

**(Official Gazette of Bosnia and Herzegovina” No 29/04)**

**LAW ON THE PREVENTION OF MONEY LAUNDERING**

**I – GENERAL PROVISIONS**

**Article 1**

This Law shall determine measures and responsibilities for detecting, preventing and investigating money laundering and the funding of terrorist activities and shall also prescribe measures and responsibilities for international cooperation for the prevention of money laundering and the funding of terrorist activities.

**Article 2**

For the purpose of this law terms shall have the following meaning:

1. “Money laundering” means
  - a) The conversion or transfer of property, when such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in such activity to evade the legal consequences of his or her action;
  - b) The concealment or disguise of the true nature, source location, disposition, movement, rights with respect to, or ownership of property, when such property is derived from criminal activity or from an act of participation in such activity;
  - c) The acquisition, possession or use of property derived from criminal activity or from an act of participation in such activity;
  - d) Participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of the actions mentioned above.
2. “Funding of terrorist activities” means acts as defined by criminal legislation.
3. “Transaction” means account opening, deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any share, stock, bond, certificate of deposit, or other monetary instrument or investment security, real estate or any other payment, transfer, or delivery by, through, or to a natural or legal person referred to in Article 3 of this Law, by whatever means;
4. “Connected transactions” are two or more transactions originating from or destined to an account or a legal or natural person in which the amounts of the transactions are below the amount for conducting the identification or reporting according to this Law but which together exceed the aforementioned amount and can be considered to be related to each other due to the time span in which they have been made, the recipient or the originator of the transactions, the method of the transactions, the reason for which the transactions have been made or other factors due to which the transactions can be considered connected.
5. “Property” means assets of any kind, whether material or immaterial, movable or immovable and includes the legal documents or instruments evidencing title to, or interest in such property.
6. Reference to value in “KM” means also the equivalent value in any foreign currency according to the official exchange rate in use at the time of the transaction.
7. “Cash” means coins or banknotes of Bosnia and Herzegovina or any other country, travellers’ checks, personal checks, bank checks, money orders, or other forms of payment in such form that title thereto passes upon delivery.

**Article 3**

(1) Measures for detecting and preventing money laundering and funding terrorist activities shall be carried out according to this law, when conducted by persons under obligation as listed below.

(2) Persons under obligation are the following legal and natural persons:

1. Banks as defined in the laws on banks,

2. Post offices,
3. Investment and mutual pension companies and funds whatever the legal form,
4. Stock exchanges, stock exchange agencies, stock exchange agency branches and any other legal or natural person trading in money market instruments, foreign exchange, exchange, interest rate and index instruments, transferable securities and commodity futures trading,
5. Insurance and reinsurance companies,
6. Casinos, gaming houses and other organizers of games of chance and special lottery games,
7. Currency exchange offices,
8. Pawnbroker offices,
9. Lawyers, accountants, auditors and legal or natural persons as prescribed in article 4 of this law,
10. Privatization agencies,
11. Travel agencies,
12. Real estate agencies,
13. Public notaries.
14. Legal and natural persons performing the following activities:
  - a) Receiving and/or distributing money or property for humanitarian, charitable, religious, educational or social purposes,
  - b) Transfer of money or value,
  - c) Sale and purchase of claims,
  - d) Safekeeping, investing, administering, managing or advising in the management of property of third persons,
  - e) Issuing, managing and performing operations with debit and credit cards and other means of payment,
  - f) Financial leasing,
  - g) Issuing financial guarantees and other warranties and commitments,
  - h) Lending, crediting, offering and brokering in the negotiation of loans,
  - i) Underwriting, placement and brokering in insurance policies,
  - j) Organizing and executing auctions,
  - k) Trade in precious metals and stones and products made from these materials,
  - l) Trading with works of art, boats, vehicles and aircraft.

#### **Article 4**

- (1) Lawyers, law firms and their staff shall comply with the provisions of this law when acting for, or on behalf of clients in the planning, preparation or execution of transactions relating to:
  - a) buying and selling of real estate;
  - b) managing of client money, securities and other assets;
  - c) management of bank, savings or securities accounts;
  - d) organization of contributions for the creation, operation or management of companies; e) creation, operation or management of legal persons or arrangements and buying and selling business entities.
- (2) Accountants, auditors, audit and accountancy companies and their staff and legal or natural persons performing an audit function or performing accountancy services on behalf of a client, shall comply with the provisions of this Law.
- (3) In no event, however, shall the obligation prescribed in this law apply when the persons under obligation mentioned in paragraphs 1 and 2 of this Article acquired or received the information before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client unless the person under obligation knows or should know that the client is seeking legal advice for the purposes of money laundering or funding of terrorist activities.

#### **Article 5**

Duties related to the prevention, investigation and detection of money laundering and funding terrorist activities prescribed in the Law on the State Investigation and Protection Agency, this law and other laws, to the

promotion of co-operation between authorities of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina (hereinafter: the Federation), Republika Srpska (hereinafter: the RS) and the District of Brcko (hereinafter the District) for the prevention of money laundering and funding terrorist activities as well as to the promotion of co-operation and exchange of information with authorities of foreign States and international organizations responsible for the prevention of money laundering and funding terrorist activities are carried out under the supervision of the Director of the State Investigation and Protection Agency (hereinafter: the Director) by the Financial Intelligence Department of the State Investigation and Protection Agency (hereinafter: the FID).

## **II – DUTIES AND OBLIGATIONS OF PERSONS UNDER OBLIGATION**

### **1. Identification**

#### **Article 6**

A person under obligation shall, when identifying a client, acquire information about a client and a transaction according to this Law.

#### **Article 7**

- (1) In addition to what is later prescribed in this Law, identification shall always be conducted when a transaction, client or person is suspicious. The minister competent for security of Bosnia and Herzegovina (hereinafter: the Minister) may give guidelines as to what are indicators for suspicion.
- (2) When a person under obligation opens an account for a client or establishes a business relationship with a client, the person under obligation shall at the same time identify the client.
- (3) A person under obligation shall be required to identify the client during each transaction or connected transactions of 30.000 KM or more.
- (4) Insurance companies and natural and legal persons brokering in the sale of life insurance policies, shall identify the client in relation to life insurances for which individual or several installments of the premium, that are to be paid in the period of 1 year, amount to 2.000 KM or more or the payment of the single premium is 5.000 KM or more. Identification shall also be performed when individual or several installments of the premium to be paid in the period of 1 year increase to 2.000 KM or more.
- (5) Insurance companies and natural and legal persons brokering in the sale of insurance policies shall conduct the identification of the client in relation to a pension insurance, if the insurance policy can be transferred or used as collateral.
- (6) Legal or natural persons performing activities of organizing or executing of auctions or trading with works of art, boats, vehicles or aircrafts shall conduct the identification when carrying out a cash transaction or several connected transactions of 30.000 KM or more. The Minister may give guidelines as to what is to be considered connected transactions.
- (7) Casinos, gaming houses and other organizers of games of chance and special lottery games shall identify a customer when conducting a transaction of 5.000 KM or more.
- (8) Identification of a client shall not be required in the execution of transactions referred to in paragraphs 2 to 6 of this Article if the client is:
  - a) An authority of Bosnia and Herzegovina, the Federation, the RS or the District or an organization with public authorization;
  - b) A bank, insurance company and natural and legal persons brokering in the sale of insurance policies and investment and mutual pension companies and funds whatever the legal form with headquarters or parent institutions in a member country of the European Union or in a country which, according to information from the FID, international organizations and other competent international bodies, meets internationally accepted standards for the prevention and detection of money laundering and funding terrorist activities and is designated as such a country by the Minister.

- (9) The person under obligation shall conduct the identification of the bearer of a passbook during each transaction performed using a passbook.
- (10) The person under obligation shall terminate or shall decline to enter into a business relationship or to execute a transaction with or on behalf of a bank incorporated in a jurisdiction in which it has no physical presence or if identification cannot be conducted as prescribed by this law and shall inform the Financial Intelligence Department within the time prescribed in Article 14 paragraph 2.

### **Article 8**

- (1) The records on the conducted identification of clients and transactions referred to in Article 7, paragraph 1 of this Law shall as a minimum include the following information:
  1. The company name, seat and registration number of the legal person having a business relationship or conducting the transaction or of the legal person on whose behalf a business relation is being established or the transaction is being carried out;
  2. The name, surname, permanent address, date and place of birth and the personal identity number of the employee or authorized person who, on behalf of a legal person is establishing a business relationship or conducting the transaction, and the number and name of the authority that issued the official personal identification document;
  3. The name, surname, permanent address, date and place of birth and the personal identity number of the natural person who is establishing a business relationship, enters into the premises of a casino, gaming house or other concessionaire for special lottery games or conducts the transaction, or of the natural person on whose behalf the business relationship is being established or the transaction is being carried out, and the name of the authority that issued the official personal identification document;
  4. Reasons for establishing a business relationship or conducting the transaction and information about the Activities of the client;
  5. Date of establishing a business relationship or conducting the transaction;
  6. Time of execution of transaction;
  7. Amount of the transaction and currency in which the transaction is being carried out;
  8. Purpose of the transaction and the name, surname and address or name of the company and seat of the person to whom the transaction is being directed;
  9. Manner of executing the transaction;
  10. Name and surname or company and seat of the person sending the order in case of transfers from abroad;
  11. Information about the source of money or property that is subject of the transaction; and
  12. Reasons why a transaction, client or person is suspicious;
  13. Name, surname, permanent address, date and place of birth of each natural person, who indirectly or directly owns at least 20% of the business share, stocks or other rights, on which grounds he or she participates in the management of the legal person or the funds thereof.
- (2) The minister shall give guidelines on what information mentioned in paragraph 1 of this article shall be included in the records on the conducted identification of clients and transactions referred to in article 7, paragraphs 2 to 7 of this Law.
- (3) The records and information referred to in article 25 of this Law of a transport of cash and securities across the state border shall include the following data:
  1. The name, surname, permanent address and date and place of birth of the natural person who is transporting cash or securities across the state border;
  2. The name of the company and seat of the legal person or the name, surname and permanent address of the natural person on whose behalf cash or securities is being transported across the state border;
  3. The amount, currency, type and purpose of transaction and place, date and time of crossing the state border; and
  4. Information whether the transport was reported to the customs authorities.

- (4) All information, data and documentation from personal data records shall be forwarded to the FID free of charge.

#### **Article 9**

- (1) The person under obligation shall obtain the information on legal persons referred to in Article 8, paragraph 1, item 1 of this Law by an examination of the original or certified copy of the documentation from the court register or other public register.
- (2) The person under obligation shall obtain the information referred to in Article 8, paragraph 1, items 2 and 3 of this Law from the client's official personal identification documents. If it is not possible to obtain all the necessary information from the client's submitted official personal identification document, then the missing information should be obtained from the client's other official personal identification documents.
- (3) The person under obligation shall obtain the information referred to in Article 8, paragraph 1, items 4 through 11 and 13 of this Law from the acts and business documentation.
- (4) If it is not possible to obtain from the official personal documents, acts and business documentation, all the information listed in Article 8, paragraph 1 of this Law, the missing information, with the exception of the information referred to in Article 8, paragraph 1, items 11 and 13 of this Law, shall be obtained from the client.
- (5) In the case of identification of a non-resident client in accordance with Article 7, paragraphs 2, 3 when the transaction is conducted in cash, 6 and 10 of this Law, a copy of the client's official personal document shall also be made.

#### **Article 10**

- (1) In the case of the identification referred to in Article 7 of this Law, a person under obligation shall be obliged to demand from a client a statement as to whether the client is acting on his own behalf or on authorization.
- (2) If a transaction is made on behalf of a client by an authorized person, a person under obligation shall obtain the information referred to in Article 8, paragraph 1, items 2 and 3 of this Law from the written authorization made by the client on whose behalf the authorized person is acting. A person under obligation shall obtain all the other information referred to in Article 8, paragraph 1 of this Law, with the exception of the information referred to in Article 8, paragraph 1, item 13 of this Law in the manner stipulated in Article 9.
- (3) If the authorized person is performing a transaction, referred to in Article 7, paragraphs 1, 3 when conducted in cash, 6 and 9 of this Law in the name of the foreign legal person, that does not or is prohibited from performing commercial or manufacturing activity in the country, in which it is registered, or in cases, when foreign fiduciary or similar companies with unknown owners or managers are involved, unless stipulated otherwise, the person under obligation shall obtain the information referred in Article 8, paragraph 1, item 13 of this Law, by examining the original or certified copies of documentation of the court register or any other public register, that shall not be older than 3 months. If all the information cannot be obtained from the court register or any other public register, the person under obligation shall obtain missing information, data or documentation by examining the documents and business documentation that are presented by the authorized person. The person under obligation shall acquire the missing information, data or documentation, which cannot be obtained for objective reasons in the aforementioned way, from the written statement of the authorized person.
- (4) A person under obligation shall, when obtaining the information on the basis of the previous paragraph, in all cases, when another legal person is the indirect or direct owner of 20% of the businesses share, stocks or other rights of the legal person, obtain the information from Article 8, paragraph 1, item 13 of this Law for this other legal person.

#### **Article 11**

If a foreign legal person, with the exception of international governmental organizations, carries out transactions, the person under obligation shall be required to re-identify the client, at least once annually, by obtaining the

information specified under Article 8, paragraph 1, items 1 and 13 and by acquiring new authorization in accordance with Article 10, paragraph 2.

## **Article 12**

- (1) A person under obligation may, when opening an account or establishing a business relationship, identify a client also in his absence. Nevertheless it shall indisputably establish the client's identity by obtaining all the information in accordance with this Law and in the manner regulated by the Minister.
- (2) Identification prescribed in paragraph 1 of this Article is possible only when the customer is a non-resident, a state body, an organization with public authorization or a person under obligation referred to in Article 3 of this Law.
- (3) With reference to the client, who is a non-resident, the identification on the basis of the paragraph 1 of this Article may be performed only, when the client is a citizen of Bosnia and Herzegovina or a citizen of a country, which meets internationally accepted standards for the prevention and detection of money laundering and funding of terrorist activities and the country is designated as such by the Minister in a manner as prescribed in Article 7, paragraph 8 of this Law.
- (4) Notwithstanding paragraphs 1 through 3 of this Article, the identification of the client in his absence at the opening of an account or establishing a business relationship is not permissible, if the client is a foreign legal person, that does not or may not perform commercial or manufacturing activity in the country, in which it is registered or when foreign fiduciary or similar companies with unknown owners or managers are involved.

## **2. Reporting**

### **Article 13**

- (1) A person under obligation shall be obliged to forward to the FID information referred to in Article 8, paragraph 1 of this Law regarding:
  1. A transaction, client or person that is suspicious;
  2. A cash transaction of 30.000 KM or more;
  3. Connected cash transactions which together amount to 30.000 KM or more.
- (2) The Minister shall further prescribe what information, data and documentation referred to in Article 8 shall be forwarded to the FID.
- (3) The Minister in consultation with the FID shall determine the conditions under which a person under obligation shall not be required to forward to the FID information about the transactions of or over the amounts mentioned in paragraph 1 items 2 and 3 of this Article of a particular client.

### **Article 14**

- (1) In such cases as referred to in Article 13, paragraph 1, item 1 of this Law a person under obligation shall forward the information, data and documentation to the FID immediately when suspicion has arisen and before the transaction is completed and shall state the period during which the transaction is expected to be executed.
- (2) In such cases as referred to in Article 13, paragraphs 1, items 2 and 3 of this Law a person under obligation shall forward the information, data and documentation to the FID immediately after the transaction is completed, but not later than three days after the completion of the transaction.
- (3) The notification referred to in paragraph 1 of this Article may be given also by telephone, but the FID must be notified subsequently in writing not later than the next working day.
- (4) If, in such cases as referred to in Article 13, paragraph 1, item 1 of this Law, a person under obligation cannot, due to the nature of the transaction or because the transaction was not completed or due to other justifiable reasons, act as prescribed in paragraph 1 of this Article, it shall be obliged to forward the information, data and documentation to the FID as soon as possible or immediately after suspicion of money laundering or funding terrorist activities is raised. The person under obligation shall explain in the report the

reasons for not acting in accordance with the provisions of paragraph 1 of this Article.

### **3. Authorized person, training, list of indicators and internal control**

#### **Article 15**

- (1) For the purpose of forwarding information to the FID and for the performance of other duties prescribed in this Law, a person under obligation shall appoint an authorized person. It shall also name one or more deputies of the authorized person and shall notify the FID about these appointments.
- (2) The person under obligation shall be obliged to provide professional training for all its employees performing transactions prescribed in this Law, conduct internal control over the performance of these duties and prepare a list of indicators for recognizing suspicious transactions.
- (3) Notwithstanding paragraphs 1 and 2 of this Article, those persons under obligation with four or less employees shall not be required to appoint an authorized person and shall not be required to conduct internal control as prescribed in this Law.

### **III – DUTIES AND COMPETENCIES OF THE FINANCIAL INTELLIGENCE DEPARTMENT**

#### **1. Money laundering detection and investigation**

#### **Article 16**

The FID shall receive, collect, record, analyze and when prescribed by this Law or other Laws forward to a prosecutor and upon authorization investigate and forward to another authorized official information, data and documentation received in accordance with the provisions of this Law.

#### **Article 17**

- (1) If the FID suspects money laundering or funding of terrorist activities in connection with a transaction or a person, it may demand in written form from a person under obligation information listed in Article 8, paragraph 1 of this Law, information on property and on bank deposits of such a person as well as all other information, data and documents needed for performing the duties of the FID according to the provisions of this law. In urgent cases the FID may request the information, data and documentation verbally and may inspect the documentation in the premises of the person under obligation, but the FID shall be obliged to submit a written request to the person under obligation the following working day at the latest.
- (2) The FID may request from a person under obligation written information, data and documentation on the performance of the duties of the person under obligation as provided by this Law as well as other information, which the FID requires to ensure compliance to this Law.
- (3) The person under obligation shall forward the information, data and documentation referred to in paragraph 1 and 2 of this Article to the FID without delay and at the latest within 7 days of receiving the request from the FID.
- (4) Should a lawyer, law firm, accountant, audit company, independent auditor or legal or natural persons be entitled according to Article 4 of this Law to decline to forward the information, data and documentation on the basis of a request of the FID from paragraph 1 of this Article, it shall inform the FID in writing, in the time limit prescribed in paragraph 3 of this Article on the reasons why it has not acted in accordance with the request of the FID.
- (5) In cases of extensive documentation or due to other justifiable reasons the FID may upon written request extend in writing, the deadline determined in paragraph 3 of this Article and it may, in such cases inspect the documentation in the premises of the person under obligation.

#### **Article 18**

- (1) In order to perform its duties according to the provisions of this law, the FID may issue a written order temporarily suspending a transaction or transactions for 5 working days at most, if the FID suspects money laundering or funding of terrorist activities in connection with a transaction, an account or a person. The FID may issue additional instructions to the person under obligation concerning the transaction, the suspension of the transaction, executing the transaction and communicating with the person or persons related to the transaction.
- (2) In urgent cases the order may be issued verbally, but the FID shall be obliged to submit a written order to the person under obligation the following working day at the latest.

#### **Article 19**

- (1) If the FID after issuing an order temporarily suspending a transaction or transactions finds within the time provided in Article 18, paragraph 1 that there is no longer reasons for suspicion of money laundering or funding of terrorist activities, it shall without delay inform in writing the person under obligation, which may then execute the transaction immediately.
- (2) If the FID does not act within the time provided in Article 18, paragraph 1 of this Law, the person under obligation may proceed with the transaction immediately.

#### **Article 20**

- (1) The FID may demand from authorities of Bosnia and Herzegovina, the Federation, the RS and the District and from other organizations with public authorization information, data and documentation needed for performing the duties of the FID according to the provisions of this Law.
- (2) Authorities and organizations with public authorization referred to in paragraph 1 of this article shall allow the FID, without compensation, direct electronic access to the information, data and documentation.
- (3) Authorities and organizations with public authorization referred to in paragraph 1 of this article shall forward to the FID the data, information and documentation referred to in the preceding paragraphs within 7 days of receipt of the request if the information is not available to the FID according to paragraph 2 of this Article.
- (4) In cases of extensive documentation or due to other justifiable reasons the FID may upon written request extend in writing, the deadline determined in paragraph 3 of this Article and it may, in such cases inspect the documentation in the premises of the authorities and organizations with public authorization mentioned in paragraph 1 of this Article.

### **2. International cooperation**

#### **Article 21**

- (1) The FID may request from foreign law enforcement, prosecutorial or administrative bodies, Financial Intelligence Units and international organizations engaged in the prevention of money laundering and the funding of terrorist activities information, data and documentation needed for performing the duties of the FID according to the provisions of this law.
- (2) The FID may forward information, data and documentation collected within Bosnia and Herzegovina to foreign Financial Intelligence Units, provided they are subject to similar confidentiality requirements, on their request or upon its own initiative.
- (3) Prior to forwarding personal data to a foreign Financial Intelligence Unit the FID shall obtain assurance that the aforementioned shall use the information, data and documentation solely for the purposes stipulated by this Law.

### **3. Notifying prosecutor**

#### **Article 22**



- (1) If the FID considers on the basis of information, data and documentation obtained under this Law that there exists grounds for suspicion of a criminal offence in connection with a transaction or a person, it shall notify in writing and submit the necessary documentation to a prosecutor.
- (2) In the notification referred to in paragraph 1 of this Article, the FID shall not state information about the employee or employees of the person under obligation, which forwarded the information according to this Law or were in any other way involved in executing the transaction on behalf of the person under obligation unless there are reasons to suspect that the person under obligation or its employee committed a criminal offence or if the information is necessary in order to establish facts during criminal proceedings.

#### **4. Prevention of money laundering and funding terrorist activities**

##### **Article 23**

The FID shall in addition to the duties mentioned previously in this Law have the following duties for the prevention of money laundering and the funding of terrorist activities:

1. Proposing to competent bodies changes and amendments to regulations concerning the prevention and detection of money laundering and funding of terrorist activities;
2. Participating in drawing up the list of indicators for recognizing suspicious transactions and a list of countries, which apply internationally accepted standards for the prevention and detection of money laundering and funding terrorist activities;
3. Participating in the professional training of the staff of persons under obligation, authorities of Bosnia and Herzegovina, the Federation, the RS and the District and organizations with public authorizations;
4. Publishing, at least once annually, statistical data in the field of money laundering and funding of terrorist activities and informing in an appropriate manner the public about the various forms of money laundering and funding of terrorist activities.

#### **Reporting to the Minister**

##### **Article 24**

The FID shall give an annual report on the general activities of the FID and on the prevention of money laundering and funding of terrorist activities to the Director and the Minister.

### **IV – DUTIES OF OTHER AUTHORITIES UNDER THIS LAW**

#### **1. Customs administration authorities**

##### **Article 25**

Customs administration authorities shall be obliged to forward to the FID information on each transportation of cash and securities in the amount of 10.000 KM or more when crossing the state border within 3 days of the transportation.

#### **2. Forwarding statistical data**

##### **Article 26**

- (1) To enable the centralization and analysis of all data related to money laundering and funding of terrorist activities, prosecutor's offices shall forward to the FID information on criminal offences of money laundering and funding of terrorist activities and on minor offences as prescribed in Articles 39 and 40 of this Law.
- (2) Prosecutor's offices shall be obliged to forward twice annually to the FID the following information:

1. The name, surname, date of birth and permanent address, or the name and seat of the company against whom an indictment has been confirmed for money laundering or the financing of terrorist activities or a request for initiating minor offence proceedings based on the provisions of this law have been filed;
2. Place, time and manner of perpetrating the suspected criminal offence or minor offence;
3. The stage of the proceedings;
4. The amount of money or the value of other property, which is the subject of a temporary seizure, an arrest in property, or confiscation and the date of the decision.

### **3. Participation in the preparation of the list of indicators**

#### **Article 27**

- (1) The bodies competent for regulating and supervising banks, insurance companies and lawyers as well as other bodies competent for supervising persons under obligation (hereinafter referred to as supervising bodies) shall cooperate with persons under obligation under their supervision, in drawing up the list of indicators for recognizing suspicious transactions.
- (2) The list of indicators mentioned in paragraph 1 of this Article is to be submitted to the FID by the person under obligation.

## **V – KEEPING AND PROTECTING INFORMATION**

#### **Article 28**

The FID may use the information, data and documentation obtained according to this Law solely for the purposes stipulated in this Law.

#### **Article 29**

- (1) A person under obligation and its staff shall not reveal to a client or third person the forwarding to the FID of the information, data or documentation about a client or transaction or that the FID has in accordance with the provisions of Article 18 of this Law temporarily suspended a transaction or given instructions to a person under obligation.
- (2) Information about a request from the FID or about forwarding information, data or documentation to the FID and about the temporary suspension of a transaction or about the instructions referred to in paragraph 1 of this Article shall be official secrets.
- (3) The FID shall decide on the lifting of the classification of the official secrecy.

#### **Article 30**

- (1) When forwarding information, data and documentation to the FID according to this Law, the obligation to protect bank, business and official secrecy shall not apply to a person under obligation, authorities of Bosnia and Herzegovina, the Federation, the RS and the District, an organization with public authorization, a prosecutor, a court and their staff unless stipulated otherwise in this law.
- (2) A person under obligation or its staff shall not be liable for damage caused to a client or to a third person or held criminally liable due to their submission of information, data or documentation to the FID or due to the implementation of the FID's order to temporarily suspend a transaction or for complying with the instructions issued in connection with the said order in accordance with the provisions of this Law or in accordance with regulations passed on the basis of this Law.

#### **Article 31**

- (1) A person under obligation shall keep information, data and documentation obtained on the basis of this Law

for at least ten years after identification, completion of a transaction, closing of an account or the termination of the validity of a contract.

- (2) A person under obligation shall keep the information and corresponding documentation on the authorized person and deputy authorized person mentioned in article 15 of this Law, on the professional training of the staff and the conducting of internal control for at least four years after the appointment of the authorized person and deputy authorized person and after the completion of professional training and conducting internal control.

### **Article 32**

Customs administration authorities shall keep information on the transport of cash and securities across the state border, for a period of twelve years from the date the transport was made. This information, data and documentation shall be destroyed after expiry of this period.

### **Article 33**

- (1) The FID shall keep information, data and documentation collected and disseminated according to this Law for twelve years from the date it was obtained or disseminated and it shall be destroyed after expiry of this period.
- (2) The records of the personal data sent abroad referred to in Article 21 of this Law shall include the following data:
  - a. The name, surname, date of birth and permanent address or name of the company and seat of the person whose data is being sent abroad; and
  - b. The name of the country and title of the authority to which the data is being sent.
- (3) The records of notifications and the information referred to in Article 22 of this Law shall include the following data:
  - a. The name, surname, date of birth and permanent address or name of the company and seat of the person in connection with whom the FID forwarded a notification or information;
  - b. Information on the amount, currency, date or period of execution of a transaction, in connection with which there exist reasons for suspicion of an offence;
  - c. Reasons for suspicion of an offence.
- (4) The FID, other authorized official or prosecutor shall not inform the person concerned that information, data and documentation about them has been compiled according to this Law.

## **VI – INSTRUCTIONS ON THE IMPLEMENTATION OF TASKS AND ON THE COMPULSORY INCLUSION OF INDICATORS**

### **Article 34**

- (1) The Minister shall, in consultation with the FID and according to international standards for the prevention of money laundering and the financing of terrorist activities, issue the decision and guidelines referred to in Articles 7, 8, 10, 12 and 13 of this Law within 3 months from the day this Law has become effective.
- (2) The Minister may further prescribe additional instructions on the matters referred to in paragraph 1 of this Article.

## **VII – SUPERVISION**

### **Article 35**

The FID and the supervising bodies shall cooperate in supervising, within their individual competencies, the implementation of the provisions of this Law.

### **Article 36**

- (1) If the supervising bodies discover a violation referred to in Articles 39 and 40 of this Law or of provisions of other laws, which govern the operation of persons under obligation, they shall order the implementation of the appropriate control measures and shall without delay notify in writing the FID about the violations discovered.
- (2) The notification referred to in paragraph 1 shall include especially the following information:
  - a. Name, surname, date of birth and permanent address of the natural person name of company and seat of the legal person suspected of a violation or minor offence;
  - b. Place, time and manner of committing the suspected violation or minor offence, and;
  - c. Information as to whether supervising bodies ordered any control measures under their competencies.

### **Articles 37**

- (1) The FID shall monitor the implementation of the provisions of this Law by gathering and comparing data, information and the documentation received on the basis of the provisions of this Law.
- (2) If the FID discovers a violation of the provisions of this Law, it may:
  - a. Demand that the person under obligation removes the violation, provided the consequences of the violation can be eliminated subsequently;
  - b. Propose to supervising bodies to implement the appropriate control measure within their competencies;
  - c. Request the competent authority to initiate minor offence proceedings.
- (3) When making the decision about the measure referred to in paragraph 2 of this Article the FID shall take into account the circumstances under which the offence was committed, repetition of the offence and the control measures imposed by another supervising body on the person under obligation.
- (4) The removal of the violation referred to in paragraph 2, item 1 of this Article shall be conducted within the deadline as prescribed in Article 17, paragraph 3.

### **Article 38**

The FID shall notify the competent supervising body upon filing a request for the initiation of minor offence proceedings.

## **VIII – PENALTY PROVISIONS**

### **Article 39**

- (1) A legal person referred to in article 3 of this Law shall be punished for a minor offence by a fine from 20.000 KM up to 200.000 KM, if such a person:
  1. Fails to identify the client or the identification is not performed in accordance with what is prescribed in Article 7 of this Law
  2. Fails to notify or to forward to the FID the information, data or documentation as prescribed in Articles 13 and 14 of this Law;
  3. Fails to implement the FID 's order to temporarily suspend a transaction or fails to implement the instructions issued by the FID in connection with the order as prescribed in Article 18 of this Law;
  4. Fails to keep the information, data and documentation prescribed in Article 8 of this Law for ten years after identification, completion of a transaction, closing of an account or the termination of the validity of a contract as prescribed in Article 31 of this Law;
- (2) A responsible person of a legal person under obligation shall be punished by a fine from 2.000 KM up to

15.000 KM for a minor offence referred to in paragraph 1 of this Article.

- (3) A self-employed natural person conducting activities referred to in Article 3 of this Law, shall be punished by a fine from 5.000 KM to 20.000 KM for a minor offence referred to in paragraph 1 of this Article.

#### **Article 40**

- (1) A legal person referred to in article 3 of this Law shall be punished for a minor offence by a fine from 10.000 KM up to 100.000 KM, if such a person;
1. Failed to acquire all the information required for identification as prescribed in Article 8 of this Law or conduct the identification in the method prescribed in Articles 9, 10 and 12 of this Law;
  2. Failed to re-identify at least once a year a foreign legal person as prescribed in Article 11 of this Law;
  3. Failed to forward to the FID the information or for failure to forward the information in the manner as prescribed in Article 17 of this law;
  4. Failed to ensure internal control or for failure to draw up a list of indicators for recognizing suspicious transactions within the period or in the manner prescribed in Article 15 of this Law;
  5. Failed to appoint an authorized person and his deputy and to notify the FID of such appointment as prescribe in Article 15 of this Law;
  6. Failed to ensure the professional training of staff as prescribed in Article 15 of this Law;
  7. Failed to keep information on the authorized person and deputy authorized person, on the professional training of staff and the conducting of internal control for at least four years after the appointment of the authorized person and deputy authorized person, completion of the professional training or conducting internal control as prescribed in Article 31 of this Law.
- (2) For a minor offence referred to in paragraph 1 of this Article, a responsible person in a legal person shall be punished by a fine from 1.000 KM up to 5.000 KM.
- (3) For a minor offence referred to in paragraph 1 of this Article, a self-employed natural person conducting activities referred to in Article 3 of this Law shall be punished by a fine from 2.000 KM to 20.000 KM.

### **IX – TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 41**

Persons under obligation shall draw up the list of indicators for recognizing suspicious transactions not later than six months after the entering into force of this Law.

#### **Article 42**

This Law shall enter into force six months after its publication in the Official Gazette of Bosnia and Herzegovina.

#### **Article 43**

On the day of entry into force of this Law, the Law on the Prevention of Money Laundering in the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, No. 08/00), the Law on the Prevention of Money Laundering in Republika Srpska (Official Gazette of Republika Srpska No. 52/01) and the Law on the Prevention of Money Laundering in the Brcko District of Bosnia and Herzegovina (Official Gazette of the Brcko District of Bosnia and Herzegovina, No. 13/03) shall cease to be applied.

PS BiH number 49/04  
May 04, 2004 Sarajevo