., on Public Protection of Historical Heritage.

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

²⁷⁾ Section 5, Act No 383/2012 Sb., on Conditions for Trading Greenhouse Gas Allowances.

(2) In addition, an obliged entity is:

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

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

Section 3

Basic Definitions

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

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

(2) Financing of terrorism shall mean:

- a) gathering or providing financial or other assets knowing that such assets will be, in full or in part, used to commit criminal offence of terror¹²⁾, terrorist attack¹³⁾, or criminal offence intending to facilitate or support such crime¹⁴⁾, or to support an individual or group of individuals planning such criminal offence, or
- b) acting with intention to remunerate or compensate a person who has committed criminal offence of terror, terrorist attack or criminal offence intended to facilitate or support such criminal offence¹⁴⁾, or a close person to the perpetrator according to the Criminal Code¹⁵⁾, or collecting assets to pay such remuneration or compensation,
- c) for the purpose of this Act also financing of proliferation of weapons of mass destruction under paragraph 3.

(3) Financing of proliferation of weapons of mass destruction shall mean gathering or providing financial or other assets knowing that such assets will be, in full or in part, used by a disseminator of the weapons of mass destruction or will be used to support proliferation of such weapons in contradiction to requirements of international law²⁹⁾.

¹²⁾ Section 93 of the Criminal Code.

¹³⁾ Section 95 of the Criminal Code.

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

¹⁵⁾ Section 89 para. 8 of the Criminal Code.

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

(4) For the purpose of this Act it shall be immaterial whether the activities set forth in paragraphs 1 to 3 or committing of a criminal offence have been realized fully or partially in the territory of the Czech Republic or abroad.

Section 4

Other Definitions

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

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

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

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

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

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

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

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

b) a natural person, who is:

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

(6) For the purpose of this Act, an identity card shall mean a document issued by a public administration authority stating first name and surname, date of birth together with image and potentially other identification features enabling identification of its bearer as the true holder.

(7) For the purpose of this Act, a correspondent relationship shall mean:

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

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

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

(10) For the purpose of this Act, a disposal of voting rights shall mean the possibility to exercise voting rights at its own discretion regardless of whether and under what legal grounds these rights are exercised, or a possibility to influence exercising of voting rights by another person.

(11) For the purpose of this Act, a close business relationship shall mean such material interconnection in the course of a business activity, where the effect of benefit or harm of one person can be reasonably perceived as benefit or harm of another person.

Section 5

Identification Data

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

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

(2) Should the Risk Assessment under Section 21a justify it, more identification data beyond those under paragraph 1 such as telephone number, e-mail address, details about employment or employer may be obtained.

Section 6

Suspicious Transaction

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

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

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

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

PART TWO

BASIC RESPONSIBILITIES OF OBLIGED ENTITIES

CHAPTER I

CUSTOMER IDENTIFICATION AND DUE DILLIGENCE

Section 7

Obligation of Identification

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

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

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

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

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

(4) Based on the Risk Assessment under Section 21a the obliged entity shall determine for each type of provided transactions not covered by paragraph 2 the value of the business at which it shall always identify the customer. This value shall not exceed the amount under paragraph 1.

Section 8

Identification

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

(2) When identifying a customer who is:

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

(3) The obliged entity shall within the identification process check and record whether the customer is a politically exposed person or a person against whom the Czech Republic imposes international sanctions under the Act on Implementation of International Sanctions.

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

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

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

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

(8) Should there be any suspicion when executing a transaction that the customer is not acting on his/her behalf or conceals that he/she is acting on behalf of a third person the obliged entity shall demand a power of attorney from the customer according to paragraph 4. Everyone is obliged to comply with this request unless stipulated otherwise in another act; a lawyer or notary may fulfil

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

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

Section 9

Customer Due Diligence

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

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

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

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

(3) The obliged entity shall perform the customer due diligence under paragraph 2 letters c) and d) to the extent necessary to determine the potential risk of legitimisation of proceeds of crime and financing of terrorism depending on the type of customer, business relationship, product or transaction. To persons authorized to supervise compliance with obligations under Section 35, the obliged entity shall justify the adequacy of the extent of customer due diligence and shall also demonstrate the manner of its execution or verification of the fulfilment of conditions for simplified customer identification and due diligence under Section 13 or for exception from the customer identification and due diligence under Section 13a, taking into account the abovementioned risks.

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

(5) Based on the Risk Assessment under 21a the obliged entity shall determine for each type of transaction it provides a value at which it shall always perform the customer due diligence. This value shall not exceed the value under paragraph 1.

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

- a) for a beneficial owner data verifying his/her identity and the process of collecting such data,
- b) for a beneficiary of trust or other legal arrangement without legal personality who is determined based on particular characteristics or membership of particular category, the information

necessary to identify the particular beneficiary in the moment of payment of returns or in the moment of exercise of beneficiary's rights,

- c) for a beneficiary of life insurance, who is:
1. determined as a particular person or a legal arrangement without legal personality name and surname or name of the legal person,
 2. determined based on relationship with the person insured and/or otherwise, data necessary to identify the particular beneficiary in the moment of payment of performance,
 3. a politically exposed person all relevant circumstances and the course of the business relationship.

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

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

Section 10

Mediated identification

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

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

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

(3) Copies of parts of documents used for identification which contain the identification data, type and number of the identity card, issuing country or issuing authority, validity, and copy of the request if the request was submitted in written version are attached to the instrument of identification. If a plenipotentiary is identified in this way the attachment shall also contain the original version or authenticated copy of the power of attorney. The above attachments shall be firmly bound into one file with the instrument of identification.

(4) Copies of documents shall be obtained in such way that relevant data are readable and the possibility of keeping such copies for a period under Section 16 is ensured. The copies shall also contain a copy of a photo of the identified natural person from his/her identity card in quality allowing verification of his/her appearance.

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

- a) serial number and date of drawing up,
- b) data about identified person:
 1. name, surname, permanent or other residence, birth identification number or date of birth for the identified natural person or a natural person acting on behalf of the identified legal person,
 2. in case of identification of a legal person its business name including appendices or other features, business identification number and company's registered office,
- c) the purpose of identification.

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

Section 11

Performance by Third Parties

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

- a) a credit or financial institution, with the exception of a person licensed to perform foreign currency exchange under the Act on Bureau-de-change Activity, a postal services provider under the act regulating postal services, a payment institution whose activity mostly consists of providing payment services related to transfers of funds where neither the payer nor the payee use an account opened with the payer's payment service provider and a provider of small extent payment services under the act regulating payment system, or
- b) a foreign credit or financial institution, with the exception of a foreign person licensed to perform foreign currency exchange, a foreign payment institutions whose activity mostly consists of remitting money, or foreign payment services provider in a position similar to a payment services provide of small extent under the act regulating payment system; operating within the territory of a state applying similar obligations of customer identification, due diligence and record keeping and requiring obligatory professional licenses and should the foreign credit or financial institution be subject to supervision including control of compliance with these conditions including the possibility to check individual transactions and on-site visits.

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

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

(4) Should the obliged entity perform activities under paragraphs 1 and 2, it shall be liable for these activities as if it had performed them itself. The obliged entity shall not accept information on the customer's identification, the purpose and intended nature of the transaction or business relationship or identification of ownership and controlling structure of the customer or customer's beneficial owner under paragraphs 1 and 2 should there be doubts on accuracy or completeness of this information and the fulfilment of the conditions under paragraph 3 is not met in advance.

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

(6) The customer's identification, ascertainment of the purpose and intended nature of a transaction or business relationship under Section 9 para. 2 letter a) and ascertainment of customer's ownership and controlling structure and identity of its beneficial owner under Section 9 para. 2 letter b) do not have to be performed by a credit or financial institution if these activities had

been carried out by investment brokers in accordance with this Act and the credit or financial institution's internal regulations. The obliged entity shall be kept responsible for these activities, as if it had performed them itself.

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

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

(8) The obliged entity may identify a customer who is a natural person or a natural person acting on behalf of a customer which is a legal person without his/her physical presence, if:

- a) the customer provides the obliged entity with data under Section 5 para. 1 and requested additional data for identification under Section 5 para. 2 in a manner prescribed by the obliged entity,
- b) the obliged entity verifies the identity of the relevant natural person with a qualified trust service provider under directly applicable European Union regulation regulating electronic identification and trust services for electronic transactions within the internal market³⁰⁾ and
- c) the obliged entity has no doubts about the real identity of the customer.

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

(10) Obligated entities proceeding in accordance with paragraphs 1 and 2 in order to meet obligations under Section 9 may mutually exchange relevant information relating to transactions carried out by them. The exchange of and reliance on such information from another obliged entity while performing activities under paragraphs 1, 2 and 5 to 8 is not allowed for entities from high-risk third countries with the exception of branches and subsidiaries of entities seated in a Member State of the European Union that meets requirements equal to European Union law in the field of fight against legitimization of proceeds of crime and financing of terrorism.

Section 12

Common Provisions on Identification under Sections 10 and 11

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

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

Simplified Identification and Customer Due Diligence

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

- a) a credit or financial institution,
- b) a foreign credit or financial institution operating within the territory of a country applying in relation to such institution in the field of fight against legitimization of proceeds of crime and financing of terrorism obligations equal to those of European Union law¹⁾, and with respect to fulfilment of such obligations it is subject to supervision,
- c) a company whose securities are accepted for trading on regulated market and which is a subject to requirements of publication of information equal to requirements of European Union law,
- d) a beneficial owner of funds deposited on a custody account with a notary, lawyer, court bailiff or court,
- e) a central body of the public administration of the Czech Republic, the Czech National Bank or higher regional self-governing unit, or
- f) a customer:
 1. entrusted with important public functions under regulations of the European Union,
 2. whose identification data are publicly accessible and there is no reason for doubts about their correctness,
 3. whose activities are transparent,
 4. whose accountancy shows accurate and honest picture of the subject of accountancy and financial situation, and
 5. who is responsible to a body of the European Union or a body of European Union member state or member state of the European Economic Area and/or who is under another appropriate control procedure ensuring the control of its activity.

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

- a) a contract of life insurance, pension insurance, additional insurance with state compensation or supplementary pension saving if the one-time insurance premium or deposit does not exceed EUR 2,500 or if common premiums or sum of deposits in one calendar year does not exceed EUR 1,000,
- b) the system of employees' pension insurance operated on the territory of the Czech Republic by institutions from the European Union member states or member states of European Economic Area under other laws¹⁸⁾, if contributions are being paid by wage deduction and system rules do not allow assignment of a membership share within the system, or
- c) other products presenting low risk of abuse for legitimization of proceeds of crime or financing of terrorism which also fulfil following conditions:
 1. the contract on provision of a product is always in writing,
 2. payments within one product are made only through the account held on behalf of the customer with a credit institution or foreign credit institution operating in the territory of the European Union member state or member state of the European Economic Area or operating in the territory of a state applying in the field of fight against legitimization of proceeds of crime and financing of terrorism obligations equal to those applied in the European Union¹⁾ and with respect to that its activity is subject to supervision,
 3. neither the particular product nor individual payments are anonymous and their nature allows detection of a suspicious transaction,
 4. the particular product has a predefined maximum transaction limit which shall not exceed the amount of EUR 15,000 and in case of saving products it shall not exceed the amount of EUR 2,500 in one-time deposit or sum of regular deposits in one calendar year shall not exceed EUR 1,000,

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

5. payment from the particular product shall not be made in favour of third parties apart from the case of death, invalidity, exceeding of a predetermined advanced age or in similar situations,
6. for products allowing investment of funds into financial assets or claims including insurance or other types of conditional claims performance from this product is only feasible in long-term periods, the particular product cannot be used as security and accelerated payments cannot be made, provisions on withdrawal from the contract are not used and during the business relationship no action is taken to terminate it prematurely.

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

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

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

Section 13a

Exceptions from Identification and Customer Due Diligence

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

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

(2) The means of payments under in paragraph 1 can be used solely to purchase goods and services and may not be acquired or recharged through anonymous electronic money.

(3) The exception under paragraph 1 shall not apply when an amount of EUR 100 or higher is repaid at a request of holder of the payment instrument.

(4) The obliged entity shall monitor transactions related to means of payment under in paragraph 1 to be able to detect a suspicious transaction under Section 6.

Section 14

Exception from Obligation to Provide Information Accompanying Transfers of Funds

The obligations under directly applicable Regulation of the European Union regulating information accompanying wire transfers²⁰⁾ shall not apply to transfers of funds or payment services through which the payment for supply of goods or services are realized if:

- a) the transfer takes place in the Czech Republic,
- b) the payment service provider of the payee is through the payee always able to trace a transfer of funds by a unique transaction identifier from a natural or legal person who has an agreement on supply of goods or services with the payee, and
- c) the transferred amount does not exceed EUR 1,000.

²⁰⁾ Regulation (EU) 2015/847.

Section 15

Rejection of Transaction

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

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

(2) The obliged entity shall not carry out a transaction with a politically exposed person, not even within a business relationship, if the origin of assets used in the transaction is unknown.

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

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

CHAPTER II RECORD KEEPING

Section 16

Record Keeping by Obligated Entity

(1) The obliged entity shall maintain for a period of 10 years from execution of a transaction or termination of business relationship:

- a) the identification data obtained under Section 8 para. 1 to 3 or under directly applicable Regulation of the European Union regulating information accompanying wire transfers²⁰⁾,
- b) copies of documents provided for identification, if such copies were taken,
- c) data about who and when performed identification of a customer for the first time,
- d) information and copies of documents received as part of the customer due diligence under Section 9,
- e) documents justifying the exemption from identification and customer due diligence under Section 13a and
- f) in case of representing the original or verified copy of power of attorney or a reference number of a court decision on appointment of a guardian.

(2) Data and documents about transactions relating to the obligation of identification shall be maintained by the obliged entity for 10 years after execution of a transaction or termination of business relationship.

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

(4) The period under paragraphs 1 to 3 shall start on the first day of a calendar year following the year of the last transaction known to the obliged entity. Upon expiration of the period the relevant administrator ensures deletion of stored data and destruction of documents.

Section 17

Cooperation on Record Keeping

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

Section 17a

Protection of Personal Data in Activities of the Obligated Entity

(1) The obliged entity processes personal data to the extent necessary for fulfilment of obligations under this Act.

(2) Apart from information under Section 24 para. 2, the obliged entity will not provide the data subject with any information on processing of personal data for the purpose of fulfilment of obligations under this Act.

CHAPTER III SUSPICIOUS TRANSACTION PROCESS

Section 18

Suspicious Transaction Report

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

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

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

(4) The suspicious transaction report shall be accepted by the Office. The address and terms of delivery and other connection options for reporting suspicious transactions shall be published by the Office in a manner allowing remote access.

(5) Should the report under paragraph 2 also include information about assets subject to international sanctions declared for the purpose of maintaining or restoring international peace and security, protection of basic human rights or fight against terrorism, the obliged entity shall point out this fact in the report. The report shall also include a short description of this assets, information about its location and owner if the reporting entity has such information and information whether there is an imminent risk of damage to, deterioration or illicit usage of such assets.

(6) The reporting entity shall also provide the Office with name, surname and job title of its contact person (Section 22) or a person who processed the suspicious transaction report on behalf of the obliged entity and options of phone or other electronical connection with such person unless such information is available to the Office.

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

Section 19

The suspicious transaction report shall be filed in writing by registered letter or orally in a protocol at a location designated upon prior agreement. A report filed electronically by technical means ensuring special protection of transmitted data shall be also considered as a report in written form.

Section 20

Suspension of Customer's Transaction

(1) Should an immediate execution of a customer's transaction thwart or significantly hinder seizure of proceeds of crime or funds intended for financing of terrorism, the obliged entity shall execute the customer's transaction order no sooner than 24 hours after the Office received a suspicious transaction report on such transaction. Assets subject to customer's transaction shall be seized in an appropriate manner against manipulation contrary to the purpose of this Act. The obliged entity shall notify the Office about the suspension of customer's transaction in the suspicious transaction report.

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

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

- a) on extension of the suspension of customer's transaction, but no longer than additional 2 working days, or
- b) on suspension of customer's transaction or on seizure of assets which is subject of the suspicious transaction at the obliged entity where the assets is located, for a period of up to 3 working days.

(4) The decision on the suspension of customer's transaction or on seizure of assets under paragraph 3 shall become effective by its announcement. The announcement may be done orally, by phone, by fax or electronically; a written copy shall always follow. An appeal against the decision on the suspension of customer's transaction or seizure of assets shall not be allowed. In deciding on this measure, the party to the proceedings shall be only the obliged entity reporting the suspicious transaction or holding the assets which is the subject of the suspicious transaction.

(5) The obliged entity shall immediately inform the Office of the execution of the decision under paragraph 3 letter b) and notify the time when the time limit under paragraph 3 letter b) begin to run. It shall provide information of any substantial facts relating to the assets in the decision to the Office on an ongoing basis.

(6) The obliged entity shall execute the customer's transaction if the Office does not inform it of lodging a criminal complaint before the end of the time limit under paragraph 3.

(7) Should the Office within the time limit under paragraph 1 or 3 lodge a complaint to a law enforcement authority under Section 32 para. 1, the suspension of customer's transaction or seizure of asset under paragraph 1 or 3 shall be extended for 3 working days beginning with the day of lodgement of the criminal complaint, unless the law enforcement authority decides on confiscation or seizure of the subject of the suspicious transaction before the end of the time limit. The Office shall inform the obliged entity of lodging the criminal complaint prior the end of the time limit under paragraph 1 or 3.

CHAPTER IV
OBLIGATIONS OF OTHER OBLIGED ENTITIES

Section 21

System of Internal Principles

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

(2) The obliged entity stipulated in Section 2 para. 1 letters a) to d) and h) shall, within 60 days from the date on which it became an obliged entity, elaborate a written system of internal rules, procedures and control measures based on the Risk Assessment under Section 21a and to the extent that it performs activities under this Act to fulfil obligations stipulated in this Act (hereinafter the "System of Internal Principles"). Part of the written System of Internal Principles shall also be a written risk assessment pursuant to Section 21a para. 2. The System of Internal Principles as well as the risk assessment shall be approved by the statutory body of the obliged entity.

(3) The obliged entity under Section 2 para. 1 letters b) to d) and h) does not have to elaborate the System of Internal Principles in writing, unless it employs other persons in areas of activities under this Act or unless other persons work for the obliged entity based on a different relationship.

(4) The obliged entity under Section 2 para. 1 letters b) to d) and h) which contractually performs an activity under this Act only for one other obliged entity shall not elaborate its own System of Internal Principles if it is governed by the System of Internal Principles of the other obliged entity in which its activity is adequately described.

(5) The System of Internal Principles under paragraph 2 shall cover:

- a) detailed demonstrative list of features of suspicious transactions which may occur within the activity of the obliged entity,
- b) the manner of customer's identification including measures to identify politically exposed persons and subjects against which the Czech Republic applies international sanctions under the Act on Implementation of International Sanctions,
- c) procedures of customer due diligence and determination of the extent of customer due diligence corresponding to the risk of legitimization of proceeds of crime and financing of terrorism based on the type of a customer, business relationship, product or transaction,
- d) reasonable and appropriate methods and procedures of risk assessment, risk management, internal controls and compliance with obligations stipulated in this Act,
- e) a procedure for disclosure of data retained pursuant to Part Two Chapter II to competent authorities,
- f) the obliged entity's procedure from detection of a suspicious transaction until the delivery of a suspicious transaction report to the Office in such way, that the time limit under Section 18 para. 1, rules for processing suspicious transactions and determination of persons processing the suspicious transaction are met,
- g) rules and procedures which shall be followed by a third party acting on behalf of or on the account of an obliged entity when it offers the obliged entity's services or products,
- h) measures to prevent thwarting or substantially hindering the seizure of proceeds of crime by immediate execution of customer's transaction,
- i) technical and personal measures ensuring the suspension of customer's transaction under Section 20 and fulfilment of the obligation under Section 24 in the set time limit,
- j) description of additional measures for effective management of risks of legitimization of proceeds of crime or financing of terrorism.

(6) The credit institution, payment institution, electronic money institution, financial institution under Section 2 para. 1 letter b) point 11 and the obliged entity under Section 2 para. 1 letter c) shall deliver the System of Internal Principles to the Office within 60 days from becoming an obliged entity; a notification of changes to the System of Internal Principles including its updated

version shall be delivered to the Office within 30 days after its adoption. The obliged entity under Section 2 para. 1 letter b) points 1 to 4 shall fulfil this obligation towards the Czech National Bank.

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

(8) Should the Office or the Czech National Bank identify any deficiencies in the System of Internal Principles delivered to it in accordance with paragraph 6, it shall provide a time limit for their removal. The obliged entity shall provide written information on the remedy of identified deficiencies within the provided time limit.

(9) Should it be effective for the purpose of fulfilment of requirements of this Act, the Czech National Bank may within the limits of paragraph 5 letters c) and d) stipulate by a Decree requirements for introduction and application of the System of Internal Principles and Risk Assessment under Section 21a by certain obliged entities supervised by the Czech National Bank²¹⁾.

Section 21a

Risk Assessment

(1) The obliged entity shall identify and assess risks of legitimization of proceeds of crime and financing of terrorism that can occur in the course of its activity which is subject to this Act. While assessing the risks the obliged entity shall also take into consideration factors of potentially higher risk set out in Annex No 2 to this Act.

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

(3) Part of the risk assessment under paragraphs 1 and 2 shall also include measures for internal control, control of compliance and security screening of obliged entity's employees and according to the scope and nature of obliged entity's activities also the establishment of an independent unit for testing of the measures, strategies and procedures under Section 21 para. 1.

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

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

Section 22

Contact Person

(1) The obliged entity shall designate a specific employee to fulfil the reporting obligation under Section 18 and also to ensure ongoing contact with the Office, unless such activities are ensured directly by the statutory body. The credit or financial institution and obliged entity under Section 2 para. 1 letters c), d), and h) shall immediately inform the Office of determination of such person

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

and of any subsequent changes together with the name, surname, job title and contact information including phone number and electronic address.

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

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

(4) Should not the activity of a contact person be carried out directly by the statutory body, the obliged entity shall ensure that the contact person may directly communicate with the statutory and supervisory body of the obliged entity.

Section 23

Employees' Training

(1) The obliged entity shall at least once in 12 calendar months provide training to employees who may in the course of their work encounter suspicious transactions as well as to all employees prior to being assigned to such job position.

(2) The obliged entity shall provide the training under Section 1 also to persons participating in the obliged entity's activity based on other form of contract if those persons may in the course of their work encounter suspicious transactions.

(3) The training shall include in particular typologies and indicators of suspicious transactions, requirements determined by the obliged entity for the identification and customer due diligence and procedures for detecting customer's risk factors and suspicious transactions. The obliged entity shall continuously supplement and update the content of the training.

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

Section 24

Obligation to Inform

(1) Based on a request the obliged entity shall in a deadline set by the Office provide it with data on transactions related to the identification obligation or for which the Offices carries out an investigation, submit documents related to such transactions or allow access to authorized employees of the Office checking a suspicious transaction report and performing administrative supervision and provide information about persons participating in any way in such transactions.

(2) Prior to the establishment of a business relationship or carrying out of a transaction outside of a business relationship, the obliged entity shall provide customers with information, required under legal regulations on personal data protection and processing,³¹⁾ on processing of personal data, including general notice on the obligation to process personal data for the purpose of prevention of legitimisation of proceeds of crime and financing of terrorism.

Section 24a

(1) The obliged entity shall in its branches and subsidiaries³²⁾ operating in countries outside the European Economic Area apply measures for customer due diligence and record keeping at least equal to the requirements of the European Union law¹⁾. For this purpose it provides them with relevant information on applied methods and procedures.

³¹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

Act No 110/2019 Sb., on Processing of Personal Data.

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

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

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

(4) Based on a request by the Office, the obliged entity shall provide it in a set deadline with information whether it has maintained a business relationship within previous 10 years with a particular natural or legal person subject to the obligation of identification and the nature of the relationship. The obliged entity shall establish an effective system for this purpose corresponding to its size and business activity.

CHAPTER V SPECIAL PROVISIONS RELATED TO CERTAIN OBLIGED ENTITIES

Section 25

Special Provisions on Credit and Financial Institutions

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

- a) registered in a business or similar register in a country, where neither it nor its real management is factually present and which is not affiliated to any regulated financial group,
- b) which is known to allow usage of its accounts by an institution referred in letter a), or
- c) which is not applying measures against legitimization of proceeds of crime and financing of terrorism at least equal to requirements of European Union law¹⁾,

and if it already entered into such relationship it shall terminate it in the shortest possible time.

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

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

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

(4) Rights and obligations stipulated by this Act for a credit institution shall apply also to the Czech National Bank in keeping accounts and providing other banking services.

Section 26

Special Provisions on Auditors, Accountants, Court Bailiffs and Tax Advisors

(1) Provisions stipulated under Section 18 para. 1 and Section 24 para. 1 shall not apply to an auditor, accountant, court bailiff or tax advisor in relation to information obtained from a customer or about customer in the course of analysing his/her legal position, during his/her representation in court proceedings and/or in relation to such proceedings including consultancy regarding initiation

or avoidance of such proceedings regardless of whether such information is obtained prior, during or after the proceedings.

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

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

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

(4) The relevant professional chamber shall examine consistency of the report received in accordance with paragraph 3 with paragraph 1 or Section 18 para. 1 and check if it includes all requirements stipulated in this Act. If the report does not meet all requirements stipulated by this Act the chamber shall notify the reporting entity. If the report meets requirements stipulated in the first sentence the chamber shall refer the report to the Office without undue delay, but no later than 7 calendar days from the detection of the suspicious transaction.

Section 27

Special Provisions on Lawyers and Notaries

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

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

(2) Provisions stipulated in Sections 9, 18 para. 1 and Section 24 para. 1 shall not

apply to a notary in terms of information about a customer obtained from the customer or in any other way in the course of or in relation to:

- a) providing legal consultations or subsequent verification of legal position of the customer²²⁾,
- b) representation of the customer at the court to the extent of his/her authorization stipulated in other law²³⁾, or
- c) providing any legal consultancy regarding proceedings under letters b) regardless of whether these proceedings have been initiated or not or terminated.

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

(4) The Office shall require communication of data, submission of documents or provision of information under Section 24 para. 1 by a lawyer or notary through the Chamber. The lawyer or notary shall provide the Office with required information or submit required documents in requested term through the Chamber.

(5) For the purpose of this Act a lawyer is also a European lawyer under the Act on Advocacy.

²³⁾ Section 3 para. 1 letter b) of the Act No 358/1992 Sb.

Section 28

Special Provisions on Cash Payments

An entrepreneur and legal person under Section 2 para. 2 letter d), who become an obliged entity only when carrying out a transaction in cash in amount of or exceeding EUR 10,000 shall in the course of this single transaction:

- a) perform the identification of a customer under Section 8 or replace it with the identification under Section 10 or 11 if the simplified procedure under Section 13 or exceptions under Section 13a cannot be applied to the transaction or customer,
- b) refuse to carry out the transaction if there are doubts about correctness of obtained customer identification data, if the customer refuses to undergo the identification or refuses to submit the power of attorney under Section 8 para. 4; and shall inform the Office of this situation,
- c) perform the customer due diligence under Section 9 para. 2,
- d) keep records under Section 16 para. 1 and 2,
- e) file a suspicious transaction report under Section 18,
- f) inform under Section 24,
- g) maintain confidentiality under Section 38.

Section 29

Special Provisions on Operation of Money Postal Services

(1) Only a holder of an attestation certificate issued by the Office may carry out an activity with the purpose of delivery of ordered amount of cash under a postal contract under conditions stipulated in the Act on Postal Services. The certificate shall be issued at a request of a person who will perform the activity.

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

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

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

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

- a) in case of a natural person with permanent residence or other residence outside of the territory of the Czech Republic who within the last 5 years continuously stayed out of the territory of the Czech Republic for a period longer than 3 months by a document similar to the extract from the criminal Records not older than 3 months issued by an authorized office of the country of the permanent residence or other residence of such person and countries where the person continuously stayed within the last 5 years for a period longer than 3 months; if the country of permanent residence or other residence of this person is not the same as the country whose citizen he/she is, the person may also submit a document issued by the country of citizenship,
- b) in case of a legal person seated outside of the territory of the Czech Republic by a document similar to an extract from the criminal records not older than 3 months issued by an authorized body from the country where the person is seated, or
- c) by an affidavit as stipulated under paragraph 3 not older than 3 months performed at administrative or court body of the relevant country if such country does not issue a document under letters a) and b).

Section 29a

Special Provisions on National Administrator

(1) National Administrator shall keep information on subjects holding an account in the Emission Trading Registry of Greenhouse Gas Allowances including contracts and documents submitted to open the account and information relating to the customer due diligence for the period of 10 years after having terminated the relevant business relationship.

(2) National Administrator shall furthermore:

- a) perform the customer due diligence under Section 9 to the extent adequate to activities carried out at the moment of opening the account,
- b) file suspicious transactions reports under Section 18,
- c) establish and enforce the system of internal control and communication under Section 21 para. 1,
- d) designate a contact person under Section 22,
- e) organize a training of its employees under Section 23,
- f) fulfil the obligation to inform under Section 24,
- g) comply with the obligation of confidentiality under Section 38.

Section 29b

Record Keeping on Beneficial Owner

(1) A legal person shall keep and continuously record up-to-date data to determine and verify the identity of its beneficial owner including details of the facts underlying the status of the beneficial owner or another justification why is the particular person considered to be the beneficial owner.

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

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

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

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

PART THREE
ACTIVITY OF THE OFFICE AND OTHER AUTHORITIES

CHAPTER I
ACTIVITY OF THE OFFICE AND OTHER AUTHORITIES

The Office

Section 29c

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

(2) The Office operates in areas of activity regulated by this Act and by other laws, including deciding on initiating and the way of conclusion of investigation, gathering, processing and sharing of information and conducting of controls.

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

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

Section 29d

(1) The Office is managed by the director.

(2) Selection, appointment and dismissal of the director follows the Act on State Service.

Section 30

Obtaining Information

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

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

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

(4) The Office may, to the extent necessary for the investigation of a suspicious transaction and the performance of the administrative supervision, request from the processor or the administrator of records provision of information, in a manner allowing remote and continual access, from the information system of the register of identity cards³²⁾, information system of the register of passports³³⁾, information system of the register of diplomatic and service passports³³⁾, information system of foreigners, information system of the register of inhabitants³⁴⁾, the land

³²⁾ Act. No 328/1999 Sb., on Identity Cards, as amended.

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

³⁴⁾ Act No 133/2000 Sb., on Population Records and Personal Identification Numbers and on amendments to certain

register³⁵⁾, the basic register of inhabitants³⁶⁾, the central register of legal persons, entrepreneurs and public administration³⁶⁾, the central register of territorial identification, addresses and real estates³⁶⁾, the central register of public administration agendas and certain rights and obligations³⁶⁾, information system of territorial identification³⁶⁾, the vehicle register³⁷⁾, the central vehicle register³⁷⁾, the register of historical vehicles and sports cars³⁷⁾, the register of drivers³⁸⁾ and the central register of drivers³⁸⁾.

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

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

Section 30a

Risk Assessment at the Level of the Czech Republic

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

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

(3) National Risk Assessment shall be primarily an instrument towards improvement of measures countering legitimisation of proceeds of crime and financing of terrorism at the level of the state administration and by obliged entities.

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

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

Section 31

Processing of Information

(1) The Office shall collect and analyse information obtained in the course of performing its tasks under this Act. It is entitled to store information obtained in the course of performing its tasks under this Act in an information system. In exercising its powers, the Office is entitled to collate information and information systems serving for different purposes.

(2) The Office shall store data and documents relating to received reports and their investigation for a period of 10 years, from the end of the year when the investigation was concluded. Should a new report be received or an investigation pertaining to the same matter or

related acts (Act on Population Records), as amended.

³⁵⁾ Act No 256/2013 Sb., on Land Register (Cadastral Law).

³⁶⁾ Act No 111/2009 Sb., on Basic Registers, as amended.

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

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

the same person or entity be reopened, the period referred to in the first sentence shall be suspended pending the conclusion of the new investigation.

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

Section 31a

Special Provision on Protection of Personal Data

(1) The Director appoints the Data Protection Officer of the Office.

(2) The Office processes personal data to the extent necessary for fulfilment of obligations under this Act.

(3) The Office does not comply with a request for access to personal data, or complies only partially if complying could threaten:

- a) fulfilment of a task for the purpose of preventing the abuse of the financial system for legitimisation of proceeds of crime or financing of terrorism or
- b) the creation of conditions for detecting legitimisation of proceeds of crime or financing of terrorism or
- c) the protection of classified information.

(4) Should compliance with a request for access to personal data or information including justification on non-compliance thereof cause threat under para. 3, the Office informs the data subject in the same manner as applicants whose personal data are not processed.

(5) The Office shall not comply with a request for correction or deletion of personal data or restriction on their processing, or will comply only partially if compliance could cause threat under para. 3. If information including justification on non-compliance with the request causes threat under para. 3, the Office informs the applicant in a manner preventing such threat.

(6) The Office does not inform the data subject of personal data security breach, or informs only to the extent not causing threat under para. 3.

Control of the Activity of the Office

Section 31b

(1) The control of the activity of the Office shall be performed by the Chamber of Deputies, which establishes for this purpose a permanent commission under the Act Regulating Rules of Procedure of the Chamber of Deputies (hereinafter „the Permanent Commission“) and by the Government.

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

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

Section 31c

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

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

(3) The report under paragraph 1 and information under paragraph 2 shall include neither personal identification data nor information covered by the confidentiality according to another

law²⁸⁾ and cannot contain information on pending investigation conducted under this Act or on investigation conducted under Section 30 para. 6 or handed over under Section 32 as far as such data could endanger activity of the law enforcement agency or intelligence service.

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

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

Section 32

Handling of Investigation Results

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

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

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

Section 33

International Cooperation

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

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

Section 34

Granting of Exemptions

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

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

- a) the activity is an additional activity directly relating to the core activity of the obliged entity, which otherwise under the exemption according to Section 2 para. 2 letter d) is not an obliged entity under this Act, and the activity is provided only in relation to the main activities of the obliged entity,

²⁸⁾ For example: Section 38 of Act No 21/1992 Sb. on Banks, as amended, Section 19 of Act No 377/2005 Sb., as amended, Section 31 of Act No 85/1996 Sb., as amended.

- b) the total annual revenue from this activity does not exceed 5 % from the total annual revenue of the obliged entity, and at the same time does not exceed a limit determined by the Office in its decision with regard to the type of activity in question,
- c) it is ensured that the value of an individual transaction or of multiple transactions of one customer in the period of 30 consecutive days in the framework of the activity referred to in letter a) does not exceed the amount of EUR 1,000.

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

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

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

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

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

- (8) The Office shall revoke the exemption granted under Section 1 when:
- a) the assessment of risk of exploitation of the activity for the legitimisation of proceeds of crime or financing of terrorism has significantly changed, or
 - b) the holder of the exemption has violated specified conditions.

(9) An appeal lodged against the decision in paragraph 8 shall not have a suspensory effect.

CHAPTER II ADMINISTRATIVE SUPERVISION

Section 35

Discharge of Administrative Supervision

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

- a) the Czech National Bank in respect of obliged entities that are subjects to its supervision²¹⁾,
- b) administrative authorities with powers to supervise compliance with legislation regulating gambling services in respect of holders of permission for placement of gambling space listed in Section 2 para. 1 letter c),
- c) the Czech Trade Inspection Authority in respect of obliged entities listed in Section 2 para. 1 letters i) and j).

(2) The Office shall also exercise control of compliance with obligations according to the directly applicable European Union regulation on information accompanying transfers of funds²⁰⁾; the Czech National Bank shall exercise control of compliance with obligations under this regulation in respect of obliged entities subject to its supervision²¹⁾.

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

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

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

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

Section 36

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

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

Section 37

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

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

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

PART FOUR CONFIDENTIALITY

Section 38

Obligation of Confidentiality

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

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

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

(4) The prime minister or in individual cases an authorized member of the Government shall be authorized to relieve persons referred to in paragraphs 1 to 3 of the obligation to maintain confidentiality in justified cases.

Section 39

Exemptions from Confidentiality

- (1) The obligation of confidentiality stipulated in Section 38 cannot be invoked in respect of:
- a) a law enforcement authority if it is conducting criminal proceeding related to the legitimisation of proceeds of crime or financing of terrorism, or if the matter concerns the compliance with the reporting obligation in connection with any such crime,
 - b) specialised Police units involved in searching for the legitimization of proceeds of crime and financing of terrorism, if it relates to the information which has been obtained under Section 42 para. 3,
 - c) a foreign authority referred to in Section 33 in the process of provision of information intended for the purpose stipulated by this Act, unless prohibited by another law,
 - d) the Police of the Czech Republic, the General Financial Directorate or the General Directorate of Customs in relation to facts which are part of information referred to in Section 32 para. 2,
 - e) supervisory authorities referred to in Section 35 para. 1 and competent bodies of professional chambers of lawyers, notaries, auditors, court bailiffs or tax advisors,
 - f) the administrative authority performing tasks in the system of certification of raw diamonds according to another law,
 - g) the administrative authority entitled to perform state control or conduct proceedings on offence pursuant to the Act on Implementation of International Sanctions,
 - h) the authority entitled by another law to decide on the revocation of a licence for business or other independent gainful activity upon lodging of a motion by the Office,
 - i) a financial arbitrator deciding, according to another law, in a dispute of a claimant against an institution,
 - j) a person who could claim the damages incurred as a result of the implementation of this Act, provided facts conclusive for asserting the claim are communicated ex post; the obliged entity may, in this instance, inform its customer that steps had been taken under this Act, but only after the day when the decision of a competent law enforcement authority to forfeit or secure the subject of the suspicious transaction has been executed, or after the day when the period stipulated in Section 20 para. 7 expired; in all other instances only after the Office has granted its written consent,
 - k) the court adjudicating civil law disputes concerning a suspicious transaction or a claim for compensation for damages incurred as a result of complying with obligations under this Act,
 - l) the National Security Authority, the Ministry of Interior or the intelligence service in the process of a security procedure according to another law²⁴⁾,
 - m) the competent intelligence service if the information is meaningful for the fulfilment of its tasks in the areas specified by the law regulating intelligence services
 - n) the tax administrator when providing information for fulfilment of obligations stipulated by the Tax Code to the obliged entity.

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

- a) credit or financial institutions, including foreign credit and financial institutions, if they operate in the territory of a state imposing on them requirements in the area of legitimisation of proceeds of crime and financing of terrorism equal to requirements of European Union law, provided these institutions are part of the same group pursuant to the Act on Financial Conglomerates²⁵⁾,
- b) obliged entities referred to in Section 2 para. 1 letters e) and f), or persons of the same type, which operate in the territory of a state imposing on them requirements in the area of legitimisation of proceeds of crime and financing of terrorism, which are equal to requirements of European Union law, provided these persons carry out their profession as employees or in a

²⁴⁾ Act No 412/2005 Sb., on Protection of Classified Information and on Security Capability, as amended.

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

similar relationship within the same legal person and between legal persons which are interconnected, either by a contract, or personally, or

- c) credit or financial institutions, or between obliged entities referred to in Section 2 para. 1 letters e) and f), or persons of the same type, which operate in the territory of a state imposing on them requirements in the area of legitimisation of proceeds of crime and financing of terrorism equal to requirements of European Union law, in cases related to the same customer and the same transaction, when two or more persons of the same professional category are participating in and these persons are bound by equal requirements to keep a professional secrecy and protect personal data.

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

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

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

Section 40

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

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

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

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

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

PART FIVE **CROSS-BORDER TRANSIT**

Section 41

Obligation to Declare in Cross-border Transit

(1) When entering the territory of the Czech Republic from a third country which is outside the territory of the European Communities, and when exiting the Czech Republic to any such territory, a natural person shall be obliged to declare to the customs authority in writing any export or import of currency of the Czech Republic or another country, travel cheques or money orders convertible into cash, bearer or registered securities or any other investment instruments which are signed, but do not contain the name of the recipient, in the value of EUR 10,000 or higher.

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

(3) Any person sending a postal or other consignment from the Czech Republic to a third

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

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

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

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

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

Section 42

Activities of Customs Authorities

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

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

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

(4) The customs authority may, upon detection of a violation of obligations set out in Section 41 para. 1 to 4, freeze items concerned by the violation. No appeal is permitted against the decision on freezing of items made by the customs authority; the decision is enforceable at the moment of its verbal promulgation to the person bearing the items. A written execution of the decision shall be delivered to the bearer of frozen items; freezing of items shall also be notified by the counterpart of the decision sent to the importer or exporter and the owner, provided these persons are different from the bearer and are known to the customs authority.

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

(6) Should the frozen items not be required for further procedure, a forfeiture or expropriation order is not issued in respect of them, and they cannot be used for the payment of a fine, cost of

the procedure or enforcement, the customs authority shall return them without undue delay to the person who has handed them over or from whom they were seized.

PART SIX OFFENCES

Section 43

Violation of the Obligation of Confidentiality

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

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

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

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

Section 44

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

(1) An obliged entity commits an offence by:

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

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

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

Section 45

Failure to Perform the Obligation to Inform

(1) An obliged entity commits an offence by:

- a) failing to perform the obligation to inform under Section 24 para. 1 or Section 24a para. 4,
- b) failing to forward relevant information to its branch or subsidiary under Section 24a para. 1,
- c) failing to adopt appropriate complementary measures in order to effectively manage risks of misuse under Section 24a para. 1, or
- d) contrary to Section 24a para. 3 failing to ensure compliance with laws of another member state in the area of combating legitimization of proceeds of crime and financing of terrorism in its branch or subsidiary operating in this member state.

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

Section 46

Failure to Comply with the Obligation to Report a Suspicious Transaction

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

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

Section 47

Failure to Comply with the Obligation to Suspend a Transaction

- (1) An obliged entity commits an offence by violating the obligation to suspend a transaction under Section 20 para. 1.
- (2) An obliged entity commits an offence by failing to perform the obligation to suspend a transaction or seize assets based on a decision issued by the Office under Section 20 para. 3.
- (3) A fine up to CZK 1,000,000 may be imposed for an offence under paragraph 1.
- (4) A fine up to CZK 10,000,000 may be imposed for an offence under paragraph 2.

Section 48

Failure to Comply with the Obligation of Prevention

- (1) An obliged entity which is required under Section 21 para. 2 to elaborate in writing a System of Internal Principles and is not exempted under Section 21 para. 3 or Section 21 para. 4 commits an offence by failing to elaborate the System of Internal Principles under Section 21 para. 5 within 60 days since it has become an obliged entity at the latest.
- (2) An obliged entity which is required under Section 21 para. 6 to deliver in writing its System of Internal Principles and a notification on any changes thereto to the Office or to the Czech National Bank commits an offence by failing to deliver the System of Internal Principles or notification on any changes thereto under Section 21 para. 6, or by failing to notify in writing of the implementation of remedies to issues found under Section 21 para. 8.
- (3) An obliged entity which is required under Section 21a para. 2 to elaborate in writing a risk assessment commits an offence by:
- a) failing to elaborate the risk assessment in a set range or set term, or
 - b) failing to update the risk assessment regularly.
- (4) An obliged entity commits an offence by:
- a) failing to have in place and apply adequate policies and procedures of internal controls and communication to mitigate and manage effectively the risks of money laundering and terrorist financing identified in the risk assessment and to fulfil other requirements stipulated by this Act, contrary to the Section 21 para. 1, or
 - b) failing to ensure training to its employees under Section 23.
- (5) A credit or financial institution commits an offence by violating the obligations in the course of entering in a correspondent relationship under Section 25 para. 1, 2 or 3.
- (6) An obliged entity referred to in Section 29 para. 1 commits an offence by carrying out activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money and are carried out without an authorization under Section 29.
- (7) A fine up to CZK 1,000,000 may be imposed for an offence under paragraphs 1 to 3.
- (8) A fine up to CZK 5,000,000 may be imposed for an offence under paragraphs 4 to 6.

Section 49

Failure to Comply with Obligations Relating to a Transfer of Funds

- (1) An obliged entity, being a provider of payment services or an agent provider of payment services, commits an offence when transferring funds if, in contravention to a directly applicable European Union regulation regulating information accompanying transfers of funds²⁰it:
- a) fails to ensure that the information on the payer and the recipient accompany the transfer,
 - b) has not implemented effective procedures for identification of missing or incomplete information on the payer and the recipient,

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

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

Section 50

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

(1) A natural person commits an offence by:

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

(2) A legal person commits an offence by:

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

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

Common Provisions Relating to Offences

Section 51

Repealed

Section 51a

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

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

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

Section 52

(1) Offences under this Act shall be decided upon by the authority referred to in Section 35 para. 1 which has discovered violation of the Act, with the exception of offences under Section 50.

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

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

Section 52a

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

(2) The competent supervisory authority which has initiated offence proceedings under Sections 43 to 49 shall for the purpose of entry in the Register communicate to the Office the following:

- a) the date of initiating of the offence proceedings,
- b) identification data of a suspect of offence,
- c) legal designation of the offence,
- d) description of the act in which the offence is seen and
- e) designation of the authority conducting the offence proceedings.

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

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

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

Section 53

Actions taken by a lawyer, notary, auditor, court bailiff or tax advisor in the capacity of an obliged entity, which bear the elements of an offence under Sections 43 to 48, shall be decided upon according to another law²⁶⁾. The supervisory authority referred to in Section 35 para. 1 shall immediately refer the matter to the authority competent under such other law, and shall take all necessary steps to secure evidences, as instructed by such competent authority.

PART SEVEN COMMON AND FINAL PROVISIONS

Section 54

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

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

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

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

²⁶⁾ Act No 85/1996 Sb., on the Legal Profession, as amended.
Act No 358/1192 Sb., on Notaries and their Activities, as amended.
Act No 254/2000 Sb., on Auditors and on the amendment of Act No 165/1998 Sb., as amended.
Act No 120/2001 Sb., on Court Executors and Execution (Enforcement Procedure) and on the amendments to certain related acts, as amended.
Act No 253/1992 Sb., on Advice on Tax and Chamber of Tax Advisers of the Czech Republic, as amended.

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

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

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

(8) Obligations and limitations related to politically exposed persons shall be applied by obliged entities for at least 12 months from the day when a politically exposed person ceases to perform the relevant position; but always until the obliged entity, on the basis of the risk assessment, excludes the customer's risk specific to politically exposed persons. For that period, the obliged entity will apply these measures in the same range also on a customer whose beneficial owner is a politically exposed person and on a person known to act on behalf of a politically exposed person.

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

Section 55

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

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

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

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

§ 56

Repealed

§ 57

Interim Provisions

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

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

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

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

Section 58

Repealing Provisions


The following is repealed:

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

Section 59

Effectiveness

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

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

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

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

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

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

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

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



CASH DECLARATION FORM

Read the notes on the reverse before completing this form.
USE CAPITAL LETTERS / TICK AS APPROPRIATE

EN

Reference number

1. You are		<input type="checkbox"/> Entering EU	<input type="checkbox"/> Leaving EU
2. Personal details		<input type="checkbox"/> Male <input type="checkbox"/> Female	Issuing place
Surname(s)		Issuing date	D D M M Y Y Y Y
First name(s)		Personal Number	
Nationality		Address	
Date of birth	D D M M Y Y Y Y	(Street / no.)	
Place of birth		Town	
ID-document	<input type="checkbox"/> Passport <input type="checkbox"/> ID <input type="checkbox"/> Other	Post code / Zip	
Passport / ID Number		Country	
3. You are the owner		<input type="checkbox"/> Yes (go to part 4)	No, the owner is a: (fill in the details of the owner)
		<input type="checkbox"/> Legal Entity	<input type="checkbox"/> Natural person
Legal Entity		Address	
		(Street / no.)	
VAT number		Town	
Surname(s)		Post code / Zip	
First name(s)		Country	
4. Details of the cash/monetary instruments			
	Amount	Currency	
Banknotes, coins			
Other (specify)			
5. Origin and intended use of the cash/monetary instruments			
Origin			
Intended use			
You are the intended recipient	<input type="checkbox"/> Yes (go to part 6)	No, the intended recipient is a: (fill in the details of the intended recipient)	<input type="checkbox"/> Legal entity <input type="checkbox"/> Natural person
Legal Entity		Address	
		(Street / no.)	
VAT number		Town	
Surname(s)		Post code / Zip	
First name(s)		Country	
6. Transport details			
Means of transport	<input type="checkbox"/> Air <input type="checkbox"/> Sea <input type="checkbox"/> Road <input type="checkbox"/> Rail <input type="checkbox"/> Other		
Transport company		Reference number	
Country of departure		Departure date	D D M M Y Y Y Y
Via (Transit Country)		Transit date	D D M M Y Y Y Y
Country of destination		Arrival date	D D M M Y Y Y Y
7. Signature of declarant		Signature & stamp competent authority	For official use only
I declare that all above details are correct. I am aware that a false, inaccurate or incomplete declaration is liable to penalties, detention or confiscation of the cash by the competent authority.			Recording <input type="checkbox"/> yes <input type="checkbox"/> no
			Penalty <input type="checkbox"/> yes <input type="checkbox"/> no
Date: D D M M Y Y Y Y			Amount of penalty:

		БЛАНК ДЕКЛАРАЦИИ НАЛИЧНЫХ ДЕНЕЖНЫХ СРЕДСТВ RU	Номер для ссылок
Перед заполнением бланка прочтите примечания на обороте ЗАПОЛНИТЕ ЗАГЛАВНЫМИ БУКВАМИ / ОТМЕТЬТЕ НУЖНОЕ			

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

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

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

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

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

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

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

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

Interim provisions according to the Article II of the Act No 368/2016 Sb. :

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

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