

## **LAW ON PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING**

### **I Basic provisions**

#### **Subject Matter of the Law**

##### **Article 1**

This Law shall regulate measures and actions undertaken for the purpose of detecting and preventing money laundering and terrorist financing.

#### **Money Laundering**

##### **Article 2**

In the context of this Law, the following shall, in particular, be considered as money laundering:

1. conversion or other transfer of money or other property originating from criminal activity,
2. acquisition, possession or use of money or other property proceeding from criminal activity,
3. concealment of the true nature, origin, depositing location, movement, disposition, ownership or rights concerning money or other property originating from criminal activity.

#### **Terrorist Financing**

##### **Article 3**

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

1. providing or collecting or an attempt of providing or collecting money or other property, directly or indirectly, with the aim or in the knowledge that they are to be used, in full or in part, in order to carry out a terrorist activity or used by a terrorist or terrorist organization, and
2. encouraging or assisting in providing or collecting the funds or property from the item 1 of this Article.

#### **Obligors**

##### **Article 4**

Measures for detecting and preventing money laundering and terrorist financing shall be taken before and during the conduct of any business of receiving, investing, exchanging, keeping or other form of disposing of money or other property, or carrying out the transactions for which there are reasonable grounds for suspicion of money laundering or terrorist financing.

Measures from Paragraph 1 of this Article shall be undertaken by business organizations, other legal persons, entrepreneurs and natural persons (hereinafter referred to as: obligors), as follows:

- 1) banks and foreign banks' branches and other financial institutions;
- 2) savings-banks, and savings and loan institutions;
- 3) organizations performing payment transactions,
- 4) post offices,
- 5) companies for managing investment funds and branches of foreign companies for managing investment funds;
- 6) companies for managing pension funds and branches of foreign companies for managing pension funds;
- 7) stock brokers and branches of foreign stock brokers;
- 8) insurance companies and branches of foreign insurance companies dealing with life assurance;
- 9) organizers of lottery and special games of chance;
- 10) exchange offices;
- 11) pawnshops;
- 12) audit companies, independent auditor and legal or natural persons providing accounting and tax advice services;
- 13) institutions for issuing electronic money;
- 14) humanitarian, nongovernmental and other non-profit organizations, and
- 15) other business organizations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:
  - sale and purchase of claims;
  - factoring;
  - third persons' property management;
  - issuing and performing operations with payment and credit cards;
  - financial leasing;
  - travel organization;
  - real estate trade;
  - motor vehicles trade;
  - vessels and aircrafts trade;
  - safekeeping;
  - issuing warranties and other guarantees;
  - crediting and credit agencies;
  - granting loans and brokerage in loan negotiation affairs;
  - brokerage or representation in life insurance affairs, and
  - organizing and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of € 15.000 or more, in one or more interconnected transactions.

By way of exception to item 2 of this Article a regulation of the Government of the Republic of Montenegro (hereinafter: the Government) can define the other obligors that shall take the measures from item 1 of this Article if, considering the nature and manner of carrying out activities or business, there is a more significant risk of money laundering or terrorist financing, or define the obligors that do not need to undertake the measures from item 1 of this Article, when the risk of money laundering or terrorist financing does not exist anymore.

## Definition of Terms

### Article 5

Some terms in this Law shall have the following meanings:

1. **"terrorist act"** shall mean an act defined by the United Nations Convention for the Suppression of the Financing of Terrorism;
2. **"terrorist"** shall mean a person who alone or with other persons:
  - intentionally, directly or indirectly, commits or attempts to commit a terrorist act;
  - encourages or assists in the commission of terrorist act;
  - intentionally or in the knowledge of the intention of a group of persons to commit a terrorist act, has contributed, or is contributing to the commission of a terrorist act;
3. **"terrorist organization"** shall mean an organized group of persons that:
  - intentionally, directly or indirectly, commits or attempts to commit a terrorist act;
  - encourages or assists in the commission of terrorist act;
  - intentionally or in the knowledge of the intention of a group of persons to commit a terrorist act, has contributed, or is contributing to the commission of a terrorist act;
4. **"transaction"** shall mean receiving, investing, exchanging, keeping or other form of disposing of money or other property;
5. **"risk of money laundering and terrorist financing"** shall mean the risk that a customer will use the financial system for money laundering or terrorist financing, or that a business relationship, a transaction or a product will indirectly or directly be used for money laundering or terrorist financing;
6. **"open account relationship"** shall mean a correspondent relationship between domestic and foreign credit institution established by opening an account of a foreign credit or other institution with a domestic credit institution (opening a loro account);
7. **"correspondent relationship"** shall mean a contract that a domestic credit institution enters into with a foreign credit or other institution, with a view to operating business with foreign countries;
8. **"shell bank"** shall mean a credit institution, or other similar institution, registered in a country in which it does not carry out activity and which is not related to a financial group subject to supervision for the purpose of detecting and preventing money laundering or terrorist financing.

## II DUTIES AND LIABILITIES OF OBLIGORS

### 1. Basic Duties

#### Article 6

An obligor shall:

1. carry out customer identification;
2. exercise thorough customer due diligence (hereinafter: customer due diligence);
3. report and provide data, information and documentation to the administration body competent for the affairs of preventing money laundering and terrorist financing (hereinafter: the competent administration body), in compliance with the provisions of this Law.

4. apply measures for preventing and detecting money laundering and terrorist financing in its registered office and organizational units outside the registered office;
5. determine a person authorized for undertaking the measures provided for by this Law and his/her deputy;
6. ensure a regular professional training and education of employees and internal control of meeting the obligations provided for by this Law;
7. compile and regularly keep up-to-date a list of indicators for identifying suspicious transactions, for which there are reasonable grounds for suspicion of money laundering or terrorist financing;
8. ensure keeping and protecting data and keeping of required records, and
9. perform other affairs and obligations provided for by this Law and regulations passed on the basis of law.

### **Customer Identification**

#### **Article 7**

Customer identification shall be a procedure including:

1. establishment of the identity of a customer, or if the identity has been previously established, verification of the identity on the basis of reliable, independent and objective sources, and
2. gathering data on a customer, or if data have been gathered, verifying the gathered data on the basis of reliable, independent and objective sources.

### **Risk Analysis**

#### **Article 8**

An obligor shall make risk analysis which determines the risk assessment of groups of customers or of an individual customer, business relationship, transaction or product related to the possibility of misuse for the purpose of money laundering or terrorist financing.

The analysis from paragraph 1 of this Article shall be prepared pursuant to the guidelines on risk analysis.

The guidelines from the paragraph 2 of this Article shall be determined by the competent supervisory bodies from the Article 86 of this Law, pursuant to the regulation adopted by the ministry that has jurisdiction over financial affairs (hereinafter: the Ministry).

The regulation from paragraph 3 of this Article shall determine more specific criteria for guidelines development (obligor's size and composition, scope and type of affairs, customers, or products and the like), as well as the type of transactions for which, due to the absence of the risk of money laundering and terrorist financing, it is not necessary to carry out customer identification in the context of this Law.

### **Cases in which customer due diligence measures are undertaken**

#### **Article 9**

An obligor shall undertake customer due diligence measures particularly in the following cases:

1. when establishing a business relationship with a customer;
2. of one or more linked transactions amounting to €15 000;
3. when there is a suspicion about the accuracy or veracity of the obtained customer identification data, and
4. when there are reasonable grounds for suspicion of money laundering or terrorist financing.

If the transactions from paragraph 1 item 2 of this Article are based on an already established business relationship, an obligor shall verify the identity of the customer that carries out the transaction and gather additional data.

An organizer of special games of chances shall, in carrying out the transaction from paragraph 1 item 2 of this Article, verify the identity of a customer at a cash-desk and obtain the data from the Article 72 item 6 of this Law.

Also, in the context of this Law, the following shall be considered as establishing a business relationship:

1. customer registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and
2. customer's access to the rules of managing a mutual fund at managing companies.

### **Activities undertaken by an obligor**

#### **Article 10**

When establishing a business relationship an obligor shall apply the following measures:

1. to identify a customer and beneficial owner if the customer is a legal person;
2. to obtain and verify data on a customer, or beneficial owner, if the customer is a legal person, on the purpose and nature of a business relationship or transaction and other data pursuant to this Law, and
3. to monitor regularly the business activities that a customer undertakes with the obligor and verify their compliance with the nature of a business relationship and the usual scope and type of customer's affairs.

### **Customer control when establishing a business relationship**

#### **Article 11**

Before the establishment of a business relationship an obligor shall apply the measures from Article 10 items 1 and 2 of this Law.

Exceptionally an obligor can apply the measures from paragraph 1 of this Article during the establishment of a business relationship with a customer if this is necessary for the establishment of a business relationship and where there is insignificant risk of money laundering or terrorist financing.

When concluding a life insurance contract obligor from Article 4 paragraph 2 item 8 of this Law can exert control over the insurance policy beneficiary after concluding the insurance contract, but not later than the time when the beneficiary according to the policy can exercise his/her rights.

### **Control of the customer before carrying out a transaction**

#### **Article 12**

When carrying out transactions from Article 9 paragraph 1 item 2 of this Law an obligor shall apply the measures from Articles 7 and 10 items 1 and 2 of this Law before carrying out the transaction.

### **Transactions that do not require the application of customer due diligence measures**

#### **Article 13**

Insurance companies conducting life insurance business and business units of foreign insurance companies licensed to conduct life insurance business Montenegro, founders, managers of pension funds, and legal and natural persons conducting representation and brokerage business in insurance, when entering into life insurance contracts do not need to conduct the verification of a customer when:

1. entering into life insurance contracts where an individual instalment of premium or multiple instalments of premium, payable in one calendar year, do not exceed the amount of €1,000, or where the payment of a single premium does not exceed the amount of €2,500;
2. concluding pension insurance business providing that it is:
  - insurance within which it is not possible to assign the insurance policy to a third person or to use it as security for a credit or borrowing, or
  - a conclusion of a collective insurance contract ensuring the right to a pension.

Domestic and foreign companies and business units of foreign companies that issue electronic money do not need to conduct the verification of a customer when:

1. issuing electronic money, if the single maximum value issued on the electronic data carrier, upon which it is not possible to re-deposit value, does not exceed the amount of €150, and
2. issuing and dealing with electronic money, if the total amount of value kept on the electronic data carrier, upon which it is possible to re-deposit value, and which in the current calendar year does not exceed the amount of €2,500, unless the holder of electronic money in the same calendar year cashes the amount of €1,000 or more.

An obligor does not need to conduct control over a customer to whom it provides other services or related transactions representing an insignificant risk of money laundering or terrorist financing, unless there are reasonable grounds for suspicion of money laundering or terrorist financing.

Cases representing an insignificant risk of money laundering or terrorist financing shall be more specifically regulated by a regulation of the Ministry.

## **2. Applying customer control measures**

### **Establishing and verifying a natural person identity**

#### **Article 14**

An obligor shall establish and verify the identity of a customer that is a natural person or of his/her legal representative, entrepreneurship, or a natural person performing activities, by checking the personal identification document of a customer in his/her presence and obtain data from Article 71 item 4 of this Law. In case the required data cannot be established on the basis of the submitted identification document, the missing data shall be obtained from other valid official document submitted by a customer.

Identity of a customer from paragraph 1 of this Article can be established on the basis of a qualified electronic certificate of a customer, issued by a certification service provider in accordance with the regulations on electronic signature and electronic business.

Within establishing and verifying the identity of a customer in the manner determined in paragraph 2 of this Article an obligor shall enter the data on a customer from the qualified electronic certificate into data records from Article 70 of this Law. The data that cannot be obtained from a qualified electronic certificate shall be obtained from the copy of the personal identification document submitted to an obligor by a customer in written or electronic form, and if it is not possible to obtain all required data in that manner, the missing data shall be obtained directly from the customer.

Certification service provider from paragraph 2 of this Article that has issued a qualified electronic certificate to a customer shall, upon an obligor's request, without delay submit the data on the manner of establishing and verifying the identity of a customer who is a holder of the qualified electronic certificate.

Establishing and verifying the identity of a customer using a qualified electronic certificate is not permitted when:

1. opening accounts at obligors from Article 4 paragraph 2 items 1 and 2 of this Law, except in the case of opening a temporary deposit account for paying in founding capital, and
2. there is suspicion of qualified electronic certificate misuse or when an obligor determines that the circumstances that have significant effect on the certification validity have changed.

If an obligor, when establishing and verifying the identity of a customer, doubts the accuracy of obtained data or veracity of documents and other business files from which the data have been obtained, he/she/it shall request a written statement from a customer.

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

#### **Article 15**

An obligor shall establish and verify the identity of a customer that is a legal person and obtain the data from Article 71 item 1 of this Law by checking the original or certified copy of the document from the Central Register of the Commercial Court (hereinafter: CRCC) or other appropriate public register, submitted by an agent on behalf of a legal person.

The document from paragraph 1 of this Article may not be older than three months of its issue date.

An obligor can establish and verify the identity of a legal person and obtain data from Article 71 item 1 of this Law by checking CRCC or other appropriate public register. On the register excerpt that has been checked an obligor shall state date and time and the name of the person that has made the check. An organization shall keep the excerpt from the register in accordance with law.

An obligor shall obtain data from Article 71 items 2, 7, 9, 10, 11, 12, 13 and 14 of this Law by checking the originals or certified copies of documents and other business files. If data cannot be determined by checking identifications and documentation, the missing data shall be obtained directly from an agent or authorized person.

If, during establishing and verifying the identity of a legal person, an obligor doubts the accuracy of the obtained data or veracity of identification and other business files from which the data have been obtained, he/she/it shall obtain a written statement from an agent or authorized person before establishing a business relationship or executing a transaction.

If a customer is a foreign legal person performing activities in Montenegro through its business unit, an obligor shall establish and verify the identity of a foreign legal person and its business unit.

### **Establishing and verifying the identity of the agent of a legal person**

#### **Article 16**

An obligor shall establish and verify the identity of an agent and obtain data from Article 71 item 2 of this Law by checking the personal identification document of the agent in his/her presence.

If the required data cannot be determined from the personal identification document, the missing data shall be obtained from other official document submitted by the agent or authorised person.

If an obligor doubts the accuracy of the obtained data when establishing and verifying the identity of an agent, he/she/it shall require agent's written statement.

### **Establishing and verifying the identity of an authorised person**

#### **Article 17**

If an authorised person establishes a business relationship on behalf of a customer that is a legal person, an obligor shall establish and verify the identity of an authorised person and obtain data from Article 71 item 2 of this Law by checking the personal identification document of an authorised person and in his/her presence. If the required data cannot be determined from the personal identification document, the missing data shall be obtained from other official document submitted by the authorised person.

An obligor shall obtain data from paragraph 1 of this Article on the agent on whose behalf the authorised person acts, from a certified written power of authorization, issued by the agent.

If the transaction from Article 9 paragraph 1 item 2 of this Law is executed by an authorised person on customer's behalf, an obligor shall verify the identity of the authorised person and obtain data from Article 71 item 3 of this Law on a customer that is a natural person, entrepreneurship or natural person, performing an activity.

If an obligor doubts the accuracy of the obtained data when establishing and verifying the identity of an agent, he/she/it shall obtain agent's written statement.

### **Special cases of establishing and verifying customer identity**

#### **Article 18**

The customer's identity, pursuant to Article 7 of this Law, shall be established, or verified particularly in the following cases:

1. when a customer enters the premises where special games of chance are organized;
2. on any approach of a lessee or his/her agent, or a person he/she has authorized, to the safe deposit box.

When establishing and verifying the customer's identity pursuant to paragraph 1 of this Article an organizer of games of chance or an obligor performing the activity of safekeeping shall obtain the data from Article 71 items 6 and 8 of this Law.

### **3. Establishing the beneficial owner**

#### **Beneficial Owner**

### **Article 19**

In the context of this Law the following shall be considered as a beneficial owner of a business organization or legal person:

1. a natural person who indirectly or directly owns more than 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than a 25% share of the capital or has a dominating influence in the assets management of the business organization, and
2. a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made.

Also, a business organization, legal person, as well as an institution or other foreign legal person that is directly or indirectly a holder of at least €500,000 of shares, or capital share, shall be considered a foreign owner.

As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered:

1. a natural person, that indirectly or directly controls more than 25% of a legal person's asset or of a similar foreign legal entity, and
2. a natural person, determined or determinable as a beneficiary of more than 25% of the income from property that he/she manages.

### **Establishment of a beneficial owner of a legal person or foreign legal entity**

#### **Article 20**

An obligor shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 71 item 15 of this Law.

An obligor shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date or obtain them on the basis of the CRCC or other public register in accordance with Article 14 paragraphs 3 and 5 of this Law.

If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, an obligor shall obtain the missing data from a written statement of an agent or authorised person.

Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer respecting risk-degree assessment.

#### **4. Obtaining data on the purpose and intended nature of a business relationship or transaction**

##### **Article 21**

Within the control of a customer from Article 9 paragraph 1 item 1 of this Law, an obligor shall obtain data from Article 71 items 1, 2, 4, 5, 7, 8 and 15 of this Law.

Within the control of a customer from Article 9 paragraph 1 item 2 of this Law, an obligor shall obtain data from Article 71 items 1, 2, 3, 4, 5, 9, 10, 11, 12 and 15 of this Law.

Within the control of a customer from Article 9 paragraph 1 items 3 and 4 of this Law, an obligor shall obtain data from Article 71 of this Law.

#### **5. Monitoring business activities**

##### **Article 22**

An obligor shall monitor customer's business activities, including the sources of funds the customer uses for business, in order to identify the customer more easily.

Monitoring business activities from paragraph 1 of this Article at an obligor shall particularly include the following:

1. verifying the compliance of customer's business with nature and purpose of contractual relationship;
2. monitoring and verifying the compliance of customer's business with usual scope of her/his affairs, and
3. monitoring and regular updating of documents and data on a customer, which includes conducting repeated annual control of a customer in the cases from Article 24 of this Law.

An obligor shall ensure and adjust the dynamics of undertaking measures from paragraph 1 of this Article to the risk of money laundering and terrorist financing, to which an obligor is exposed when performing certain work or when dealing with a customer.

#### **Repeated annual control of a foreign legal person**

##### **Article 23**

If a foreign legal person executes transactions from Article 9 paragraph 1 of this Law at an obligor, the obligor shall, in addition to monitoring business activities from Article 22 of this Law, conduct repeated annual control of a foreign legal person at least once a year, and not later than after the expiry of one year period since the last control of a customer.

By the way of exception to paragraph 1 of this Article an obligor shall, at least once a year, and not later than after the expiry of one year period since the last control of a

customer, also conduct repeated control when the customer executing transactions from Article 9 paragraph 1 of this Law is a legal person with a registered office in Montenegro, if the foreign capital share in that legal person is at least 25%.

Repeated annual control of a customer from paragraphs 1 and 2 of this Article shall include:

1. obtaining or verifying data on the company, address and registered office;
2. obtaining data on personal name and permanent and temporary residence of an agent;
3. obtaining data on a beneficial owner, and
4. obtaining a new power of authorization from Article 17 paragraph 2 of this Law.

If the business unit of a foreign legal person executes transactions from Article 9 paragraph 1 of this Law on behalf and for the account of a foreign legal person, an obligor, when conducting repeated control of a foreign legal person, in addition to data from paragraph 3 of this Article, shall also obtain:

1. data on the address and registered office of the business unit of a foreign legal person, and
2. data on personal name and permanent residence of the agent of the foreign legal person business unit .

An obligor shall obtain the data from paragraph 3 items 1, 2 and 3 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date, or by checking the CRCC or other appropriate public register. If the required data cannot be obtained by checking the documentation, the missing data shall be obtained from the original or certified copy of documents and other business files, forwarded by a legal person upon an obligor's request, or directly from a written statement of the agent of a legal person from paragraphs 1 and 2 of this Article.

By the way of exception to paragraphs 1, 2, 3, 4 and 5 of this Article an obligor shall conduct repeated control of a foreign person from Article 29 item 1 of this Law.

## **6. Special types of customer verification**

### **Article 24**

Special types of customer verification in the context of this Law shall be:

1. enhanced customer verification, and
2. simplified customer verification.

### **Enhanced customer verification**

#### **Article 25**

Enhanced customer verification, in addition to the identification from Article 7 of this Law, shall include additional measures in the following cases:

1. on entering into open account relationship with a bank or other similar credit institution, with registered office outside the EU or outside the states from the list;

2. on entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law with a customer that is a politically exposed person from Article 27 of this Law, and
3. when a customer is not present during the verification process of establishing and verifying the identity.

An obligor shall apply a measure or measures of enhanced customer verification from Articles 26, 27 or 28 of this Law in the cases when he/she/it estimates, that due to the nature of a business relationship, type and manner of transaction execution, business profile of a customer or other circumstances related to the customer, there is or there could be a risk of money laundering or terrorist financing.

### **Open accounts relationship of banks and credit institutions from third countries**

#### **Article 26**

When establishing an open account relationship with a bank or other similar credit institution that has a registered office outside the EU or outside the states from the list, an obligor shall carry out customer identification pursuant to Article 7 of this Law and obtain the following data:

1. issue date and validity of the license for providing banking services and the name and registered office of the competent state body that issued the license;
2. description of conducting internal procedures, related to detection and prevention of money laundering and terrorist financing, and in particular, customer verification procedures, determining beneficial owners, reporting data on suspicious transactions and customers to competent bodies, records keeping, internal control and other procedures, that a bank or other similar credit institution has established in relation to preventing and detecting money laundering and terrorist financing;
3. description of systemic organization in the area of detecting and preventing money laundering and terrorist financing, applied in a third country, where a bank or other similar credit institution has a registered office or where it has been registered;
4. a written statement, that a bank or other similar credit institution in the state where it has a registered office or where it has been registered, under legal supervision and that, in compliance with legislation of that state, it shall apply appropriate regulations in the area of detecting and preventing money laundering and terrorist financing;
5. a written statement that a bank or other similar credit institution does not operate as a shell bank, and
6. a written statement that a bank or other similar credit institution has not established or it does not establish business relationships or executes transactions with shell banks.

Employed with an obligor that concludes contracts from paragraph 1 of this Article shall conduct an enhanced customer verification procedure and obtain written consent of an obligor's person in charge, before concluding the contract.

An obligor shall obtain the data from paragraph 1 of this Article from public or other available data records, or by checking documents and business files provided by a bank or other similar credit institution with a registered office outside the EU and outside the states from the list.

## **Politically exposed persons**

### **Article 27**

A natural person that is acting or has been acting in the last year on a distinguished public position in a state, including his/her immediate family members and close associates, shall, in the context of this Law, be considered politically exposed person, as follows:

1. presidents of states, prime ministers, ministers and their deputies or assistants, heads of administration authority and authorities of local governance units, as well as their deputies or assistants and other officials;
2. elected representatives of legislative authorities;
3. holders of the highest juridical and constitutionally judicial office;
4. members of State Auditors Institution or supreme audit institutions and central banks councils;
5. consuls, ambassadors and high officers of armed forces, and
6. members of managing and supervisory bodies of enterprises with majority state ownership.

Marital or extra-marital partner and children born in a marital or extra-marital relationship and their marital or extra-marital partners, parents, brothers and sisters shall be deemed immediate family members of the person from paragraph 1 of this Article.

A natural person that has a common profit from the asset or established business relationship or other type of close business contacts shall be deemed a close assistant of the person from paragraph 1 of this Article.

Within enhanced customer verification from paragraph 1 of this Article, in addition to identification from Article 7 of this Law, an obligor shall:

1. obtain data on funds and asset sources, that are the subject of a business relationship or transaction, from personal or other documents submitted by a customer, and if the prescribed data cannot be obtained from the submitted documents, the data shall be obtained directly from a customer's written statement;
2. obtain a written consent of the person in charge before establishing business relationship with a customer, and
3. after establishing a business relationship, monitor with special attention transactions and other business activities carried out with an institution by a politically exposed person.

An obligor shall by an internal enactment, in accordance with the guidelines of a competent supervisory authority, determine the procedure of identifying a politically exposed person.

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

#### **Article 28**

If a customer is not present during establishing and verifying the identity, an obligor shall, within enhanced customer verification, in addition to the identification from Article 7 of this Law, undertake one or more additional measures, such as:

1. to obtain additional documents, data or information, on the basis of which he/she verifies customer identity, and
2. to verify submitted documents or obtain a certificate from a financial institution performing payment operations, that the first customer's payment has been made on the account opened with that institution.

### **Simplified customer verification**

#### **Article 29**

Unless there are reasonable grounds for suspicion of money laundering or terrorist financing in relation to a customer or transaction from Article 9 paragraph 1 items 1 and 2 of this Law, an obligor can conduct simplified verification of a customer that is:

1. the obligor from Article 4 paragraph 2 items 1, 2, 4, 5, 6, 8 and 9 of this Law or other appropriate institution that has a registered office in the EU or in a state from the list;
2. state body or local governance body and other legal persons exercising public powers;
3. an organization whose securities are included in the trade on the organized market in the EU member states or other states where the EU standards are applied on the stock markets, and
4. the customer from Article 8 paragraph 4 of this Law to whom an insignificant risk of money laundering or terrorist financing is related.

The list of the states from paragraph 1 of this Article shall be determined by the Ministry.

### **Obtaining and verifying customer data**

#### **Article 30**

Simplified customer verification from Article 29 of this Law shall include obtaining data when:

1. establishing a business relationship, the data on:
  - a company and the registered office of a legal person that establishes, or on whose behalf and for whose account a business relationship is being established;

- the personal name of an agent or authorized person that establishes a business relationship for a legal person, and
  - the purpose, nature and date of establishing a business relationship;
2. executing transactions from Article 9 paragraph 1 item 2 of this Law:
- company and the registered office of a legal person, on whose behalf and for whose account a transaction is being conducted;
  - the personal name of an agent or authorized person conducting a transaction for a legal person;
  - date and time of executing a transaction;
  - the amount of a transaction, currency and the manner of executing a transaction, and
  - the purpose of a transaction, personal name and permanent residence, or a company and registered office of a legal person whom the transaction is intended to.

An obligor shall obtain data from paragraph 1 of this Article by checking the originals or certified copies of the documentation from CRCC or other appropriate public register submitted by a customer or by direct check.

If the required data cannot be obtained in the manner from paragraph 2 of this Article, the missing data shall be obtained from the originals or certified copies of identification documents and other business files submitted by a customer, or from the written statement of an agent or authorised person.

Documentation from paragraphs 1, 2 and 3 of this Article may not be older than three months of its issue date.

### **Limitations for carrying on business with a customer**

#### **Article 31**

An obligor may not, for a customer, open, or keep an anonymous account, a coded or bearer passbook or provide other service (banking product) that can indirectly or directly enable the concealment of a customer identity.

### **Prohibition of carrying on business with shell banks**

#### **Article 32**

An obligor may not establish correspondent or open account relationship with a bank that operates or could operate as a shell bank or with other similar credit institution known for allowing shell banks to use its accounts.

## **7. Reporting obligation**

### **Article 33**

An obligor shall provide to the competent administration body data from Article 71 items 1, 2, 3, 4, 5, 9, 10, 11 and 12 on any transaction carried out in cash in the amount of €15,000 or more, immediately after, and not later than three working days since the day of execution of the transaction.

An obligor shall provide data from Article 71 of this Law to the competent administration body without delay when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction (regardless of the amount and type) or customer, before the execution of the transaction, and state the deadline within which the transaction is to be executed. The statement could also be provided via telephone, but it has to be sent to the competent administration body in a written form as well, not later than the following working day from the day of providing the statement.

The obligation from paragraph 2 of this Article shall refer to the reported transaction as well, regardless of whether it is executed later or not.

The manner and requirements of providing of data from paragraphs 1, 2 and 3 of this Article, and the terms under which an obligor can be absolved of the reporting obligation from paragraph 1 of this Article shall be more specifically defined by the Ministry.

## **8. Applying measures of detection and prevention of money laundering and terrorist financing in business units and companies with majority ownership in foreign states**

### **Article 34**

An obligor shall ensure that measures of detection and prevention of money laundering and terrorist financing, defined by this Law, are applied to the same extent both in business units or companies in majority ownership of the obligor, whose registered offices are in other state, if that is in compliance with the legal system of the concerned state.

If the regulations of a state do not prescribe the implementation of measures of detection and prevention of money laundering or terrorist financing to the same extent defined by this Law, an obligor shall immediately inform the competent administration body on that and undertake measures for removing money laundering or terrorist financing risk.

## **9. Designating an authorised person and his/her deputy**

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

### **Article 35**

Obligors that have more than three employees shall designate an authorised person and his/her deputy for the affairs of detecting and preventing money laundering and terrorist financing.

At obligors that have less than four employees the affairs of detecting and preventing money laundering and terrorist financing shall be performed by a director or other authorised person.

### **Requirements for an authorised person**

#### **Article 36**

The affairs of an authorized person from Article 35 of this Law can be performed by a person meeting the requirements determined by the general enactment on systematization of job positions, particularly including the following:

1. that he/she is permanently employed for carrying on affairs and tasks that are in accordance with the enactment on systematization organized in the manner ensuring fast, qualitative and timely performance of tasks defined by this Law and regulations passed on the basis of this Law;
2. that he/she has professional skills for performing affairs of preventing and detecting money laundering and terrorist financing and has professional competencies for obligor's operation in the areas where the risk of money laundering or terrorist financing exists, and
3. he/she has not been finally convicted of a crime act for which punishment of imprisonment longer than six months is provided for, and which makes him/her inadequate for performing affairs of prevention of money laundering and terrorist financing.

### **An authorised person's obligations**

#### **Article 37**

An authorized person from Article 35 of this Law shall perform the following affairs of:

1. taking care for establishing, functioning and developing the system of detecting and preventing money laundering and terrorist financing;
2. taking care for proper and timely data provision to the competent administration body;
3. initiating and participating in preparing and modifying operational procedures and preparing obligors' internal enactments related to the prevention and detection of money laundering and terrorist financing;
4. cooperating in preparation of guidelines for carrying out verifications related to the prevention of money laundering and terrorist financing;
5. monitoring and coordinating obligor's activity in the area of detecting and preventing money laundering and terrorist financing;
6. cooperating in establishing and developing information technology for carrying out activities of detecting and preventing money laundering and terrorist financing;

7. make initiatives and proposals to the competent administration body or managing or other body of an obligor for the improvement of the system for detecting and preventing money laundering and terrorist financing, and
8. preparing programs of professional training and improvement of the employed at obligors in the area of detecting and preventing money laundering and terrorist financing.

An authorised person shall be directly accountable to the administration or other managing or other obligor's body, and functionally and organizationally shall be separated from other organizational parts of an obligor.

In the case of his/her absence or inability to attend to his/her duties, the authorised person shall be substituted by the person determined by a general enactment of an obligor (deputy of the authorised person).

### **Working conditions for an authorised person**

#### **Article 38**

An obligor shall provide the authorised person particularly with the following:

1. functional connection of organizational parts with the authorised person and to regulate the manner of cooperation between organizational units and obligations and responsibilities of the employed;
2. appropriate competencies for efficient performance of tasks from Article 38 paragraph 1 of this Law;
3. appropriate material and other conditions for work;
4. appropriate spatial and technical options ensuring an appropriate degree of protecting confidential data and information he/she manages on the basis of this Law;
5. appropriate information-technical support enabling ongoing and reliable monitoring of the activities in the area of preventing money laundering and terrorist financing;
6. regular professional improvement in relation to detecting and preventing money laundering and terrorist financing, and
7. deputy during the absence from work.

Managing body in an organization shall provide the authorised person with assistance and support in performing the tasks defined by this Law and inform him/her on facts significant for detecting and preventing money laundering and terrorist financing.

An obligor shall provide the competent administration body with data on the personal name and name of the job position of the authorised person and the person that substitutes the authorised person in the case of his/her absence or inability to attend to his/her duties, as well as inform the competent administration body on any change in these data, without delay, and not later than within 15 days since the day of their change.

### **Professional training and improvement**

### **Article 39**

An obligor shall ensure regular professional training and improvement of employees performing affairs of detecting and preventing money laundering and terrorist financing.

An obligor shall prepare the program of professional training and improvement of persons from paragraph 1 of this Article not later than the end of the first quarter of a business year.

## **10. Internal control**

### **Article 40**

An obligor shall ensure regular internal control of performing affairs of detecting and preventing money laundering and terrorist financing.

The method of work of an authorised person, exercising internal control, keeping and protecting data, keeping records and the training of the employees at an obligor, lawyers, law offices and law firms (hereinafter: a lawyer), notaries, revision agencies, independent auditors or natural persons providing accounting or other similar services shall be specifically defined by the regulation of the Ministry.

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

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

#### **Article 41**

A lawyer or a notary shall, in compliance with this Law, implement the measures of detecting and preventing money laundering and terrorist financing, when:

1. he/she assists in planning and executing transactions for a customer related to:
  - purchase or sale of real estates or a business organization,
  - managing money, securities or other property of a customer;
  - opening and managing a banking account, savings deposit or the account for dealing with securities;
  - collection of funds for founding, dealing with or managing a business organization, and
  - founding, dealing with or managing an institution, fund, business organization or other similar organization form.
2. he/she executes a financial transaction or transaction concerning real estate on behalf and for a customer.

### **Customer verification**

#### **Article 42**

Within customer verification in the process of establishing the identity from Article 9 paragraph 1 items 1 and 2 of this Law, a lawyer or notary shall obtain data from Article 73 items 1, 2, 3, 4, 5, 6 and 11 of this Law.

Within customer verification in the process of establishing the identity from Article 9 paragraph 2 of this Law, a lawyer or notary shall obtain data from Article 73 items 1, 2, 3, 4, 7, 8, 9, 10 and 11 of this Law.

In the process of applying enhanced customer due diligence measures from Article 9 paragraph 1 items 3 and 4 of this Law a lawyer or notary shall obtain data from Article 73 items 12, 13 and 14 of this Law.

A lawyer or notary shall establish and verify the identity of a customer or his/her agent, or authorised person and obtain data from Article 73 items 1, 2 and 3 of this Law by checking the personal identification document of a customer in his/her presence, or the originals or certified copy of the documentation from the CRCC or other appropriate public register, that may not be older than three months of its issue date.

A lawyer or notary shall establish the beneficial owner of a customer that is a legal person or other similar forms of organizing foreign legal persons, obtaining data from Article 72 item 4 of this Law, by checking the originals or certified copy of the documentation from the CRCC or other public register, that may not be older than a month of its issue date. If the required data cannot be obtained from register, the missing data shall be obtained by checking the originals or certified copies of documents and other business documentation submitted by the agent of a legal person or other organizational form or its authorised person.

A lawyer or notary shall obtain the missing data from Article 73 of this Law by checking the originals or certified copies of documents and other business files.

If the required data cannot be obtained in the manner from paragraphs 1, 2, 3, 4, 5 and 6 of this Article, the missing data, otherwise than data from Article 73 items 12, 13 and 14 of this Law shall be obtained directly from the customer's written statement.

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

#### **Article 43**

If a lawyer or a notary, when performing affairs from Article 41 item 2 of this Law, establishes that there are reasonable grounds for suspicion of money laundering or terrorist financing related to a transaction or a customer, he/she shall inform the competent administration body before the execution of a transaction and in the report he/she shall state the deadline within which the transaction is to be executed. The information can be provided via telephone, but it must be sent in written form to the competent administration body not later than the following working day after the day of informing.

The obligation from paragraph 1 of this Article shall refer to planned transactions as well, regardless of whether the transaction has been executed later, or not.

If a lawyer, law office or notary in cases from items 1 and 2 of this Article cannot provide information due to the nature of transaction, due to the fact that it has not been executed or due to other justified reasons, he/she/it shall provide data to the competent administration body as soon as possible, or as soon as he/she/it finds out that there are reasonable grounds for suspicion of money laundering or terrorist financing and substantiate the reasons for not acting in the prescribed manner from paragraphs 1 and 2 of this Article.

When a customer asks for advice on money laundering or terrorist financing, a lawyer or notary shall inform the competent administration body without delay.

A lawyer, legal firm or notary shall provide data from Article 74 of this Law to the competent administration body in the manner defined by the regulation of the Ministry.

### **Exceptions**

#### **Article 44**

By the way of exception to Article 43 paragraphs 1 and 2 of this Law, a lawyer does not need to provide the competent administration body with data he/she obtained from a customer or data on a customer when establishing his/her legal position or representing in the proceedings conducted before court, which includes providing advice on its proposing or avoiding.

Upon the competent administration body's request for providing data from Article 49 paragraphs 1 and 2 of this Law, a lawyer shall, without delay, not later than 15 days after the day of receiving the request, in written form state the reasons for which he/she did not act in accordance with the request.

A lawyer does not need to report on cash transactions from Article 33 paragraph 1 of this Law, unless there are reasonable grounds for suspicion of money laundering or terrorist financing related to a transaction or a customer.

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

### **Applying the list of indicators**

#### **Article 45**

When establishing reasonable grounds for suspicion of money laundering or terrorist financing and other circumstances related to the suspicion, an obligor, lawyer or notary shall use list of indicators for identifying suspicious customers and transactions.

List of indicators from paragraph 1 of this Article shall be placed in the premises of obligors, lawyers or notaries.

## **Defining the list of indicators**

### **Article 46**

The list of indicators for identifying suspicious customers and transactions shall be defined by the Ministry on the professional basis prepared by the competent administration body in cooperation with other competent bodies.

## **V ADMINISTRATION BODY COMPETENCIES**

### **Affairs and tasks of the competent body**

#### **Article 47**

Administration affairs related to detecting and preventing money laundering and terrorist financing defined by this Law and other regulations shall be performed by the competent administration body.

Provision of data, information and documentation to the competent administration body from paragraph 1 of this Article shall be carried out without compensation in accordance with this Law.

### **Data provision upon request**

#### **Article 48**

The competent administration body, after estimating that there are reasonable grounds for suspicion of money laundering or terrorist financing, can request from an obligor to provide, in particular, the following data:

1. from the records on clients and transactions, kept on the basis of Article 70 of this Law;
2. on the state of funds and other property of a certain customer at an obligor;
3. on funds and asset turnover of a certain customer at an obligor;
4. on business relationships established with an obligor, and
5. information that an obligor has obtained or kept on the basis of law.

In the request from paragraph 1 of this Article the competent administration body shall state the data that are to be provided, legal basis, the purpose of data gathering and the deadline for their provision.

The competent administration body can also require the provision of data from paragraph 1 of this Article on the persons for whom it is possible to conclude that they have cooperated or participated in transactions or on the business of persons for whom there are reasonable grounds for suspicion of money laundering or terrorist financing.

Upon the request of the competent administration body in cases from paragraphs 1 and 2 of this Article, an obligor shall provide the documentation he/she/it keeps.

The competent administration body can require from an obligor to provide data, information and documentation related to performing affairs in accordance with this Law, as well as other necessary data for monitoring the fulfilment of obligations defined by this Law.

An obligor shall provide data, information and documentation from paragraphs 1, 2, 3, 4 and 5 of this Article to the competent administration body without delay, and not later than eight days since the day of receiving the request.

The competent administration body can, due to extensive documentation or other justified reasons, upon the reasoned request of an obligor, prolong the deadline from paragraph 2 of this Article or carry out data verification at an obligor.

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

#### **Article 49**

If the competent administration body estimates that there are reasonable grounds for suspicion of money laundering or terrorist financing, it can request from a lawyer or notary to provide data from Article 48 of this Law necessary for detecting money laundering or terrorist financing.

The competent administration body shall state in the request the data that are to be provided, legal basis, the purpose of data gathering and the deadline for their provision.

The competent administration body can require the provision of data from paragraph 1 of this Article on the persons for whom it is possible to conclude that they have cooperated or participated in transactions or on business of persons for whom there are reasonable grounds for suspicion of money laundering or terrorist financing.

The competent administration body can require a lawyer or notary to provide data, information and documentation related to performing affairs in accordance with this Law, as well as other necessary data for monitoring the fulfilment of obligations defined by this Law.

Considering terms and manners of providing data from paragraphs 1, 2, 3 and 4 of this Law provisions from Article 48 paragraphs 6 and 7 of this Law shall be applied.

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

#### **Article 50**

If the competent administration body estimates that there are reasonable grounds for suspicion of money laundering or terrorist financing, it can require state authorities or public powers holders to provide data, information and documentation necessary for detecting money laundering or terrorist financing.

The competent administration body shall state in the request the data that are to be provided, legal basis, the purpose of data gathering and the deadline for their provision.

The competent administration body can also require the provision of data from paragraph 1 of this Article on the persons for whom it is possible to conclude that they have cooperated or participated in transactions or on business of persons for whom there are reasonable grounds for suspicion of money laundering or terrorist financing.

State authorities and public powers holders shall provide the requested data, information and documentation to the competent administration body without delay, and not later than eight days after the day of receiving the request, or enable, without compensation, direct electronic access to data and information stated in the request.

### **A temporary suspension of transaction order**

#### **Article 51**

The competent administration body may temporarily suspend transaction by written order, within 72 hours, if it evaluates that there are reasonable grounds for suspicion of money laundering or terrorism financing, and is obliged, without delay, to notify competent bodies of it.

If due to the nature of transaction or manner of executing the transaction or other circumstances, under which the transaction has been carried out, refraining from the transaction execution is impossible, an order shall be done verbally, with exemption of paragraph 1 of this Article.

Person in charge of an obligor should make a note on receiving verbal order from the Paragraph 1 of this article.

The competent administration body shall, without delay, provide in written form previously given verbal order.

Upon received notification of suspension of transaction, competent authorities from paragraph 1 of this Article have to act urgently in accordance with their powers and within 72 hours from the beginning of suspension of transaction

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

#### **Article 52**

If the competent authority of the competent administration body, within 72 hours from the order on temporary suspension of transaction, evaluates that there is no reasonable suspicion on money laundering and terrorism financing, shall without delay inform the competent authorities and the obligor.

If the competent authority within 72 hours does not take measures from the Article 51 paragraph 5 of this Law, obligor shall immediately execute the transaction

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

### **Article 53**

The competent administration body shall request, in written form, from the obligor ongoing monitoring of customer's financial business, in relation to which there are reasonable grounds for suspicion of money laundering or terrorism financing, or other persons, for which may be concluded that he/she cooperated or participate in transactions or businesses activity to which are grounds for reasonable suspicion of money laundering or terrorism financing are related, and shall determine deadline within which is obliged to inform and to provide required data.

Obligor shall provide or inform the competent administration body on data from the paragraph 1 of this Article, before carrying out the transaction or concluding the business and in report shall state deadline estimation, within which the transaction or business should be done.

If due to the nature of transaction or business or due to other justified reasons obligor is not able to act as it is prescribed in paragraph 2 of this Article, he/she shall forward the data to the competent administration body as soon as he/she is able to do so, but not later than next working day from the day of carrying out the transaction or concluding the business activity. The organization shall explain in the report the reasons for not acting in accordance with the provisions of paragraph 2 of this Article.

Ongoing monitoring of transactions from paragraph 1 of this Article shall not be longer than 3 months and for reasonable grounds for suspicion of money laundering and terrorism financing it shall be prolonged not later than 3 months starting from the day of submitting the request from paragraph 1 of this Article.

### **Collecting data on the basis of the initiative**

#### **Article 54**

If in relation to transaction or a person there are grounds for suspicion of money laundering, the competent administration body may on the initiative that does not come from the obligor or supervision body, and comes from the Court, State Prosecutor, Police Directorate, Competent Tax Authority, Custom Directorate, Directorate for Anti Corruption Initiative and other competent authorities, shall initiate obtaining and analyzing data, information and documentation for the reasons of detecting and preventing money laundering and terrorism financing.

### **Notifying on suspicious transactions**

#### **Article 55**

If the competent administration body evaluates on the basis of data, information and documentation obtained in accordance with this Law, which in relation to certain transaction or certain person there are reasonable grounds for suspicion of money laundering or terrorist financing, and shall inform the competent authority in written form with necessary documentation about the reasons for suspicion.

In notification from paragraph 1 of this Article the competent administration body shall not state data on obligor and on person employed in the organization, that announced data unless there are reasonable grounds for suspicion that obligor or obligor's employee committed criminal act of money laundering or terrorist financing, or if those

data are necessary for establishing facts in criminal proceedings and if transferring those data are required, in written form, by Court.

### **Information on other criminal acts**

#### **Article 56**

If the Administration, on the basis of data, information and documentation, obtained in accordance with this Law, evaluates that in relation to transaction or a person there are grounds for suspicion of committing other criminal acts that are prosecuted on official duty, shall provide, in written form, information to the competent authority.

### **Information Feedback**

#### **Article 57**

After obtaining and analyzing data, information and documentation that are in relation to transactions or persons, for which there are reasonable grounds for suspicion of money laundering or terrorist financing or established facts, that may be connected with money laundering or terrorist financing, the competent administration body shall, in written form, give a notice to obligor or person that submitted the initiative, unless the competent administration body evaluates that notification may cause detrimental effects on the course and outcome of the proceeding.

### **International cooperation**

#### **Article 58**

Before submitting personal data to the foreign competent authority for prevention of money laundering and terrorist financing, the competent administration body shall carry out a verification if the foreign competent authority to which it shall forward required data, possess arranged system for personal data protection and that used data shall be used only for required purpose, unless it is otherwise provided by the international agreement. The competent administration body may conclude agreements on financial and intelligence data, information and documentation exchange with foreign countries competent authorities and international organizations in accordance with concluded international agreement.

### **Request to the competent authority of a foreign state for submitting data**

#### **Article 59**

The competent administration body may request, within its jurisdiction, from the competent authority of a foreign state data, information, and documentation necessary for detection and prevention of money laundering or terrorist financing.

The competent administration body may use data, information and documentation obtained in accordance with paragraph 1 of this Article, only for purposes provided for by this Law, without previous approval of the competent authority of the foreign state from which data are obtained, may not provide or discover it to another authority, legal or

natural person, or use it in purposes that are not in accordance to the conditions and limits established by commissioned competent authorities.

### **Providing data and information on the request of the competent authority of a foreign state**

#### **Article 60**

The competent administration body can provide data, information and documentation about persons or transactions if there are reasonable grounds for suspicion of money laundering or terrorist financing on a request of competent authority of foreign state for detection and prevention of money laundering and terrorist financing, under reciprocity conditions.

The competent administration body needs not to act in accordance to the request from the paragraph 1 of this Article if:

1. on the basis of the facts and circumstances, stated in the request, evaluates that there are not enough reasons for suspicion of money laundering or terrorist financing, and,
2. providing data should jeopardize or may jeopardize the course of criminal proceeding in Montenegro or otherwise could affect interests of the proceeding.

The competent administration body shall give information in written form to the competent authority which provided request, about reasons for rejecting and shall state the reasons for rejecting.

The competent administration body may determine conditions and data usage limits from the paragraph 1 of this Article.

### **Self initiative data provision to the competent authority of a foreign state**

#### **Article 61**

The competent administration body may self-initiatively provide data, information and documentation on a customer or transaction, for which there are reasonable grounds for suspicion of money laundering or terrorist financing, that are obtained or processed in accordance to the provisions of this Law, and may provide data to a foreign country competent authority, under reciprocity conditions.

The competent administration body, in process of self initiative data providing may prescribe conditions and limits under which a foreign competent authority for detection and prevention of money laundering or terrorism financing, may use data from paragraph 1 of this Article.

### **Temporary suspension of transaction on the initiative of the competent authority of foreign state**

#### **Article 62**

The competent administration body may, in accordance to this Law, under reciprocity conditions, and by reasoned written initiative of a foreign competent authority, by written order temporarily suspend transaction within 72 hours.

The competent administration body is obliged to inform competent authorities about the order from the paragraph 1 of this Article.

The competent administration body may reject initiative of the competent authority of foreign state from the paragraph 1 of this Article, if based on the facts and circumstances, that are mentioned in the initiative, evaluate that given reasons are not sufficient grounds for reasonable suspicion of money laundering and terrorism financing, and shall inform in written form the authority that submitted the initiative and give the reasons for its rejection.

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

#### **Article 63**

The competent administration body may, within its jurisdiction in detection and prevention money laundering and terrorist financing, submit written initiative to a foreign competent authority for temporary suspension of transaction, if evaluate that there are sufficient grounds for reasonable suspicion of money laundering or terrorist financing.

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

#### **Article 64**

The competent administration body shall have the following authorities:

1. to initiate changes and amendments to regulation related to prevention of money laundering and terrorist financing
2. to participate in consolidation of and to compile the list of indicators for identifying costumers and transactions for which there are grounds for suspicion of money laundering and terrorist financing and to submit it to persons that have duties determined by this Law;
3. To participate in training and professional improvement of authorized obligor's employees and competent state authorities.
4. to initiate publishing the list of countries that do not apply standards in the area of detection and prevention of money laundering;
5. to prepare and publish recommendation or guidelines for unique implementation of this Law and regulations enacted in accordance with this Law, at the obligors
6. To publish statistical data from the area of money laundering and terrorist financing, at least once a year and to notify the public, in an appropriate manner, on phenomenon of money laundering.

Competent administration body is obliged upon the request of the court or state prosecutor to provide available data, information and documentation from the register of transaction and persons that are necessary for the needs of case prosecution, except the information obtained on the basis of international cooperation and for which don't have approval of the competent authority of the foreign state.

### **Reporting to the Government**

### **Article 65**

The competent administration body shall submit a report to the Government on its work and status, at least once a year,

## **VI DUTIES OF THE STATE AUTHORITIES**

### **The administration body competent for custom affairs**

#### **Article 66**

The administration body competent for custom affairs shall provide data or enable electronic access, to the competent administration body, on each money, check, bearer securities, precious metals and precious stones transport across the state border, exceeding value or amount of 10.000 € or more, within 3 days from the date of transporting.

The administration body competent for custom affairs shall provide data, from paragraph 1 of this Law, to the competent administration body on transportation or attempt of money, check, bearer securities, precious metals and precious stones transportation, in value or amount lower than 10.000€, if in accordance with person there are reasons for suspicion of money laundering or terrorist financing.

### **Exchange and clearing-deposit society**

#### **Article 67**

Exchange and clearing – deposit societies shall, without delay, inform in written form the competent administration body, if during carrying out activities within the scope of its business, detect facts indicating possible connection with a money laundering or terrorist financing.

A legal persons from paragraph 1 of this article shall upon a request of the competent administration body, and in accordance with the Law, provide data, information or documentation that indicate possible connection with a money laundering or terrorist financing.

### **Courts, State Prosecutor and other state authorities**

#### **Article 68**

For the purpose of single record keeping on money laundering and terrorist financing the Competent court, State prosecutor and other state authorities shall provide data to the competent administration body about misdemeanor and criminal offences related to money laundering and terrorist financing.

The competent state authority, from paragraph 1 of this Article, shall provide, to the competent administration body, regularly and on the request, the following information:

1. date of filing criminal charge

2. personal name, date of birth and address or company name, registered office of the company and residence of reported person
3. nature of criminal offence and place, time and manner of carrying out the activity, which has elements of a criminal offence, and
4. previous criminal offence and place, time and manner carrying out the activity, which has elements of previous criminal offence.

State prosecutor and the Competent Courts shall, at least semi-annually, provide data, to the competent administration body, referring to:

1. personal name, date of birth and address or registered office of the company, address and residence of the reported person or the person that submitted the request for court protection within misdemeanor proceeding of the Law;
2. phase of the misdemeanor proceeding and final decree;
3. legal elements of the nature of criminal offence or misdemeanor
4. personal name, date of birth and address or company name, address and residence of the person for whom is ordered temporary request for the seizure of unlawfully acquired assets or temporary confiscation.
5. date of ordering and duration of the order on temporary request for the seizure of unlawfully acquired assets or temporary confiscation;
6. the amount of the assets or property value, referring to temporary request for the seizure of unlawfully acquired assets or temporary confiscation;
7. date of issuing the order on assets and money confiscation, and
8. the amount of confiscated assets or value of the seized property

### **Reporting on observations and measures taken**

#### **Article 69**

The Competent state authorities shall once a year, but not later than end of January of the current year for previous year, inform the competent administration body on its observation and measures taken referring to suspicious transactions on money laundering or terrorism financing, in accordance with this Law.

## **VII RECORDS, SAVING AND PROTECTING DATA**

### **70. Keeping records and contents**

#### **Obligor's record keeping**

Obligors shall:

1. keep records on customers, business relationships and transactions from article 9 of this law;
2. keep records from Article 33 of this Law.

#### **Contents of obligor's records**

#### **Article 71**

In records form Article 71 of this Law shall be kept and processed the following data:

1. name of the company, address, registered office of the company and personal identification number of the legal person, that establishes business relationship or executes transaction, or legal person for whom is established business relationship or executed transaction.
2. name, address of permanent residence or temporary residence, date and place of birth and tax ID number of a representative or an authorized person, that for a legal person or other juristic person conclude the business relationship or execute transaction, number, kind and name of the authority that issued the personal documents.
3. name, address of permanent residence or temporary residence, date and place of birth and tax ID number of an authorized person, which requires or executes transaction for a customer, and number, kind and name of the competent body that issued the personal documents;
4. name, address of permanent residence or temporary residence, date and place of birth and tax ID number of natural person or tax ID number of its representative, entrepreneur or natural person carrying out activities, and that establish business relationship or execute the transaction, or natural person, for which is established business relationship or executed transaction, and number, kind and name of the competent body that issued the personal documents;
5. name, address and personal identification number, if it is assigned, of an entrepreneur or natural person carrying out business activities;
6. name, address of permanent residence or temporary residence, date and place of birth of natural person entering the casino or accessing to the safe deposit box;
7. purpose and presumed nature of business relationship, including information on customer's businesses
8. date of establishing business connections or date and time of entering the casino or accessing to safe deposit box;
9. date and time of executing transaction ;
10. the amount of transaction and foreign currency of transaction that is executed;
11. the purpose of transaction and name and address of permanent residence or temporary residence, registered office of the company and residence of the person to which transaction is intended;
12. method of executing the transaction;
13. data on assets and income sources, that are or will be the subject of transaction or business relationship;
14. reasons for suspicion of money laundering;
15. name, address of permanent residence or temporary residence, date and place of birth of the beneficiary owner- legal person or in case from the Article 19 paragraph 2 item 2 of this Law, data on the category of the person, on whose behalf is establishing and operating of the legal person or similar foreign legal person and
16. name of other juristic person and personal name, address of permanent residence or temporary residence, date and place of birth and tax ID number.

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

#### **Article 72**

Lawyer or notary shall keep the following:

1. records on customers, business relationships and transactions from Article 7 of this Law, and
2. records on data from Article 43 paragraph 1 of this Law.

### **Contents of layer's or notary's records**

#### **Article 73**

In records form Article 73 of this Law shall be kept and processed the following data:

1. name, address of permanent residence, date and place of birth of the entrepreneur and natural person, carrying out the business, or company name and registered office of the company and address and personal identification number of legal person or entrepreneur to whom lawyer or notary provides legal services;
2. name, address of permanent residence, date and place of birth of the agent, that establishes business relationship or executes transaction for the person from item 1 of this Article;
3. name, address of permanent residence, date and place of birth of the agent, that executes transaction for person from item 1 of this Article,
4. data from Article 72, item 15 of this Law in relation to legal person to whom lawyer or notary provides legal services;
5. purpose and presumed nature of business relationship, including information on customer's business
6. date of concluding business relationship
7. date of executing transaction
8. the amount of transaction and foreign currency of transaction that is executed
9. purpose of transaction and personal name and permanent residence or company name and residence of the person, to whom the transaction is intended
10. method of executing the transaction
11. data on assets and income sources that are the subject of transaction or business relationship.
12. name, address of permanent residence or company name and residence of the person for which exists reasonable suspicion of money laundering and terrorist financing (amount, foreign currency or time period of executing transaction) and
13. data on transaction, for which there is reasonable ground for suspicion of money laundering or terrorist financing (amount, foreign currency or time period of executing transaction)
14. when there are reasonable grounds for suspicion of money laundering or terrorism financing.

### **Records kept by administrative body competent for custom services**

### **Article 74**

Administrative body competent for custom service shall keep the following records:

1. on reported and non reported transport of money, checks, securities, precious metals and precious stones across the state border, in amount and in value of 10.000€ or more, and
2. on transport or attempt of transport of money, checks, securities, precious metals and precious stones across the state border, in amount less than 10.000€, if there are reasons for suspicion of money laundering or terrorism financing.

### **Contents of the records of the administration body competent for customs services**

### **Article 75**

In records from Article 74 of this Law shall be kept and processed the following data:

1. name, address of permanent residence, date and place of birth and the nationality of the natural person, that transports or attempts to transport assets from Article 74 of this Law, across the state border.
2. company, address and the registered office of a legal person or personal name, address of permanent residence, nationality of the natural person, for whom the transport of assets from Article 74 of this Law across the state border is performed;
3. name, address of permanent residence and the nationality of the natural person, or company name, address and the registered office of the legal person to whom cash is provided;
4. the amount, currency and the type of cash transported across the state border;
5. source and purpose of using the cash transported across state border;
6. place, date and time of crossing or attempt of crossing the state border, and
7. reasons for suspicion of money laundering or terrorist financing

Additionally to data from paragraph 1 of this Article in the records from Article 74 item 2 of this Law, the data on whether the cash transfer has been reported to the administrative body competent for customs affairs shall also be kept.

### **Records kept by the competent administration body**

### **Article 76**

The competent administration body shall keep:

1. records on persons and transactions from Article 33 of this Law;
2. records on persons and transactions from Article 43 paragraph 1 of this Law;
3. records on received initiatives from Article 54 of this Law;
4. records on notifications and information from Article 55 and 56 of this Law;

5. records on international requests from Articles 59 and 60 of this Law, and
6. records on criminal acts and misdemeanors from Article 68 of this Law.

### **Content of the records kept by the competent administration body**

#### **Article 77**

In data records on persons and transactions from Article 33 of this Law data from Article 71 of this Law are kept and processed for the reasons of temporary suspension of transaction from Article 51 of this Law.

In data records on persons and transactions from Article 43 paragraph 1 of this Law data from Article 71 of this Law are kept and processed for temporary suspension of transaction.

In data records from Article 76 item 3 of this Law, the following data are kept and processed:

1. name, date and place of birth, address of permanent residence, or company name, address and registered office of the person for which there are reasons for suspicion of money laundering and terrorist financing;
2. data on transaction, for which there are reasons for suspicion of money laundering or terrorist financing (amount, currency, date or period of the transaction execution);
3. reasons for suspicion of money laundering or terrorist financing

In records from Article 76 item 4 of this Law, following data are kept and processed

1. name, date and place of birth, address of permanent residence or company name and registered office of the person for which the competent administrative body forwarded notification or information.
2. data on transaction, for which there are reasons for suspicion of money laundering or terrorist financing (amount, currency, date or period of the transaction execution)
3. data on previous punishing;
4. data on the authority that received the notification or information.

In records from Article 76 item 5 of this Law, following data are kept and processed:

1. name, date and place of birth, address of permanent residence, or company, address and registered office of the person the request refers to.
2. the name of the state and requested authority, or of the authority that issued the request.

In records from Article 76 item 6 of this Law the following data are kept and processed:

1. name, date and place of birth, address of permanent residence, or company, address and registered office of the person for which data are provided out of the country;
2. the name of the state and name of the authority data are delivered to.

### **Content of the records on non-residents**

#### **Article 78**

In data records from the Article 78 of this Law shall not be recorded data on personal identity number, tax ID number, for non residents, unless otherwise provided by this Law

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

#### **Article 79**

Obligor, lawyer or notary shall keep separate records on access of supervision bodies from Article 86 of this Law, to data, information and documentation from Article 80 of this Law.

In data records from paragraph 1 of this Article the following data are recorded:

1. name of the supervision body;
2. name of the authorized official, that checked data,
3. date and time of checking data

Obligor, lawyer or notary shall inform the competent authority, not later than 3 days from completed check, on any accession of supervision bodies, from Article 86 of this Law, to data from paragraph 1 of this Article.

## **2. Data protection**

### **Prohibition of giving information**

#### **Article 80**

Obligors and obligor's employees, members of authorized, supervising or managing bodies, or other persons, to which were available data from Article 71 of this Law, shall not reveal to a customer or third person:

1. that data, information or documentation on the customer or the transaction, from Article 33 paragraph 2, 3 and 4, Article 43 paragraph 1, Article 48 paragraph 1, 2 and 3, Article 49 paragraph 1 and 2 of this Law, are forwarded to the competent administration body ;
2. that the competent administration body on the basis of Article 51 of this Law, temporarily suspended transaction or in accordance with that gave instructions to the obligor;
3. that the competent administration body on the basis of Article 53 of this Law demanded regular supervision of customer's financial business;
4. that against customer or third party is initiated or should be initiated investigation for the suspicion of money laundering or terrorist financing.

The information about the facts from paragraph 1 of this Article and notification on suspicious transactions or information about other offences from Articles 55 and 56 of this Law, are the official secret and designated as such, in accordance with Law.

On removing the official secret designation, from paragraph 2 of this Article shall decide the authorized person of the administration.

Prohibition of giving information from paragraph 1 of this Article shall not be applied on:

1. data, information and documentation, that are , in accordance with this Law obtained and kept by obligor, and necessary for establishing facts in criminal proceedings, and if submitting those data in written form is required or ordered by the Competent court, and
2. data from item 1 of this Article, if it is demanded by supervision body from Article 86 of this Law for the reasons of carrying out the provisions of this Law and regulations passed on the basis of this Law.

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

#### **Article 81**

During the process of providing data, information and documentation to the administration, in accordance with this Law, the obligation to protect business secrecy, bank secrecy, professional and official secrecy shall not apply to obligors, an organization with public authorization, state bodies, courts, lawyers or notaries and their employees.

Obligor, lawyer or notary and their employees shall not be liable for damage caused to their customers or third persons, if they are in accordance to this Law :

1. providing data, information and documentation on their customers, to the competent administration body
2. obtaining and processing data , information and documentation on their customers
3. carrying out the administration's order on temporary suspension of transaction, and
4. carrying out the administration's request on regular monitoring of customer's financial businesses

Obligor's employees, lawyers or notaries shall not be disciplinary or criminally liable for breach of obligation of keeping data secrecy, if:

1. they are providing data, information and documentation to the competent administration body, and in accordance to provisions of this Law
2. they are processing data, information and documentation, obtained in accordance to this Law, for the evaluation of customer and transaction, for which there are reasons for suspicion of money laundering and terrorism financing.

### **Usage of received data**

#### **Article 82**

The competent administration body, state bodies and barriers of public authorities, obligors or notaries and their employees are obliged to use data, information and documentation which they have received; only for the purposes they are provided for.

### **Keeping records**

#### **Article 83**

Obligor shall keep records provided on the basis of Articles 9,14,15,16,17,18,19,20,21,22,23,26,27 and 30 of this Law and related documentation ten years after the termination of business relationship, executed transaction, entrance of the customer into room where special games on chance are organized or access to the safe deposit box.

Obligor shall keep data and supporting documents on authorized person and its deputy, professional trainings of employees and applying measures of internal control from Articles 35, 39 and 40 of this Law, for four years from dismissal of the authorized person and its deputy, or from completing professional training and internal control.

Lawyer or notary shall keep data and supporting documents on professional training of employees for four years after the training has been carried out.

### **Record keeping at the competent administration for custom services**

#### **Article 84**

The competent administration for custom services shall keep data, from records from Article 75 of this Law, for 11 years from date of obtaining data and after the expiration date will be destroyed.

### **Record keeping in competent administration body**

#### **Article 85**

The competent administration body shall keep data and information from records, kept in accordance to the provisions of this Law, for 11 years from date of obtaining and after expiration date will be destroyed.

The competent administration body shall not inform a person on information and data that it posses and which refers to that person, before the expiration of 10 years from the date of obtaining data.

The person referred to in paragraph 2 of this Article shall have the right to check its personal data after the expiration of 10 years from the date of obtaining data.

## **VIII Supervision**

#### **Article 86**

Supervision of implementation of this Law and regulations passed on the basis of this Law, within established jurisdiction, is carried out by:

1. The Central bank of Montenegro in relation to obligors from Article 4 paragraph 1 items 1, 2, 3,10 and 13;
2. The Agency for Telecommunication and Postal Services in relation to obligors from Article 4 paragraph 1 item 4;
3. The Securities Commission in relation to obligors from Article 4 paragraph 1 items 5,6 and 7;
4. The Insurance Agency in relation to obligors from Article 4 paragraph 1 item 8;

5. The administration body competent for game of chance, through authorized official in accordance with the Law that defines inspection control in relation to obligors from Article 4 paragraph 1 item 9;
6. The Tax authority in relation to obligors from Article 4 paragraph 1 item 11;
7. The Ministry competent for financial affairs in relation to obligors, from Article 4 paragraph 1 item 12, and
8. The administration body competent for prevention of money laundering and terrorist financing through authorized official, in accordance with the Law that defines inspection control in relation to obligors from Article 4 paragraph 1 items 14 and 15.

#### **Article 87**

If an authorized official of the competent administration body for prevention of money laundering and terrorist financing, in procedure of inspection control of the obligor, discover reasonable grounds for suspicion of committing criminal offence of money laundering or terrorist financing, or another criminal offence from Article 56 of this Law, can take documentation from obligor and deliver it to the competent administration body

#### **Article 88**

If the competent administration body for prevention of money laundering and terrorist financing, in the procedure of processing the case, discover reasonable grounds for suspicion of committing criminal offence from Article 56 of this Law, shall provide data, information and other documentation, which implies criminal offence, to other competent bodies.

#### **Article 89**

Bodies from Article 86 of this law shall inform the competent administration body on measures taken in process of supervising in accordance with this Law, and within 8 days from the date on which the measures were taken.  
The competent administration body keeps records on measures and bodies from paragraph 1 of this Article.

#### **Article 90**

On submitted request on commencing misdemeanor's procedure for the reasons of acting contrary to the propositions of this Law, the competent administrative body shall inform competent supervising body or The Bar Association in case when the request has been submitted against the lawyer.

## **IX Misdemeanor procedure**

### **Article 91**

Actions of first instance misdemeanor procedure, within jurisdiction of competent administration body, performs authorized official for proceeding misdemeanor procedure, in accordance with Law.

## **X Penalty provisions**

### **Article 92**

A legal person will be punished for misdemeanor with cash penalty in amount ranging from fifty-fold to tree hundred –fold from the minimum monthly wages in Montenegro if:

1. doesn't draft risk analysis or does not determine risk evaluation of a group or kind of a client, business relationship, transaction or product (Article 8);
2. does not conduct client verification (Article 9 paragraph 1, 2 and 3 and Article 14 paragraph 3);
3. make business relationship with a customer, and previously does not carry out defined measures (Article 11 paragraph 1)
4. does not execute the transaction without carrying out defined measures (Article 12);
5. does not establish and verify legal person's identity or its legal representative, entrepreneur or natural person that is carrying out activities, legal person, agent of legal person , authorized person and beneficiary owner of the legal person or other foreign legal person , or does not obtain prescribed data or does not provide them in prescribed manner or does not provide it as it is prescribed or does not provide verified written copy of approval for representing ( Articles 14,15,16,17 and 20);
6. does not establish and verify costumer identity by usage of the qualified certificate in improper way (Article 14 paragraph 5);
7. does not establish and verify customer's identity during its entrance in rooms for special games of chance or during each customer's approach to the safe deposit box or does not provide prescribed data or does not obtain it as it is prescribed (article 19);
8. does not obtained data on purpose or planed nature of the business relationship or transaction, or does not obtain all required data(Article 21);
9. does not carry out prescribed measures of identification or does not additionally obtain data, information and documentation in process of establishing open account relationship with the bank or other similar credit organization with address out of the EU or out of the states from the list, in accordance with Article 26 paragraph 1 or does not obtain them in a prescribed manner(Article 26 paragraphs 1 and 3);
10. during establishing business relationship or executing the transaction for costumer, that is politically exposed person , does not obtain data on funds

- sources, that are or will be the subject of business relationship or transaction, or does not obtain them in prescribed manner(Article27 paragraph 4 item 1);
11. within enhanced customer verification, where customer has not been present for establishing and verifying his/her identity, including measures from Article 7, does not apply one or more additional measures from Article 28 of this Law;
  12. make a simplified customer verification despite the fact that in relation to the customer or transaction there are open account relationships with bank or other similar credit institution with address out of the EU or out of the states from the list and obligor does not act in accordance with Article 26 paragraph 2 of this Law (Article 29);
  13. within simplified customer verification does not obtain prescribed data, on customer, in the prescribed manner (Article30);
  14. opens, issues or keeps for them anonymous accounts, coded passbooks or passbooks on bearer , or carries out other services (banking products) that directly or indirectly enables hiding customer identity (Article 31);
  15. establish business extends correspondent or open account relationships with bank , that have or could have business as shell bank or with other similar credit organization that is known as bank that allows to the shell banks to use its accounts (Article 32);
  16. does not provide prescribed data to the competent administration body, within deadline determined by the Law, when there is reasonable suspicion of money laundering or terrorist financing in relation to the transaction or announced transaction or customer (Article 33 paragraphs 2 and 3);
  17. does not provide, within deadline and in the prescribed manner established by the Law, to the competent administration body required data, information and documentation, when in relation to the transaction or a person there is reasonable suspicion of money laundering or terrorist financing(Article 48);
  18. acts contrary to the provisions of Article 51 and 62 paragraph 1 of this Law;
  19. does not act in relation to the request of the competent administration on current monitoring of financial business activities of certain customer (Article 53 paragraph 1, 2 and 3).

The person in charge of a legal entity and natural person shall be punished by fine in the amount from five-fold to twenty -fold minimum wages in Montenegro for committing misdemeanor from paragraph 1 of this Article.

An entrepreneur shall be punished by fine in the amount from ten-fold to fifty-fold minimum monthly wages in Montenegro for committing misdemeanor from paragraph 1 of this Article.

### **Article 93**

A legal person shall be punished by fine in amount from fifty-fold to two hundred fold minimum monthly wages for misdemeanor, if :

1. does not carry out customer identification (Article7);
2. in its internal acts does not define procedures of carrying out measures from Article7 of this Law;
3. does not require a written statement from customer, agent, authorized person or other foreign person's agent (Article 14 paragraph 6, Article 15 paragraph 5, Article16 paragraph 2 and Article 17 paragraph 4);
4. does not monitor customer's business activities (Article 22 paragraph 1);
5. does not carry out revised annual control of the foreign legal person or does not obtain prescribed data or does not obtain data in prescribed manner (Article 23);
6. in the process of establishment the open account relationship with bank or other similar credit institution with address out of the EU or out of the states from the list does not obtain all necessary data, information and documentation in accordance with Article 26 paragraph 1 (Article 26);
7. after establishing business relationship with customer, politically exposed person, does not monitor transactions with a special attention and other business activities that customer carries out with those organizations (Article 27 paragraph 4 item3);
8. in internal acts does not define procedures of politically exposed persons identification (Article 27 paragraph 5);
9. establish business relationship in client's absence contrary to the provisions of Article 28 of this Law;
10. does not provide to the competent administration body, within deadline established by the Law, prescribed data on transaction , that is executed in cash and exceed €15.000 (Article 33 paragraph 1);
11. does not secure carrying out measures of detecting and prevention of money laundering and terrorist financing, defined by this Law, in its business units or

- majority holding company , which have residence in a foreign country (Article 34 paragraph 1);
12. does not determine authorized person and its deputy, for carrying out business and tasks of detecting and preventing money laundering and terrorist financing (Article 35 paragraph 1);
  13. does not secure relevant conditions to the authorized person, from Article 38 of this Law;
  14. does not keep records and documentation in accordance with Article 83 of this Law;

The person in charge of a legal entity and a natural person shall be punished by fine in the amount from five-fold to ten-fold minimum monthly wages in Montenegro for committing misdemeanor from paragraph 1 of this Article.

An entrepreneur shall be punished by fine in the amount from ten-fold to twenty-fold minimum monthly wage in Montenegro for committing misdemeanor from paragraph 1 of this Article.

#### **Article 94**

A legal person shall be punished by fine in amount from twenty-fold to one hundred fold minimum monthly wages in Montenegro for committing misdemeanor, if

1. he/she does not monitor customer business activities in accordance with Article 22 paragraph 2;
2. he/she does not inform the competent authorized body and does not take proper measures for eliminating risks of money laundering or terrorist financing (Article 34 item2);
3. he/she does not provide that activities of an authorized person carries out person that fulfils prescribed conditions (Article 36);
4. he/she does not deliver, to the competent authority within prescribed deadline , data on personal name and working position of the authorized person and its deputy and information on any change of those data (Article 38 paragraph 3);
5. he/she does not provide regular professional training and advanced training for employees, that carry out activities of detecting and preventing money

laundering and terrorist financing in accordance with this Law (Article 39 paragraph 1);

6. he/she does not prepare program for regular professional training and advanced training for detecting and preventing money laundering and terrorist financing, within prescribed deadline (Article 39 paragraph 2);
7. he/she does not provide regular internal control of carrying out activities for detecting and preventing money laundering and terrorist financing in accordance with this Law (Article 40);
8. he/she does not use the indicator list from Article 45 paragraph 1, when there are reasonable grounds for suspicion of money laundering and terrorist financing and other related circumstances;
9. he/she does not keep records and documentation on agent and its deputy, advanced training of employees and carrying out measures of internal control from Articles 35, 39 and 40 of this Law, four years from discharging authorized representative and its deputy, carrying out advanced training and internal control (Article 83 paragraph 2).

The person in charge of a legal entity and a natural person shall be punished by fine in the amount from four-fold to ten – fold minimum monthly wages in Montenegro for committing misdemeanor from paragraph 1 of this Article.

An entrepreneur shall be punished by fine in the amount from ten-fold to fifteen -fold minimum monthly wages in Montenegro for committing misdemeanor from paragraph 1 of this Article

#### **Article 95**

The person registered for qualified electronic certificate shall be punished by fine in the amount from sixty-fold to tree hundred – fold minimum monthly wages in Montenegro for committing misdemeanor from paragraph 1 of this Article, if on obligor's request does not provide a copy of personal documents and other documents , on which basis is identified and verified costumer's identity (Article 14 paragraph 4)

The person in charge of the person registered for the qualified electronic certificate shall be punished by fine in the amount from five-fold to ten – fold minimum monthly wages in Montenegro for committing misdemeanor from paragraph 1 of this Article.

#### **Article 96**

A legal person shall be punished by fine in amount from sixty-fold to tree hundred fold minimum monthly wages in Montenegro for misdemeanor, if

1. he/she does not obtain data on purpose or planed nature of the business relationship or transaction, or does not provide all required data (Article 21);

2. he/she within costumer verification, does not provide all prescribed data in accordance with this Law (Article 42 paragraph 1, 2 and 3 of this Law);
3. he/she does not identify and verify costumer or its agent, authorized person or if does not obtain prescribed data in prescribed manner (Article 42 paragraph 4, 6 and 7);
4. he/she does not provide, within prescribed deadline and in a prescribed manner, to the competent administration body prescribed data related to transaction or intended transaction or certain person for which there are reasonable grounds for suspicion of money laundering and terrorist financing (Article 43 paragraph 1, 2 and 3);
5. he/she does not inform the competent administration body that costumer asked for advice for money laundering and terrorist financing (Article 43 paragraph 4);
6. he/she does not inform the competent administration body on cash transaction from Article 33 paragraph 1 of this Law, when in relation to the transaction or costumer there are reasonable grounds for suspicion of money laundering or terrorist financing (Article 44 paragraph 3);
7. he/she does not appoint authorized person or its agent for fulfillment of certain tasks of detecting and preventing money laundering or terrorist financing, provided by this Law and regulations passed on the basis of this Law (Article 35 in relation to Article 41 paragraph 1);
8. he/she does provide to authorized person appropriate authorization, conditions and help for carrying out its activities and tasks (Article 38 paragraph 1 and 2 in relation to Article 41 paragraph 1);
9. he/she does not identify a beneficiary owner of a costumer that is legal person or other similar forms of organizing legal persons, or does not obtain prescribed data or does not obtain it in the prescribed manner (Article 42 paragraph 5 and 7);
10. he/she does not provide, within prescribed deadline and in a proper manner, to the competent administration body data, information and documentation from Article 49 paragraph 4 of this Law;
11. he/she does not provide that activities of authorized person and its deputy carries out authorized person that fulfils prescribed conditions (Article 36 in relation to Article 41 paragraph 1);
12. he/she does not provide, to the competent authority, data on personal name and working position of the authorized person and its deputy and information on any change of those data (Article 38 paragraph 3 in relation to Article 41 paragraph 1);

13. he/she does not provide regular professional training and advanced training for employees, that carry out activities of detecting and preventing money laundering and terrorist financing in accordance with this Law (Article 39 paragraph 1 in relation to Article 41 paragraph 1);
14. he/she does not prepare program for regular professional training and advanced training for detecting and preventing money laundering and terrorist financing within prescribed deadline (Article 39 paragraph 2 in relation to Article 41 paragraph 1);
15. he/she does not provide regular internal control on carrying out activities for detecting and preventing money laundering and terrorist financing in accordance with this Law (Article 40 in relation to Article 41 paragraph 1);
16. he/she does not provide to the competent administrative body reasons for not acting in accordance with its request or does not provide it within prescribed deadline (Article 44 paragraph 2);
17. he/she does not use the indicator list, from Article 45 paragraph 1, in establishing reasonable suspicion of money laundering and terrorist financing and other related circumstances;
18. he/she does not keep records, provided on the basis of Article 42 paragraph 1 of this Law, and related documentation within 10 years after identifying and verifying customer's identity (Article 83 paragraph 3);
19. he/she does not keep records on employees advanced training, within 4 years after finishing the training (Article 83 paragraph 4).

## **XI. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 97**

The regulations for implementation of this Law shall be passed within six months as of the entering into force of this Law.

Until enacting regulations from paragraph 1 of this Article, regulations enacted on the basis of the Law on the Prevention of Money Laundering ("Official Gazette of the Republic of Montenegro", No. 55/03, 58/03 and 17/05) shall be implemented, unless in defiance of this Law.

### **Article 98**

Obligors shall harmonize its business activities with the provisions of this Law within six months as of the entering into force of the regulations from Article 97 of this Law.

### **Article 99**

Procedures started in accordance with the Law on the Prevention of Money Laundering ("Official Gazette of the Republic of Montenegro", No. 55/03, 58/03 and 17/05) shall be

continued in accordance with the provisions of this Law , if it is more favorable for party in misdemeanor procedure.

#### **Article 100**

On the effective date of this Law shall cease to exist the Law on the Prevention of Money Laundering and terrorist financing (“Official Gazette of the Republic of Montenegro”, No. 55/03, 58/03 and 17/05).

#### **Article 101**

This Law shall come into effect eight days upon publishing in the “Official Gazette of Montenegro”.