

**A c t N o 2 5 3 / 2 0 0 8 S b .**

of 5 June 2008

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

*as amended by:*

- *Act No. 227/2009 Sb., amending selected acts in relation to the adoption of the Act on Central Registers (in effect as of 1 July 2010),*
- *Act No. 281/2009 Sb., amending selected acts in relation to the adoption of the Rules of Tax Procedure (in effect as of 1 January 2011),*
- *Act No. 285/2009 Sb., amending selected acts in relation to the adoption of the Act on Payment System (in effect as of 1 November 2009),*
- *Act No. 199/2010 Sb., amending the Act No. 586/1992 Sb., Income Tax Code, as amended, and Act No. 218/2000 Sb., on Budgetary Rules and on amendments of some related acts (budgetary rules), as amended, and selected other acts (in effect as of 1 January 2011),*
- *Act No. 139/2011 Sb., amending the Act No. 284/2009 Sb., on Payment System, as amended by Act No. 156/2010 Coll. and selected other acts (in effect as of 28 May 2011),*
- *Act No. 420/2011 Sb., amending selected acts related the Act on Criminal Liability of Legal Persons and respective Proceedings (in effect as of 1 January 2012),*
- *Act No. 428/2011 Sb., amending selected acts related to the Act on Retirement Savings and Act on Supplementary Pension Savings (in effect as of 1 January 2013),*
- *Act No. 457/2011 Sb., amending selected acts related to the Act on the Tax Administration of the Czech Republic (in effect as of 1 January 2013),*
- *Act No. 18/2012 Sb., amending selected acts related to the Act on Customs Administration of the Czech Republic (in effect as of 1 January 2013),*
- *Act No. 377/2012 Sb., amending the Act No. 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing Terrorism, as amended (in effect as of 1 January 2013),*
- *Act No. 399/2012 Sb., on amendment of acts related to the adoption of the Act on Premium on Retirement Savings (in effect as of 1 January 2013),*
- *Act No. 241/2013 Sb., amending selected acts related to the Act on Investment Companies and Investment Funds and to the adoption of directly applicable European Union legislation laying down the settlement of selected derivatives (in effect as of 19 August 2013),*
- *Act No. 303/2013 Sb., amending selected acts related to the civil law recodification (in effect as of 1 January 2014),*

- *Act No. 257/2014 Sb., amending the Act No. 383/2012 Sb., on Conditions of Trading with Greenhouse Gas Allowances and selected other Acts (in effect as of 1 January 2015),*
- *Act No. 166/2015 Sb., amending the Act No. 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism, as amended (in effect as of 1 October 2015),*
- *Act No. 377/2015 Sb., amending selected acts related to the Act on Termination of Pension Savings (in effect as of 1 January 2017),*
- *Act No. 188/2016 Sb., amending selected acts related to the Act on Gambling and Act on Gambling Tax (in effect as of 1 January 2017),*
- *Act No. 243/2016 Sb., amending selected acts related to the Customs Act (in effect as of 29 July 2016),*
- *Act No. 368/2016 Sb., amending the Act No. 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism, as amended and other related acts (in effect as of 1 January 2017),*
- *Act No. 183/2017 Sb., amending selected acts related to the Act on Liability for Offences and Proceedings and the Act on Selected Offences (in effect as of 1 July 2017),*
- *Act No. 371/2017 Sb., amending selected acts related to the Act on Payment System (in effect as of 13 January 2018),*
- *Act No. 94/2018 Sb., amending the Act No. 280/2009, Sb., the Tax Code (in effect as of 5 June 2018) and*
- *Act No. 111/2019 Sb., amending selected acts related to the Act on Processing of Personal Data (in effect as of 24 April 2019).*
- *Act No. 49/2020 Sb. amending Act No. 21/1992 Sb., on Banks, as amended, and Act No. 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism, as amended, and other related acts (in effect as of 1 January 2021).*
- *Act No. 527/2020 Sb. amending Act No. 253/2008 Sb., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism, as amended, and other related acts, acts related to the adoption of Act on registration of beneficial Owners and Act No. 186/2016 Sb., on Gambling, as amended.*

*As amended from 1 August 2021*

The Parliament has adopted the following Act of the Czech Republic.

## PART ONE

### **INTRODUCTORY PROVISIONS (Sections 1 – 6)**

#### Section 1

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

This Act incorporates the applicable legislation of the European Union<sup>1)</sup>, while following the directly applicable legislation of the European Union<sup>2)</sup>, and regulates the following:

- a) selected measures against legitimisation of proceeds of crime and financing of terrorism,
- b) selected rights and responsibilities of natural and legal persons in enforcement of measures against legitimisation of proceeds of crime and financing of terrorism,

all the above to prevent the abuse of the financial system to legitimise proceeds of crime and finance terrorism as well as to create conditions necessary for detection of such conduct.

#### Section 2

##### **Obligated Entities**

(1) For the purposes of this Act, an obliged entity means:

- a) a credit institution which means:
  - 1. a bank,
  - 2. a savings and credit cooperative,
- b) a financial institution, which is, unless it is a credit institution, the following:
  - 1. a central securities depository, person maintaining a register linked to the central register of book-entry securities maintained by the central securities depository, person maintaining a separate register of financial instruments, person maintaining a register linked to a separate register of financial instruments<sup>4)</sup>,
  - 2. market operator for financial instruments,
  - 3. person authorised to provide investment services<sup>5)</sup>,
  - 4. person authorised to manage an investment fund and/or foreign investment fund, legal person managing property similarly to administering an investment fund and a pension establishment,
  - 5. a person authorised to provide payment services or to issue electronic money<sup>3)</sup>,
  - 6. a person authorised to provide or trade in leasing, guarantees, credit or monetary loans,
  - 7. a person authorised to broker savings, leasing, credit, or monetary loans,
  - 8. an insurance or re-insurance company, insurance intermediary and an insurance settlement intermediary performing activities related to life insurance<sup>7)</sup>,
  - 9. a person who buys or trades in debt or liabilities,

10. a person authorised to perform foreign currency exchange pursuant to the Act on Currency Exchange,
  11. a person not listed in subparagraphs 1. to 10., authorised to carry out or broker postal services to transfer funds,
  12. a person authorised to provide private sector consultancy services in matters related to capital structure, business strategies, mergers and acquisitions<sup>9)</sup>,
  13. a person providing services of money broking,
  14. a person providing services of safekeeping of valuables or rental of safe boxes,
- c) gambling operator pursuant to the Act on Gambling with the exception of a person operating cash prize, in-kind prize, instant win and/or numerical lottery, bingo or raffle,
- d) a person
1. who buys or sells real estate,
  2. who is a real estate broker; in respect of brokerage of a real estate agreement pursuant to section 2 (d) 2. of the Real Estate Brokerage, should this concern rental, sublet or lease this applies solely to those contracts, the terms of which stipulate monthly payments of rent or respective profit from lease calculated per month at EUR 10,000 or more,
  3. who is an auctioneer pursuant to the Act on Public Auctions and engages in real estate auctions,
- e) a person authorised to act as an auditor pursuant to the Act on Auditors (hereinafter only the “auditor“), person authorised to provide legal services or financial and economic consultancy related to taxes, fees and duties as well as in matters directly related to such taxes, fees, and duties pursuant to the Act on Tax Consultancy (hereinafter only the “tax advisor“), another person providing legal services or financial and economic consultancy related to taxes, fees and duties, as well as in matters directly related to such taxes, fees, and duties who is authorised to do so pursuant to another legal regulation<sup>26)</sup> and a person authorised to provide services of an accountant and a book keeper pursuant to the Entrepreneurial Act,
- f) a court appointed distrainor performing other activities of a distrainor pursuant to the Code of Claims Enforcement Procedure as well as safekeeping of money, securities, or other assets,
- g) a public notary providing notarised safekeeping services<sup>8)</sup>, and a person authorised to provide services of a legal attorney pursuant to the Act on Attorney Practice (hereinafter only the “attorney“) or a public notary safekeeping money, securities, or other customer’s assets or an attorney or a public notary acting on behalf of or for their customer in respect of:
1. buying or selling immovables, business entities<sup>9)</sup> or their parts,
  2. managing customer assets, such as money, securities, business stakes, or other assets, including acting on behalf of or for the customer in relation to establishing and managing bank accounts in a credit institution or a foreign credit institution, or establishing or managing securities accounts,
  3. establishing, managing, or operating a business entity, business group, or any other similar business entity as a legal person or legal arrangement as well as

raising and collecting financial or other assets value of which can be expressed in financial terms for the purpose of establishing, managing, or controlling such entity, group or corporation, or

4. establishing or managing a trust or an entity of similar structure or functions as a trust under foreign legislation (hereinafter only the “trust“), as well as raising and collecting financial or other assets value of which can be expressed in financial terms for a trust or for the purpose of its establishment or management, or
  5. receiving or making wire or cash payments, transfers, deposits, or withdrawals or any other conduct aimed at circulation of money or triggering such circulation,
- h) a person not mentioned in paragraph g) providing to another person services such as:
1. incorporating legal persons or trusts,
  2. acting on behalf of a legal person or a trust, should such service be only temporary and related to establishing and managing such legal person or a trust,
  3. providing a registered office, business address, and possibly other related services to another legal person,
  4. acting as an appointed shareholder on behalf of another person should this person not be a company, securities of which are accepted for trading at European regulated markets and which is a subject to information disclosure requirements equal to those laid down by European Union law, or
  5. acting on behalf of this person in respect of activities set forth in paragraph g),
- i) a person
1. trading or brokering art pursuant to Appendix No. 3 hereto, should the value of such art amount to at least EUR 10,000, cultural heritage or artefacts having cultural value,
  2. authorised to store art pursuant to Appendix No. 3 hereto, should the value of such art amount to at least EUR 10,000, cultural heritage or artefacts having cultural value, and should such storage be in a free zone,
- j) a person authorised to trade in used goods, or to broker such trading, or to receive used goods as pawned items,
- k) a national administrator of the emission trading register, pursuant to the Act on Conditions of Trading with Greenhouse Gas Allowances<sup>27)</sup> (hereinafter only the „national administrator“),
- l) a person providing services related to virtual assets,
- m) a trustee or a person in a similar position in a trust or an entity having similar structure or functions as a trust under foreign legislation (hereinafter only the “trustee“),
- (2) In addition, an obliged entity is the following:
- a) a foreign legal or natural person as defined in subsection (1) operating on the territory of the Czech Republic via its branch or business establishment; for the purposes of this Act an establishment means another type of business venue than a branch; such person meets the definition of an obliged entity to the extent of activities performed by such branch or business establishment,

- b) a foreign person operating on the territory of the Czech Republic should it perform activities set forth in subsection (1),
  - c) an entrepreneur not mentioned in subsection (1) receiving payments in cash in the amount of or exceeding EUR 10,000, or
  - d) a legal person, which is not an entrepreneur, should this person be authorised to provide one of the activities pursuant to subsection (1) as a service or should it receive payments in cash in the amount of or exceeding EUR 10,000.
- (3) A person not performing activities pursuant to subsection (1) as their business is not considered an obliged entity with the exception of the following:
- a) persons referred to in subsection (2) d),
  - b) an attorney practicing law as a partner in a legal person incorporated to practice law,
  - c) persons pursuant to subsection (1) h) performing their activities as a trust.
- (4) With the exception of information duty pursuant to section 24 (1), an obliged entity is not a person mandated to perform activities pursuant to subsection (1) b) 3., 7. and 8.

### Section 3

#### **Main Definitions**

- (1) For the purposes of this Act, legitimisation of proceeds of crime means an activity performed to conceal the illegitimate origin of proceeds of crime with the intention to present the criminal proceeds as a legal income. The above concerns particularly the following:
- a) conversion or transfer of assets knowing that such assets are derived from criminal activity, conversion or transfer of assets for purposes of concealing or disguising their criminal origin or of assisting a perpetrator involved in the commission of such crime attempting to avoid legal consequences of such conduct,
  - b) concealment or disguise of the true nature, source, location, movement or disposition of assets, or change of ownership title to such assets, knowing that such assets are proceeds of crime,
  - c) acquisition, possession, use, or handling of assets knowing that they are proceeds of crime, or
  - d) criminal association or any other type of organised conduct to perpetrate crime pursuant to paragraphs a), b), or c).
- (2) Financing of terrorism means:
- a) collecting or providing financial or other assets knowing that such assets will be, in full or in part, used to perpetrate terror<sup>12)</sup>, terrorist attack<sup>13)</sup>, activities of a terrorist group, support and promotion of terrorism, threat of terrorism, or a crime of facilitating or encouraging such crime<sup>14)</sup>, or to support an individual or a group of individuals planning such crimes, or
  - b) conduct intended to reward or compensate a perpetrator of terror, a terrorist attack, activities of a terrorist group, support and promotion of terrorism, a threat of terrorism, or a crime of facilitating or encouraging such crime<sup>14)</sup>, or such conduct in respect of a perpetrator's close person within the intention of the Criminal Code<sup>15)</sup>, or collecting assets to provide said reward or compensation,

- c) for the purposes of this Act, financing of terrorism also means financing of proliferation of weapons of mass destruction pursuant to subsection (3).
- (3) Financing of proliferation of weapons of mass destruction means collecting or providing financial or other assets knowing that such assets will be, in full or in part, used by a proliferator of weapons of mass destruction or used to support proliferation of such weapons in violation of international law<sup>29</sup>).
- (4) This Act applies without prejudice to whether the conduct pursuant to subsections (1) to (3) was or would be perpetrated fully or partially on the territory of the Czech Republic or abroad.

#### Section 4

##### **Other Definitions**

- (1) For the purposes of this Act, a transaction means any interaction of an obliged entity interacting in its capacity with another person should such interaction lead to disposing of the other person's assets or providing services to such person.
- (2) For the purposes of this Act, a business relationship means a contractual relationship between an obliged entity, interacting in its capacity with another person, entered into with the purpose to dispose of assets of such other person or to provide services to such other person should it be obvious upon entry in the contractual relationship and in the light of circumstances of such relationship that the relationship will be lasting or will entail repetitive performance.
- (3) For the purposes of this Act, a customer's order means any customer's act based on which the obliged entity should dispose of the customer's assets.
- (4) For the purposes of this Act, a beneficial owner means:
  - a) the beneficial owner pursuant to the act regulating registration of beneficial owners,  
or
  - b) a natural person on whose behalf a transaction is being conducted.
- (5) For the purposes of this Act, a politically exposed person means:
  - a) a natural person, who is or was in a prominent public functions with nation-wide or regional responsibilities, such as a head of state, prime minister, minister, their deputy or assistant minister or a state secretary, member of parliament, member of governing bodies of political parties, leading representative of local government, member of the Supreme Court, Constitutional Court and any other high-level judicial body, decisions of which are not subject to remedies, except in irregular circumstances, member of a central bank board, high-ranking military officer, member or representative of a member of a governing body of a publicly owned business corporation, ambassador or chargé d' affairs, and/or a natural person who holds or was holding a similar position in another state or in a European Union's institution, and/or in an international organisation,
  - b) a natural person, who is:
    - 1. a close person to the person pursuant to paragraph a),
    - 2. a business partner or a beneficial owner of the same legal person or a trust as the person pursuant to paragraph a) or who is known to the obliged entity to be a

person in any close business relationship to the person pursuant to paragraph a),  
or

3. a beneficial owner of a legal person or a trust known to the obliged entity as incorporated to the benefit of the person pursuant to paragraph a).
- (6) For the purposes of this Act, an identity card means a document issued by a public authority listing the first name and surname, date of birth and facial image or any other data enabling identification of its bearer as its true holder.
- (7) For the purposes of this Act, a correspondent relationship means:
  - a) the facilitation of banking services by one bank as the correspondent bank to another bank as the respondent bank, including current or other accounts and related services such as cash management, international transfers of fund, cheque clearing, payable-through accounts and foreign exchange services, or
  - b) relationship between credit institutions or financial institutions as well as between credit and financial institutions including relations established to make transactions in securities and transfers of funds in which the correspondent institution provides similar services to the respondent institution as referred to in paragraph a).
- (8) For the purposes of this Act, a person providing services related to virtual assets means a person engaged in a business activity in a form of purchase, sale, safekeeping, administration for another person, transfer or brokering of purchase or sale of virtual assets, or a person providing financial services related to issue and sale of virtual assets or other similar services related to virtual assets.
- (9) For the purposes of this Act, virtual assets mean electronic and transferable representation of value, which:
  - a) can be traded, used as means of payment, or invested irrespective of the issuer, unless they qualify as the following:
    1. securities, financial instruments, or means of payment pursuant to the Act on Payment System,
    2. a unit pursuant to section 3 (3) c) 4. to 7. of the Act on Payment System, or
    3. a unit which may be used to make payments pursuant to Section 3 (3) e) of the Act on Payment System, or
  - b) a unit pursuant to paragraph a) 2. which can be ultimately used to pay for a limited range of goods or services which entails an electronic and transferable representation of value pursuant to paragraph a).
- (10) For the purposes of this Act, a group means a group pursuant to the Act on Financial Conglomerates.
- (11) For the purposes of this Act, a close business relationship means a substantial business association in which benefits or damages suffered by one entity can be reasonably perceived as benefit or damage suffered by the other entity.
- (12) For the purposes of this Act, a third country means a country, that is neither member state of the European Union nor a member country of the European Economic Area.
- (13) For the purposes of this Act, the respective professional chamber means:
  - a) *Česká advokátní komora* (hereinafter referred to as “Czech Bar Association”) if the obliged entity is an attorney,



- b) *Notářská komora České republiky* (hereinafter referred to as “Notarial Chamber of the Czech Republic”) if the obliged entity is a notary,
- c) *Komora auditorů České republiky* (hereinafter referred to as “Chamber of Auditors of the Czech Republic”) if the obliged entity is an auditor,
- d) *Exekutorská komora České republiky* (hereinafter referred to as “Chamber of Distrainers of the Czech Republic”) if the obliged entity is a court distrainer,
- e) *Komora daňových poradců České republiky* (hereinafter referred to as “Chamber of Tax Advisers of the Czech Republic”) if the obliged entity is a tax adviser.

## Section 5

### Identification Data

- (1) For the purposes of this Act, identification data means:
  - a) in respect of a natural person: all names and surnames, the birth identification number or, should the person have no birth identification number, the date of birth, gender, place of birth, address of permanent or other residence, and citizenship; for a natural person as an entrepreneur, it also means their business name including its title indicating the legal form or other titles, registered office, and the natural person’s business identification number,
  - b) in respect of a legal person:
    - 1. the legal person’s essential identification data which is its company name or title including appendices indicating its legal form or other titles, its registered office, and its company number or similar identification number given pursuant to the respective foreign legislation,
    - 2. data necessary to identify and verify identity of natural persons who are members of its governing bodies, and
    - 3. essential identification data of a legal person, which is a member of its governing body, and data necessary to identify and verify identity of a natural person who is a member of the governing body of such legal person or who was authorised by the said legal person to represent it in the governing body,
  - c) in respect of a trust: the trust’s name and identification data of its trustee to the extent pursuant to paragraphs a) and b).
- (2) If justified by the risk assessment pursuant to section 21a, authorities may collect identification data beyond those pursuant to subsection (1), such as telephone numbers, e-mail addresses, details concerning forms of employment or the employer.

## Section 6

### Suspicious Transaction

- (1) For the purposes of this Act, a suspicious transaction means a transaction made under circumstances raising suspicion of attempted legitimisation of proceeds of crime, suspicion of terrorist financing or a link or connection to financing of terrorism and/or other facts that can raise such suspicion, primarily the following:
  - a) withdrawals or transfers to other accounts made by a customer immediately after cash deposits,

- b) multiple transactions not typical for a customer made in one day or in several subsequent days,
  - c) multiple accounts opened by a customer which do not correspond with their standard business activity or financial situation,
  - d) transfers of assets without obvious economic reason and/or complex or sizeable transactions,
  - e) assets handled by a customer are in obvious discrepancy with the nature and scope of their business or financial situation,
  - f) an account is used contrary to its declared purpose,
  - g) a customer engages in activities that may be intended to help conceal the identity of the customer or a beneficial owner,
  - h) a customer or beneficial owner are nationals of a country that insufficiently enforce or fails fully to enforce measures to counter legitimisation of proceeds of crime and financing of terrorism,
  - i) an obliged entity has doubts concerning accuracy of customer's identification data received, or
  - j) a customer refuses due diligence or rejects to disclose identification data of a person on whose behalf they are acting.
- (2) A transaction is suspicious, should:
- a) a customer, person in the ownership or control structure of the customer, beneficial owner of the customer, person acting on behalf of the customer or a person who is otherwise involved in the transaction and is known to the obliged entity be a person against whom the Czech Republic had imposed international sanctions pursuant to the Act on Implementation of International Sanctions<sup>17)</sup>, or
  - b) a transaction concern goods or services against which the Czech Republic imposed sanctions pursuant to the Act on Implementation of International Sanctions.<sup>17)</sup>

## PART TWO

### KEY RESPONSIBILITIES OF OBLIGED ENTITIES (SECTIONS 7 to 29b)

#### CHAPTER I

### CUSTOMER IDENTIFICATION AND DUE DILLIGENCE (SECTIONS 7 to 15)

#### Section 7

##### Identification Duty

- (1) An obliged entity identifies a customer at the latest when it becomes obvious that the respective transaction exceeds EUR 1,000, unless stipulated otherwise by this Act.
- (2) An obliged entity always identifies its customer regardless of the limit pursuant to subsection (1) should it concern:
  - a) a suspicious transaction,
  - b) entry into a business relationship,
  - c) a purchase or acceptance of cultural heritage, goods having cultural value, used goods or goods lacking proof of acquisition, brokerage of sale or being received as a pawned item, or
  - d) payment of the final balance of a terminated bearer's savings book.
- (3) An obliged entity identifies a person who is not a policyholder and is entitled to collect life insurance claim on the day of the payment of the insurance claim at the latest.
- (4) An obliged entity determines, based on the risk assessment pursuant to section 21a, for each type of provided transaction not covered by subsection (2) the value of a transaction at which it always identifies the customer. This value must not exceed the amount pursuant to subsection (1).

#### Section 8

##### Identification Process

- (1) The first identification of a customer who is:
  - a) a natural person is performed by an obliged entity with the customer present in person,
  - b) a legal person or a trust is performed by an obliged entity with the person acting on behalf of the customer present in person.
- (2) When identifying a customer who is:
  - a) a natural person, an obliged entity records identification data and verifies them from an identity card should they be included thereon, and subsequently records the type and serial number of the identity card, the issuing country or issuing authority and the card's validity; at the same time, the obliged entity verifies the holder's appearance and the holder's facial image as pictured on the identity card,
  - b) a legal person, an obliged entity records identification data and verifies them from the proof of existence of the legal person received from a reliable source and, to the extent pursuant to paragraph a), performs identification of the natural person acting on behalf of such legal person in respect of the given transaction or business relationship.

- (3) If, at the first identification, a customer who is a natural person is represented by a legal representative or a guardian, an obliged entity identifies the legal representative or guardian pursuant to subsections (1) and (2). A person acting on behalf of the customer is obliged to provide the customer's identification data, and the presence in person of the represented customer is not required.
- (4) If another person acts on behalf of an already identified customer, an obliged entity identifies the respective person pursuant to subsections (1) and (2).
- (5) Other transactions concerning a customer who has already been identified, or should there be another person acting on behalf of a customer, should both the customer and the person acting on behalf of the customer have already been identified, an obliged entity appropriately verifies the identity of the customer or the natural person acting on behalf of the customer. Verification may be performed without the personal presence of these persons, and the obliged entity may use electronic identification, which is not based on the qualified system of electronic identification pursuant to the Act on Electronic Identification.
- (6) If other persons act on behalf of a customer, the persons are obliged to present their authorisation unless such authorisation is available in a public register. An obliged entity verifies whether and to what extent that person is authorised to act on behalf of the customer.
- (7) No authorisation to act on behalf a customer is required, should a person, who is otherwise not authorised to dispose of assets deposited to a bank account, deposit cash to a bank account and submit to the obliged entity prefilled documents signed by an authorised person, or should such person solely deliver documents based on which an obliged entity should transfer or otherwise handle assets.
- (8) In the course of the customer identification, an obliged entity determines and takes record of the following:
  - a) status of a customer, natural person acting on behalf of the customer in respect of the given transaction or business relationship or its beneficial owner, as a politically exposed person or a person against whom the Czech Republic imposes international sanctions pursuant to the Act on Implementation of International Sanctions, and
  - b) status of another person in the ownership or control structure of a customer, should they be known to the obliged entity as a person against whom the Czech Republic imposes international sanctions pursuant to the Act on Implementation of International Sanctions.
- (9) Throughout the period of a business relationship or when performing other transactions, an obliged entity verifies validity and completeness of information collected in the course of the customer identification and due diligence, reasons for a simplified due diligence process in respect of such customer, or exceptions from the customer's due diligence, and records any changes thereto. Such checks as well as their frequency and extent are based on the customer's risk profile.
- (10) Should an obliged entity suspect, during a transaction, that a customer is not acting on their behalf or conceals that they are acting on behalf of a third person, the obliged entity demands authorisation from the customer according to subsection (6). Everyone must comply with this requirement, unless stipulated otherwise by other legislation; an attorney or notary may comply with this obligation also by submitting copies of relevant parts of documents containing the identification data to the obliged entity.

- (11) A customer submits to an obliged entity all information necessary for the identification, including relevant documents. If the customer is a trust, the person acting on behalf of such customer informs the obliged entity accordingly. For the purposes of this Act, the obliged entity may, without the customer's consent, make copies or excerpts from submitted documents and process such information to comply with this Act.

## Section 8a

### **Means of Electronic Identification During Customer Identification.**

- (1) An obliged entity may replace the process pursuant to section 8 (1) and section 8 (2) a) by identification of a natural person who is a customer or a natural person acting on behalf of the customer performed by means of electronic identification which comply with the following:
- a) technical specification, standards, and procedures for a high level of assurance given by the directly applicable regulation of the European Union regulating minimum technical specifications, standards and procedures for levels of assurance of means of electronic identification<sup>40)</sup> and which is issued and applied pursuant to the qualified system in line with the Act on Electronic Identification, or
  - b) conditions pursuant to which means of electronic identification can be used for verification of identity required by a legal regulation or discharge of administrative responsibility outside the scope of the qualified system pursuant to the Bank Act.
- (2) An obliged entity which performs identification through a procedure pursuant to subsection (1) b) must, for a period of 10 years after making a transaction outside a business relationship or after termination of a business relationship with the customer, keep data on the person performing the identification pursuant to section 38ac (1) b) 1. or 2. or section 38ac (2) of the Bank Act.

## Section 9

### **Customer Due Diligence**

- (1) The customer due diligence is performed by an obliged entity:
- a) prior to the execution of a transaction outside of a business relationship under conditions pursuant to section 7 (1):
    - 1. at the latest when it becomes obvious that the value of a transaction amounts to or exceeds EUR 15,000,
    - 2. when it concerns a politically exposed person,
    - 3. when it concerns a person settled in a third country that is, based on a directly applicable EU legislation<sup>39)</sup> or for another reason, considered a high-risk country (hereinafter only the "high-risk third country"),
    - 4. when it concerns a person identified pursuant to section 11 (7),
    - 5. when it concerns a transaction of at least EUR 2,000 in case of an obliged entity pursuant to section 2 (1) c), or
    - 6. when it concerns transfer of assets of EUR 1,000 or more,
  - b) at the latest prior to the execution of a transaction, in situations in which the identification duty pursuant to section 7 (2) a) and b) applies to the obliged entity,

- c) in the course of an existing business relationship, or
  - d) stipulated in section 2 (2) c) and d) while making a transaction of EUR 10,000 or more.
- (2) The customer due diligence process includes the following:
- a) gathering and assessment of information concerning the purpose and intended nature of the transaction or business relationship as well as information on the nature of the customer's business,
  - b) verification of identity of the beneficial owner and measures to verify their identity from reliable sources; if the customer must be entered in the register of beneficial owners or a similar database, the obliged entity always verifies the beneficial owner at least from this register or database and from one more source; the obliged entity also determines whether the beneficial owner is not a politically exposed person or a person against whom the Czech Republic applies international sanctions pursuant to the Act on Implementation of International Sanctions,
  - c) should the customer be a legal person or a trust, the obliged entity verifies the ownership and control structure of the customer and determines whether persons in these structures are not individuals against whom the Czech Republic applies international sanctions pursuant to Act on Implementation of International Sanctions,
  - d) ongoing monitoring of the business relationship including review of transactions undertaken throughout the course of that business relationship with the purpose of detecting whether these transactions are consistent with the obliged entity's knowledge of the customer, their business, and risk profile,
  - e) a review of sources of funds or other property affected by the transaction or business relationship, and
  - f) in case of a business relationship with a politically exposed person, also adequate measures for identification of the origin of their funds.
- (3) An obliged entity performs the customer due diligence pursuant to subsection (2) to the extent necessary to determine the potential risk of legitimisation of proceeds of crime and financing of terrorism based on the type of customer, business relationship, product or transaction. The obliged entity justifies, to persons authorised to supervise compliance with obligations pursuant to section 35, the extent of customer due diligence and demonstrates the manner of its performance or the verification of compliance with conditions for simplified customer identification and due diligence pursuant to section 13 or for exception from the customer identification and due diligence pursuant to section 13a, considering the abovementioned risks.
- (4) An obliged entity considers risks factors stipulated in the risk assessment pursuant to section 21a when considering possible risks pursuant to subsection (3).
- (5) Based on the risk assessment pursuant to section 21a, an obliged entity determines the threshold value of a transaction at which it always performs the customer due diligence for each type of transaction it provides. This threshold value must not exceed the value pursuant to subsection (1).
- (6) In the course of the customer due diligence, an obliged entity collects and records the following:
- a) data verifying the identity of the beneficial owner and the process of collecting such data,

- b) in respect of a beneficiary of trust having defined characteristics or pertaining to a particular category, information necessary to identify the specific beneficiary upon payment of benefits or upon exercise of beneficiary's rights
- c) for a beneficiary of life insurance, who is:
  - 1. defined as a specific person or a trust: the name and surname of the person or the name,
  - 2. established on the basis of their relationship to the insured person or by other process: data necessary to identify the specific beneficiary at the time of the payment of a claim,
  - 3. a politically exposed person: all relevant circumstances and the course of the business relationship,
  - 4. a legal person or trust and to whom a life insurance policy was assigned or who was designated as a new beneficiary: identity of its beneficial owner upon the assignment of the life insurance policy or upon the designation of the new beneficiary together with the process of determining these facts,
  - 5. a legal person or trust posing an increased risk of legitimisation of proceeds of crime and terrorist financing: identity of the beneficial owner at the time of the payment of a claim together with details of the process of determining these facts.
- (7) A customer provides an obliged entity with information, including relevant documents, necessary to perform customer due diligence.
- (8) For the purposes of compliance with this Act, an obliged entity may make copies of or extracts from submitted documents and process such information.

## Section 9a

### **Enhanced Identification and Customer Due Diligence**

- (1) An obliged entity performs enhanced identification and customer due diligence should the risk assessment process pursuant to section 21a indicated that the customer, the transaction, or the business relationship pose increased risk of legitimisation of proceeds of crime or terrorist financing.
- (2) An obliged entity always performs enhanced identification and customer due diligence
  - a) upon entering into a business relationship and in the course of a business relationship with a person residing in a high-risk third country,
  - b) prior to making a transaction related to a high-risk third country,
  - c) prior to making a transaction with or upon entering in a business relationship with a politically exposed person.
- (3) In the course of enhanced identification and customer due diligence, an obliged entity, to the extent necessary to duly manage the detected risk beyond measures applied upon customer identification and customer due diligence
  - a) gather additional documents or information on the following
    - 1. the beneficial owner,
    - 2. the nature of the intended transaction, and
    - 3. the origin of the customer's or beneficial owner's financial or other assets,

- b) verifies all documents or information received in several reliable sources,
  - c) monitors, on an ongoing and enhanced basis, the business relationship as well as transactions made as part of that business relationship,
  - d) obtains approval of a member of its governing body, or of a person appointed by them to manage measures to counter legitimisation of proceeds of crime and financing of terrorism, to enter into the business relationship or to continue that business relationship,
  - e) requires the first transaction as part of the business relationship or outside the business relationship be made from an account held in the customer's name by a credit institution or by a foreign credit institution that has the duty to identify their customer and perform customer due diligence at least to the extent comparable to the requirements stipulated by European Union law,
  - f) implements other measures corresponding to the nature of the obliged entity, its activities, and its own risk assessment process.
- (4) In cases pursuant to subsection (2) a) or b), the obliged entity at least implements measures pursuant to subsection (3) a) to d) and f). In cases pursuant to subsection (2) c), the obliged entity at least implements measures pursuant to subsection (3) a) 3. and subsection (3) c) and d).

## Section 10

### **Identification via an Intermediary**

- (1) The customer identification pursuant to section 8 (1) may be also performed by a notary or public administration contact point based on the customer's or obliged entity's request.
- (2) The notary or public administration contact point draw up an identification instrument, which is a public instrument and contains the following:
  - a) the person who performed identification, on request of which obliged entity, and for which purpose,
  - b) the customer's identification data,
  - c) a certificate of the solemn declaration of the identified natural person, person acting on behalf of the identified legal person, or representative of the identified person on the purpose of performed identification and confirmation of the identification accuracy or reservations thereabout,
  - d) the place and date of the document, or the place and date of identification should these be different,
  - e) a signature of the person who performed identification, an official stamp imprint and serial number in the registry of identification documents.
- (3) Copies of parts of documents used for identification which contain the identification data, type and number of the identity card, issuing country or issuing authority, validity, and copy of the request if the request was submitted in writing are attached to the identification instrument. Should an authorised representative be identified, the attachment shall also contain the original version or authenticated copy of their power of attorney. The above attachments, together with the identification instrument, are completed into one file that the customer delivers to the obliged entity. Upon request of the customer, a notary or a



public contact point send the public instrument including the attachments to the obliged entity's data box.

- (4) Copies of documents must be readable and good enough to be kept for a period pursuant to section 16. The file must also contain a copy of the image of the identified natural person taken from their identity card in quality allowing for verification of their appearance.
- (5) A notary and public administration contact point keeps separate register of identification instruments, which includes:
  - a) document serial number and date,
  - b) identified person's data:
    1. name, surname, permanent or other residence, birth identification number or date of birth for the identified natural person or a natural person acting on behalf of the identified legal person,
    2. in case of identification of a legal person its company name or title including appendices indicating its legal form or other titles, company number and registered office,
  - c) purpose of identification.
- (6) The register of identification instruments is kept for a calendar year. When closed, it is archived for 10 years.

## Section 11

### **Identification by a Substitute and the Use of other Means of Remote Identification to Identify a Customer**

- (1) An obliged entity may decide not to perform customer identification, not to gather information on the purpose and nature of a transaction or a business relationship pursuant to section 9 (2) a), and not to identify the ownership and control structure of the customer and identity of their beneficial owner pursuant to section 9 (2) b) if such steps had been performed in the course of establishing business relationship with the customer:
  - a) by a credit or financial institution; with the exception of a person licensed to perform foreign currency exchange pursuant to the Act on Currency Exchange, of a provider of postal services pursuant to the act regulating postal services, of a payment institution providing payment services related to transfers of funds where neither the payer nor the payee use an account opened with the payer's payment service provider and of a small-scale payment service provider pursuant to the act regulating the payment system, or
  - b) by a foreign credit or financial institution operating within the territory of a state applying similar obligations of customer identification, due diligence and record keeping and requiring obligatory professional licenses and should the foreign credit or financial institution be subject to supervision including control of compliance with these conditions including the possibility to check individual transactions and of on-site visits; with the exception of a foreign person licensed to perform foreign currency exchange, of a foreign payment institutions remitting money, or of a foreign payment service provider in a position similar to a small-scale payment service provider pursuant to the act regulating the payment system;.

- (2) An obliged entity pursuant to section 2 (1) e) and g) may decide not to perform customer identification, not to gather information on the purpose and nature of a transaction or a business relationship pursuant to section 9 (2) a), and not to identify the ownership and control structure of the customer and identity of their beneficial owner pursuant to section 9 (2) b) if such steps have already been performed by an entity of the same type acting in a country enforcing obligations to counter legitimisation of proceeds of crime and financing of terrorism equal to the requirements of European Union law and applying supervision on a level comparable to European Union legislation.
- (3) An obliged entity acting pursuant to subsection (1) or (2) gathers information concerning the customer identification, the purpose and nature of the business relationship, ownership and control structure of the customer and identity of their beneficial owner at the latest prior to entering into a business relationship or prior to making a transaction outside a business relationship. The obliged entity must ensure that the credit or financial institution or the person who performed identification or gathered the required data submits all related instruments and copies of relevant documents to the obliged entity upon request and without any unnecessary delay.
- (4) The obliged entity is liable for the steps performed pursuant to subsections (1) and (2) as if it had performed them itself. The obliged entity may not accept information on the customer's identification, the purpose and intended nature of the transaction or business relationship or identification of ownership and control structure of the customer and identity of the customer's beneficial owner pursuant to subsections (1) and (2) should it have any doubts concerning the accuracy or completeness of this information and should the fulfilment of the conditions under subsection (3) not be met in advance.
- (5) An obliged entity may decide not to perform customer identification, not to gather information on the purpose and nature of a transaction or a business relationship pursuant to section 9 (2) a), and not to identify ownership and management structure of the customer and identity of their beneficial owner pursuant to section 9 (2) b) if such steps had been performed prior to making a transaction or prior to entering into a business relationship by a person acting on behalf of the obliged entity and bound by its internal rules, provided the obliged entity is liable for damages caused by activities of such person. Such information, including copies of respective documents should there be any documents made out, are to be archived by the obliged entity. The obliged entity is liable for the performance of these steps as if it had performed them itself.
- (6) A credit or a financial institution, while, may decide not to perform customer identification, not to gather information on the purpose and nature of a transaction or a business relationship pursuant to section 9 (2) a), and not to identify the ownership and control structure of the customer and identity of their beneficial owner pursuant to section 9 (2) b) if these steps had been performed by investment brokers in accordance with this Act and the credit or financial institution's internal regulations. The obliged entity is liable for the performance of these steps as if it had performed them itself.
- (7) An obliged entity, with the exception of an obliged entity pursuant to section 2 (1) c), may replace the process pursuant to section 8 (1) to (4) by identification of a natural person who is a customer or a natural person acting on behalf of a customer as follows:
  - a) the customer, who is:
    1. a natural person sends to the obliged entity copies of relevant parts of their identification document and at least one more supporting document from which

the obliged entity can determine data pursuant to section 8 (2) a) made out pursuant to section 10 (4),

2. a legal person sends to the obliged entity a proof of its existence and its identification data or the obliged entity may verify existence and identification data from a public registry or a Registry of Trusts, or
  3. a trust sends to the obliged entity a proof of its existence and its identification data.
- b) should another person act on behalf of the customer, the customer sends copies of documents pursuant to paragraph a) 1. of the natural person who is authorised to act on their behalf in respect of the given transaction or business relationship and an authorisation of such natural person to act on behalf of the customer,
  - c) the obliged entity takes record of and verifies data as well as the authorisation submitted in line with paragraphs a) and b) and has no doubts about the true identity of the customer or the person acting on behalf of the customer,
  - d) the obliged entity enters into a written contract with the customer on the respective transaction or business relationship,
  - e) the customer credibly proves the existence of a bank account held in their name by a credit institution or by a foreign credit institution doing business on the territory of a member state of the European Union or a member country of the European Economic Area,
  - f) the first payment executed in line with the above contract will be made by the customer via the account pursuant to paragraph e), and
  - g) if possible within the given payment system, the payment will be accompanied by information about the purpose of identification and designation of the obliged entity together with the name and surname of the natural person who submitted the payment order pursuant to paragraph f); should the customer be a natural person acting without an authorised representative and should it be justified by the risk assessment pursuant to Section 21a, it is not necessary to send a copy of a supporting document pursuant to paragraph a) 1. should the payment be accompanied with such information.
- (8) An obliged entity may replace the process pursuant to section 8 (1) and section 8 (2) a) by identification of a natural person who is a customer or a natural person acting on behalf of a customer as follows
- a) such natural person communicates to the obliged entity their identification data and other data required for the purpose of identification pursuant to section 5 (2) in a manner set by the obliged entity; such communication must bear a qualified electronic signature pursuant to the directly applicable regulation of the European Union regulating electronic identification and trust services for electronic transactions in the internal market<sup>41)</sup>,
  - b) the obliged entity verifies with a qualified provider of trust services whether data received by this provider from the respective natural person upon issue of qualified certificate used to create a signature pursuant to paragraph a) are identical with the data communicated by this natural person pursuant to paragraph a); the obliged entity may verify data communicated in line with paragraph a) also from a document issued by a public body with an attached qualified electronic seal of such public body pursuant to the directly applicable regulation of the European Union regulating

electronic identification and trust services for electronic transactions in the internal market, which pairs a qualified certificate used to create a signature pursuant to paragraph a) with identification data of the person to whom the certificate was issued, and

- c) the obliged entity has no doubts about the identity of such natural person.
- (9) An obliged entity, in cases pursuant to subsections (1), (2) and (5) to (8), verifies compliance with the above conditions and confirms the absence of information indicating that a customer, product or particular transaction may pose a risk of legitimisation of proceeds of crime or financing of terrorism. Such procedure may not be applied if there are any doubts. The obliged entity considers risk factors provided in the risk assessment pursuant to Section 21a.
- (10) Obligated entities acting in accordance with subsections (1) and (2) in order to meet obligations pursuant to section 9 may exchange relevant information relating to transactions carried out by them. The exchange of information and reliance on another obliged entity while performing activities pursuant to subsections (1), (2) and (5) to (8) is not allowed for entities from high-risk third countries with the exception of branches and subsidiaries of business entities of persons residing in a Member State of the European Union or in a member country of the European Economic Area that meets requirements equal to European Union law to counter legitimisation of proceeds of crime and financing of terrorism.

## Section 12

- (1) In case of identification and other processes pursuant to sections 10 or 11 (5) to (8), the identification data and other information and documents shall be deposited with the obliged entity prior to execution of a transaction.
- (2) Identification may be taken over pursuant to Section 11 (1), (2) and (6) solely from an entity that performed identification of the customer or the natural person acting on behalf of the customer pursuant to sections 8 or 8a.
- (3) If the provider of account information services or provider of payment initiation services (hereinafter only the “third party service“) through a dedicated interface pursuant to a directly applicable regulation of the European Union amending the Directive of the European parliament and the council (EU) 2015/2366 and regulating joint and secure open standards of communication, obtains information about the existence of a bank account in the name of the customer in a credit institution or a foreign credit institution doing business on the territory of a member state of the European Union or a member country of the European Economic Area, it is not necessary to comply, in the process pursuant to section 11 (7), with the condition pursuant to section 11 (7) f). Should the customer be a natural person without an authorised representative and should it be justified by the risk assessment of the third-party service provider, it is not necessary to send, pursuant to section 11 (7) a) 1., a copy of any supporting document.
- (4) A provider of these services may pursuant to section 11 (7) provide third party service regardless of the fact that such provider has not performed the first customer identification yet; such third-party service may be provided solely to perform the first identification of a customer.

- (5) For the purpose of subsections (3) and (4), third party service also means similar services regulated by law by of a member state of the European Union or a member country of the European Economic Area.
- (6) An obliged entity may, during the identification pursuant to section 11 (7) performed in connection with a consumer loan application, replace the procedure pursuant to section 11 (7) f) and g) by transferring the first payment pursuant to the consumer loan agreement to the customer's account pursuant to section 11 (7) e), accompanied by information about the purpose of identification and designation of the obliged entity if permitted by the given payment system. Should the payment be accompanied by such information and should it be justified by the risk assessment of the consumer loan provider, it is not necessary to accompany the transfer pursuant to section 11 (7) a) 1. by a supporting document.
- (7) An obliged entity acting in compliance with subsections (3) or (6) must, prior to making a transaction for a customer identified hereinabove or entering in another business relationship with such customer pursuant to subsections (3) or (6), perform identification in line with provisions of this act regulating the first identification.
- (8) Limitations pursuant to subsection (7) does not apply if the customer has been shown, in procedure pursuant to subsection (3), information on the purpose of identification and designation of the third-party service provider. The third-party service provider must be able to demonstrate compliance with this condition for a period pursuant to section 16 (1).

### Section 13

#### **Simplified Identification and Customer Due Diligence**

- (1) An obliged entity may perform simplified identification and customer due diligence in relation to categories of customers, business relations, products, or transactions with potentially lower risk of abuse for legitimisation of proceeds of crime or financing of terrorism:
  - a) provided their lower risk was duly justified by the risk assessment pursuant to section 21a,
  - b) provided they were not perceived as a risk by the risk assessment at the level of the Czech Republic, and
  - c) in absence of conditions under which enhanced identification and customer due diligence must be performed.
- (2) In case of simplified identification and customer due diligence, the obliged entity:
  - a) verifies and takes record of compliance with conditions pursuant to subsection (1),
  - b) gathers and takes record of the following
    1. identification data of the customer and the person acting on behalf of the customer including the procedure pursuant to section 8 (8),
    2. data necessary to verify identity of the customer's beneficial owner, including the process of collecting such data and the respective procedure pursuant to section 9 (2) b),
  - c) performs other tasks in respect of identification and customer due diligence to the extent necessary to efficiently manage risks.

- (3) The simplified identification and customer due diligence does not apply should there be doubts concerning compliance with conditions thereof.

#### Section 13a

##### **Exceptions from the Obligation of Identification and Customer Due Diligence**

- (1) The obligation of identification and customer due diligence does not apply to:
- a) electronic money not exceeding EUR 150 stored on electronic media that cannot be reloaded,
  - b) electronic money stored on media that can be reloaded should the media be used solely for domestic payment transfers and the overall monthly limit of outgoing payments as well as the highest amount stored do not exceed EUR 150, or
  - c) payment services provided through public mobile telephone network differently from electronic money should the value of each transfer not exceed EUR 250 and at the same time the total limit of payments made from one phone number in one calendar year does not exceed EUR 2,500.
- (2) Means of payment pursuant to subsection (1) may be used solely to purchase goods and services and may not be acquired or recharged through anonymous electronic money.
- (3) The exception stipulated in subsection (1) does not apply to amounts exceeding EUR 50 redeemed upon request of the holder of the means of payment should the holder of the means of payment order the transfer online or via a tool which can be used for remote communication to place a payment order exceeding EUR 50.
- (4) The obliged entity monitors transfers related to means of payment pursuant to subsection (1) to detect potential suspicious transactions pursuant to section 6.
- (5) A payment order placed via means of payment pursuant to subsection (1) issued in a third country may be processed by a credit or financial institution solely should such means of payment comply with requirements equal to conditions pursuant to subsections (1) to (4).

#### Section 14

##### **Exception from the Obligation to Provide Information Accompanying Transfers of Funds**

Obligations pursuant to the directly applicable Regulation of the European Union regulating information accompanying transfers of funds<sup>20)</sup> do not apply to transfers of funds or to payment services made to pay for goods or services should:

- a) the transfer take place in the Czech Republic,
- b) the payment service provider of the recipient be, through the recipient of the payment and with the help of a unique transaction identifier, always able to trace the transfer from the natural or legal person supplying to the recipient goods or services on a contract, and
- c) the transferred amount not exceed EUR 1,000.

## Section 15

### **Declined Transaction**

- (1) The obliged entity declines a transaction, refuses to enter into a business relationship, or terminates a business relationship, unless precluded by a special piece of legislation, should it be obliged to identify the customer or perform customer due diligence and:
  - a) the customer:
    1. rejects identification,
    2. refuses to submit an authorisation pursuant to section 8 (6) or section 11 (7), or
    3. fails to cooperate on the customer due diligence process,
  - b) customer identification or customer due diligence be impossible for other reasons, or
  - c) the person performing the customer identification or customer due diligence have doubts concerning accuracy of information or authenticity of documents provided.
- (2) The obliged entity declines a transaction with a politically exposed person, outside of or in a business relationship, should the origin of financial or other assets in the transaction be unknown.

## Section 15a

### **Procedure in Case of Discrepancy**

- (1) An obliged entity which, in the course of identification or customer due diligence, discloses discrepancies pursuant to the act regulating registration of beneficial owners (hereinafter only the “discrepancy“) notifies the customer of such facts. In its notification to the customer, the obliged entity reveals the nature of the discrepancy. Given the circumstances, it may be useful to allow the customer to provide their comment of the respective discrepancy.
- (2) Should the customer fail to remove or explain the discrepancy without unnecessary delay after the notification pursuant to subsection (1), the obliged entity shall report such discrepancy to the competent court pursuant to the act regulating registration of beneficial owners.
- (3) The report submitted do the competent court must be accompanied by a description of facts and relevant written material explaining the discrepancy as well as the customer’s comments should they be made.
- (4) *Finanční analytický úřad* (the Financial Analytical Office, hereinafter only “Office“) may order the obliged entity to withdraw from procedure pursuant to subsections (1) to (3), should such procedure threaten to impede or hinder investigation of suspicious transaction or ongoing criminal proceedings.

## CHAPTER II

### **RECORD KEEPING (Section 16 to 17a)**

## Section 16

### **Record Keeping by Obligated Entity**

- (1) For 10 years following the execution of a transaction or termination of a business relationship, the obliged entity keeps the following:

- a) identification and other data obtained upon customer identification or gathered pursuant to the directly applicable Regulation of the European Union regulating information accompanying transfers of funds<sup>20)</sup>,
  - b) copies of documents submitted for identification, if such copies were made,
  - c) data about who and when performed the first identification of the respective customer,
  - d) information and copies of documents received as part of the customer due diligence,
  - e) information about all steps taken in the course of customer identification and customer due diligence, including information about potential issues or questions,
  - f) a record of the risk assessment procedure and the customer's risk profile, including a description of measures taken in respect of the customer and upon evaluation of facts related to the suspicious transaction report,
  - g) documents justifying the exception from identification and customer due diligence pursuant to Section 13a, and
  - h) the original or a notarized copy of the power of attorney or a reference number of a court decision on appointment of a guardian in case of representation.
- (2) Data and documents on transactions relating to the obligation of identification are kept by the obliged entity for 10 years after the execution of a transaction made outside a business relationship or after the termination of a business relationship.
  - (3) The obliged entity keeps data pursuant to subsections (1) and (2) in a way and to the extent necessary to evidence individual transactions and related procedures.
  - (4) The obliged entity pursuant to section 2 (1) i) and j) maintains the data and documents for 10 years after the termination of a transaction or a business relationship in respect of transactions of EUR 10,000 or more; in other cases, the period is 5 years after the termination of a transaction.
  - (5) The period pursuant to subsections (1) to (3) commences on the first day of the calendar month following the calendar month in which the last action within the transaction the obliged entity is aware of was executed. Upon expiration of the period, the relevant administrator deletes the stored data and shreds the documents.

## Section 17

### **Cooperation on Record Keeping**

Should there be more obliged entities participating in a particular customer's transaction, the data pursuant to section 16 may be kept only by selected ones provided that other involved obliged entities arrange for provision of all necessary information including copies of the relevant documents without any unnecessary delay.

## Section 17a

### **Protection of Personal Data by the Obligated Entity**

- (1) The obliged entity processes personal data to the extent necessary to comply with obligations pursuant to this Act.



- (2) Apart from information pursuant to section 24 (2), the obliged entity does not provide the subject of data with any information regarding processing of personal data for the purpose of compliance with obligations pursuant to this Act.

## CHAPTER III

### SUSPICIOUS TRANSACTION (Section 18 to 20)

#### Section 18

##### **Suspicious Transaction Report**

- (1) The obliged entity reports to the Office without unnecessary delay any suspicious transaction it has detected in the course of its business activity. Should the circumstances of the case so require, in particular, should there be a danger of delay, the obliged entity reports the suspicious transaction immediately upon its detection.
- (2) In the suspicious transaction report, the obliged entity provides identification data of the subject of the report, available identification data of all other subjects involved in the transaction, information about circumstances of the transaction, and any other information which may be relevant to the suspicious transaction and for its assessment in terms of countering the legitimisation of proceeds of crime or financing of terrorism.
- (3) The suspicious transaction report does not include any data on employees or independent contractors of the obliged entity who detected the suspicious transaction.
- (4) The suspicious transaction report is received by the Office. The Office publishes its address, delivery terms, and other means of connection for suspicious transactions reporting by means of remote access.
- (5) Should the report pursuant to subsection (2) also concern information on assets which are subject to international sanctions imposed for the purpose of maintaining or restoring international peace and security, protection of fundamental human rights, or fight against terrorism, the obliged entity underlines it in the respective report. Should the obliged entity have such information, it shortly describes the assets concerned, including information about their whereabouts and ownership in the report and also informs the Office on a potential danger of damage, loss of value, or unlawful use of such assets.
- (6) The obliged entity informs the Office of the name, surname and position of its contact person (section 22) or a person who made the suspicious transaction report on behalf of the obliged entity as well as their phone number or email, unless this information is already available to the Office.
- (7) Should a suspicious transaction be detected by a joint effort of multiple obliged entities as a result of exchange of information pursuant to section 39 (2), the obligation to report the suspicious transaction pursuant to subsections (2) to (4) is met by all the obliged entities concerned should the report be filed by one of them declaring which other participating obliged entities the report is filed for.
- (8) A suspicious transaction does not constitute a violation of the duty of confidentiality of the respective obliged entity, its employees, or natural persons who are independent contractors of the obliged entity. The fact that such persons reported a suspicious transaction should not expose them to a situation which they would justifiably consider as interference in their rights or justified interests (hereinafter only “act of vengeance”).

## Section 19

The suspicious transaction report is filed in writing by registered mail or deposited orally to a protocol at an agreed upon location. A report filed online and protected by technical means providing special protection of transmitted data is also considered a written report.

## Section 20

### **Suspension of Customer's Order**

- (1) Should an immediate execution of a customer's order impede, or significantly hinder seizure of proceeds of crime or funds intended for financing of terrorism, the obliged entity executes the customer's order no sooner than 24 hours after the Office received a suspicious transaction report on such transaction. Assets concerned by the customer's order remain seized in an appropriate manner and protected against potential handling in violation of this Act. The obliged entity notifies the Office of the suspension of customer's order in the suspicious transaction report.
- (2) The subsection (1) does not apply should the suspension of the customer's order be impossible, or should the obliged entity be aware of the fact that such suspension could impede or otherwise hinder investigation of the respective suspicious transaction; the obliged entity immediately informs the Office of the execution of the customer's order.
- (3) In case of pending danger pursuant to subsection (1) and should the investigation of the suspicious transaction require more time, the Office decides:
  - a) on extension of the suspension of the customer's order, but for no longer than additional 2 working days, or
  - b) on suspension of the customer's order or on seizure of assets concerned by the suspicious transaction at the obliged entity's venue where the assets are located, for a period of maximum 3 working days.
- (4) The decision on the suspension of the customer's order or on seizure of assets pursuant to subsection (3) becomes effective by its declaration. The declaration may be oral, made by a phone call, by fax or online; a written copy always follows. There is no appeal possible against the decision on the suspension of the customer's order or seizure of assets. The party to the proceedings concerning the above decision is only the obliged entity reporting the suspicious transaction or holding the assets subject to the suspicious transaction.
- (5) The obliged entity immediately informs the Office of the execution of the decision pursuant to subsection (3) b) and confirms the deadline pursuant to subsection (3) b). Subsequently, it provides the Office on an ongoing basis information on substantial facts relating to the assets concerned by the decision.
- (6) The obliged entity executes the customer's order unless receiving, before expiration of the deadline pursuant to subsection (3), information from the Office on the filing of a criminal complaint.
- (7) Should the Office, within the deadline pursuant to subsection (1) or (3), file a criminal complaint to the law enforcement body pursuant to section 32 (1), the suspension of the customer's order or seizure of assets pursuant to subsections (1) or (3) is extended for 3 working days commencing on the day of filing the criminal complaint, unless the law enforcement body decides to confiscate or seize the subject of the suspicious transaction before the end of the deadline. The Office informs the obliged entity of filing the criminal complaint prior the expiration of the deadline pursuant to subsection (1) or (3).

## CHAPTER IV

### OTHER DUTIES AND OBLIGATIONS OF OBLIGED ENTITIES (Sections 21 to 24a)

#### Section 21

##### **Internal Procedures**

- (1) The obliged entity introduces and applies adequate strategies and procedures of internal control and communication to mitigate and effectively manage risks of legitimisation of proceeds of crime and financing of terrorism identified in the risk assessment pursuant to section 21a and to fulfil other obligations stipulated in this Act.
- (2) An obliged entity stipulated in section 2 (1) a) to d), h) and l) drafts written internal rules, procedures and control measures based on the risk assessment pursuant to section 21a and to the extent that it performs activities pursuant to this Act, within 60 days after becoming an obliged entity, to comply with obligations stipulated in this Act (hereinafter only “Internal Procedures”). Written risk assessment pursuant to section 21a (2) forms a part of the written Internal Procedures. The Internal Procedures as well as the risk assessment is approved by the governing body of the obliged entity. The obliged entity keeps the Internal Procedures up to date.
- (3) An obliged entity pursuant to section 2 (1) b) to d), h) and l) not employing other individuals or contractual workers for activities falling within the scope of this Act may opt not to have written Internal Procedures.
- (4) An obliged entity pursuant to Section 2 (1) b) to d), h) and l) which is a contractor providing services under this Act for only one obliged entity may opt not to have written Internal Procedures provided it complies with the Internal Procedures of this particular obliged entity which sufficiently describes its respective activity.
- (5) The Internal Procedures pursuant to subsection (2) cover:
  - a) detailed demonstrative list of indicators of suspicious transactions which may be detected by the obliged entity,
  - b) customer identification including measures to identify politically exposed persons and subjects against which the Czech Republic applies international sanctions pursuant to the Act on Implementation of International Sanctions,
  - c) procedures of customer due diligence and determination of the extent of customer due diligence corresponding to the risk of legitimisation of proceeds of crime and financing of terrorism based on the type of the customer, business relationship, product or transaction,
  - d) commensurate and appropriate methods and procedures of risk assessment, risk management, internal controls and compliance with obligations stipulated in this Act,
  - e) a data disclosure procedure pursuant to Part Two Chapter II to competent authorities,
  - f) steps taken by the obliged entity from the detection of a suspicious transaction until the delivery of a suspicious transaction report to the Office in compliance with the deadline pursuant to section 18 (1), rules for processing suspicious transactions and determination of persons processing the suspicious transaction,
  - g) rules and procedures regulating third parties acting on behalf of the obliged entity offering such obliged entity’s services or products,

- h) measures to prevent impeding or substantially hindering seizure of proceeds of crime by immediate execution of customer's order,
  - i) technical and personnel measures to guarantee suspension of the customer's order pursuant to section 20 and compliance with the obligation pursuant to section 24 within the given deadline,
  - j) in cases pursuant to section 24a (2) it includes a description of additional measures to effectively manage risks of legitimisation of proceeds of crime or financing of terrorism.
- (6) Internal control strategies and procedures to mitigate and effectively manage risks pursuant to subsection (1) include also the following:
- a) Control of obliged entity's compliance with respective legislation, scrutiny of employees and contractual workers as well as verification of efficiency of such strategies, procedures and communication; should it be justified by the scope and nature of activities of the obliged entity, it establishes an independent body directly subordinated to the governing body of the obliged entity to control the verification process, and
  - b) an internal reporting system adequate to the scope and nature of activities of the obliged entity which allows employees or independent contractors to anonymously report violations of this Act; the reporting individual must not be exposed to acts of vengeance as a result of their report.
- (7) Obligated entities that are members of a group, apply group strategies and internal control procedures to mitigate and manage risks pursuant to subsection (1), to the extent permitted by the Czech law. Obligated entities apply these strategies and procedures also in their branches and business establishments and enforce their implementation in business corporations incorporated as subsidiaries in other member states of the European Union, countries of the European Economic Area or third countries to the extent permitted by the legislation of the given country.
- (8) The credit institution, payment institution, electronic money institution, financial institution pursuant to section 2 (1) b) 11. and the obliged entity pursuant to section 2 (1) c) deliver the Internal Procedures to the Office within 60 days from becoming an obliged entity; a notification of changes to the Internal Procedures including its updated version is to be delivered to the Office within 30 days after its adoption. The obliged entity pursuant to section 2 (1) b) 1. to 4. with the exception of investment broker fulfils this obligation towards *Česká národní banka* (hereinafter referred to as "Czech National Bank").
- (9) The foreign credit or financial institution operating on the territory of the Czech Republic through its branch or a business establishment does not have to elaborate special Internal Procedures for their activity if their activity is regulated by similar internal procedures of such foreign credit or financial institution and these internal regulations meet requirements at least equal to the requirements of this Act. This internal regulation must be available in the Czech language.
- (10) Should the Office or the Czech National Bank identify any deficiencies in the Internal Procedures delivered in accordance with subsection (8), they provide a deadline for their removal. The obliged entity provides written information on the remedy of identified deficiencies within the provided deadline.
- (11) Should it be effective for the purpose of compliance with the requirements of this Act, the Czech National Bank may, within the limits of subsection (5) c) and d), stipulate by a

Decree requirements for introduction and application of the Internal Procedures and risk assessment pursuant to Section 21a by selected obliged entities supervised by the Czech National Bank<sup>21</sup>).

- (12) The respective professional chamber elaborates written guidelines to introduce and enforce strategies and procedures pursuant to subsection (1) in the operations of its members. These guidelines include written risk assessment pursuant to section 21a (4). The guidelines as well as any modifications thereof are submitted by the respective professional chamber to the Office no later than 30 days after they had been drafted. Should the Office identify any deficiencies in the submitted guidelines or their modifications, it requests their removal within a set deadline. The respective professional chamber, within the given deadline, informs the Office in writing about removal of detected deficiencies. The final text of the guidelines should be made available by the respective professional chamber to all its members.

## Section 21a

### **Risk Assessment**

- (1) The obliged entity identifies and assesses risks of legitimisation of proceeds of crime and financing of terrorism that can occur in the course of its activity which is subject to this Act. In the course of the risk assessment, the obliged entity takes into consideration results of risk assessment performed at the level of the Czech Republic, results of supranational risk assessment, factors of potentially increased risk pursuant to Annex No. 2 to this Act, other available information related to such risks in respect of the obliged entity's activities and, potentially, risk assessment performed by the respective professional chamber pursuant to subsection (4).
- (2) The obliged entity pursuant to section 2 (1) a) to d), h) and l), unless subject to an exception pursuant to section 21 (3) or (4) elaborate a written assessment of risks of legitimisation of proceeds of crime and financing of terrorism related to types of provided transactions and business relationships to the extent to which it performs activities pursuant to this Act, no later than 60 days after becoming an obliged entity. It considers the risk factors, particularly the type of customer, purpose, regularity and duration of the business relationship or transaction outside of the business relationship, type of product, value and transaction method as well as the risk profile of countries or geographical areas related to the transaction.
- (3) The obliged entity regularly updates the risk assessment pursuant to subsection (2) in particular prior to launching new products and prior to introducing new technology which may have impact on management of risk of legitimisation of proceeds of crime and terrorist financing.
- (4) The respective professional chamber identifies in writing an assessment of risk of legitimisation of proceeds of crime and terrorist financing which may be posed by activities of its members. Such written risk assessment is made available to all members of the respective professional chamber. In the process of the risk assessment, the respective professional chamber takes into consideration the risk assessment made at the level of the Czech Republic, results of supranational risk assessment, factors of potentially increased risk pursuant to Annex No. 2 to this Act, and other available information related to such risks in respect of activities of its members.

## Section 22

### **Contact Person**

- (1) An obliged entity designates its employee or a member of its s body to comply with the reporting obligation pursuant to section 18 and to be a contact person for the Office. The credit or financial institution as well as an obliged entity pursuant to section 2 (1) c), d), h) and l) informs the Office of such a person's designation and of any potential changes thereof no later than 60 days after becoming an obliged entity or no later than 30 days after changes had been made, giving the name, surname, position and contact information including a phone number and email address.
- (2) A member of the governing body of a credit or financial institution must not be appointed as a contact person unless it was justified by the scope and nature of activities of the obliged entity.
- (3) A contact person of a credit or financial institution must not be an employee responsible for closing or settling its deals and/or person involved in the performance of internal audit unless it was justified by the scope and nature of activities of the obliged entity.
- (4) Should the activity of a contact person not be carried out directly by a member of the governing body, the obliged entity facilitates the contact person's direct communication with the member of the governing and supervisory body of the obliged entity.

## Section 22a

### **Authorised Person**

- (1) An obliged entity authorises in writing a member of its governing body to ensure compliance with obligations stipulated by this Act.
- (2) The authorised person pursuant to subsection (1) is appointed no later than 60 days after the date when the entity became an obliged entity or after the date of termination of membership in the governing body of the person authorised pursuant to subsection (1).
- (3) Should the obliged entity's governing body have just one member, such a member is considered as authorised pursuant to subsection (1).

## Section 23

### **Employee Training**

- (1) The obliged entity provides, at least once in 12 calendar months, training of staff who may, in the course of their work, detect a suspicious transaction. Training is also provided to all employees prior to being assigned to such job position.
- (2) The obliged entity provides training in line with subsection (1) also to its contractual employees provided these individuals may, in the course of their work for the obliged entity, detect a suspicious transaction.
- (3) The training includes information on typologies and indicators of suspicious transactions, requirements determined by the obliged entity for the identification and customer due diligence and procedures for detecting customer risk factors and suspicious transactions. The obliged entity amends and updates the training curricula on an ongoing basis.
- (4) The obliged entity maintains attendance sheets and training curricula for at least 5 years after each training.

## Section 24

### **Information Duty**

- (1) Upon the Office's instruction and within the deadline stipulated by the Office, the obliged entity informs the Office on business relations and transactions concerned by the identification duty or on business relations and transactions pursuant to the Office inquiry; the obliged entity also submits to the Office documents related to such transactions or enables access to them by authorised employees of the Office in charge of analysing suspicious transaction reports and the administrative supervision and provides information pertaining to persons who participated on such transactions.
- (2) Prior to establishing any business relationship or making any transaction outside the scope of a business relationship, the obliged entity provides its customer with information required in line with relevant legislation regulating protection and processing of personal data;<sup>31)</sup> the obliged entity notifies its customer of its duty to process personal data for the purpose of prevention of legitimisation of proceeds of crime and financing of terrorism.
- (3) Upon the Office's instruction, the obliged entity informs the Office, within the deadline stipulated by the Office, whether it has kept, in the past ten years, a business relationship with a particular person whom it was obliged to identify and, if so, on the nature of such relationship. To this end, the obliged entity implements an efficient system suitable to the nature and extent of its business.

## Section 24a

- (1) The obliged entity applies, in its branches, business establishments, and subsidiary business corporations operating in third countries, customer due diligence and record keeping measures which are at least equivalent to European Union law<sup>1)</sup> and to the extent permitted by the respective country's legislation. For this purpose, the obliged entity provides the above with information pertaining to the respective methods and processes.
- (2) The obliged entity having a branch, a business establishment, or a subsidiary business corporation in a third country, legislation of which disallows application of equivalent measures pursuant to subsection (1), informs the Office thereof and applies adequate additional measures to manage risk of potential abuse of the above for legitimisation of proceeds of crime and financing of terrorism and to prevent spreading of such risks into the territory of the Czech Republic, a member state of the European Union or a member country of the European Economic Area. Should such measures be insufficient, the respective supervisory body may, in reaction to the deficiencies detected in the course of its inspection, impose remedies on the obliged entity within a reasonable deadline. A branch, business establishment, or subsidiary business corporation of the respective obliged entity may be requested to refrain from establishing business relations with entities in such country, to terminate such business relationships, to discontinue transactions with any entities in such third country, or, ultimately, to discontinue any business in such third country. An obliged entity which was imposed remedies on informs the supervisory body on having removed the deficiency detected. Such notification is made without any unnecessary delay after the deficiency was removed and no longer than 10 days after expiration of the deadline.
- (3) The obliged entity having a branch or business establishment in other European Union member state or a member country of the European Economic Area guarantees that such branch or business establishment comply with the national legislation regulating measures

to counter legitimisation of proceeds of crime and financing of terrorism of the respective European Union member state or member country of the European Economic Area.

## CHAPTER V (SECTIONS 25- TO 29B)

### **SPECIAL PROVISIONS RELATED TO SELECTED OBLIGED ENTITIES**

#### Section 25

##### **Special Provisions on Credit and Financial Institutions**

- (1) A credit or financial institution must not establish a correspondent relationship with foreign credit, financial or similar institution (hereinafter only “respondent institution“):
  - a) registered in a business register or a similar register in a country in which neither them nor its management are present, and which is not affiliated to any regulated financial group,
  - b) which is known to allow use of its accounts by an institution referred to in paragraph a), or
  - c) which is not applying measures against legitimisation of proceeds of crime and financing of terrorism at least equal to requirements of European Union law<sup>1)</sup>;should it already establish such relationship, it must withdraw from such relationship as soon as possible.
- (2) Prior to establishing a correspondent relationship with a respondent institution, a credit or financial institution:
  - a) gathers sufficient information about the respondent institution and the nature of its business and other risk factors,
  - b) uses public sources to determine level of supervision of the respondent institution and determine whether it has ever been investigated or inquired in relation to potential violations of measures against legitimisation of proceeds of crime or terrorist financing,
  - c) detects and assesses measures implemented by the respondent institution to counter legitimisation of proceeds of crime and financing of terrorism including the method and quality of customer identification and due diligence and capacity to provide such information on request primarily in respect to payable through accounts as well as capacity to provide information pertaining to the payer and payee in respect of transfers of funds,
  - d) determines and records division of duties and responsibilities for correspondent relationship between such credit or financial institution and the respondent institution in respect of implementation of measures to counter legitimisation of proceeds of crime and financing of terrorism.
- (3) A correspondent relationship requires approval of the governing body of the given credit or financial institution or the branch manager of the foreign credit or financial institution operating on the territory of the Czech Republic.
- (4) The respective credit or financial institution updates information gathered pursuant to subsection (2) on an on-going basis. Should the correspondent relationship pose increased



risk of legitimisation of proceeds of crime and financing of terrorism, the credit or financial institution adjusts conditions thereof or terminates such relationship.

- (5) Rights and obligations stipulated by this Act for the credit institution apply also to the Czech National Bank in keeping accounts and providing other banking services.
- (6) Cession of payment from life insurance to a politically exposed person in increased risk of abuse for legitimisation of proceeds of crime or financing of terrorism requires consent of a governing body of the respective insurance company or its appointed employee authorised to manage measures to counter legitimisation of proceeds of crime or financing of terrorism who is fully aware of the inherent risks and can make decisions to manage such risks.

#### Section 25a

##### **Special Provisions on Foreign Providers of Payment Services**

- (1) An obliged entity which is a foreign legal or natural person authorised to provide payment services or issue electronic money which has a business establishment on the territory of the Czech Republic appoints a central contact point provided that:
  - a) at least one condition for appointment of central contact point pursuant to Commission Delegated Regulation (EU) 2018/1108 of 7 May 2018 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regulatory technical standards on the criteria for the appointment of central contact points for electronic money issuers and payment service providers and with rules on their functions is met<sup>42)</sup>, or
  - b) such decision is made by the Czech National Bank based on the fact that one of the business establishments of the obliged entity may pose an increased risk of legitimisation of proceeds of crime or terrorist financing and the appointment of a central contact point is proportionate to the risk posed by the obliged entity or its business establishment concerned.
- (2) Should conditions necessary to issue a decision pursuant to subsection (1) b) be met by persons determined as types thereof, the Czech National Bank may issue a generic measure instead of a decision.
- (3) Should conditions based on which the Czech National Bank issued the respective generic measure or decision no longer exist, the Czech National Bank abrogates such generic measure or decision.
- (4) Obligated entities manage their central contact points to the extent pursuant to section 4 and section 6 (1) of the directly applicable regulation pursuant to subsection (1) a).

#### Section 26

##### **Special Provisions on Auditors, Court Distrainers, and Tax Advisors**

- (1) Provisions pursuant to section 15a, section 18 (1), section 24 (1) and section 24 (3) as well as powers of the Office to request information in the course of administrative supervision of responsibilities stipulated by this Act or in respect of potential administrative offence proceedings shall not apply to auditors, court distrainers, or tax advisors when it concerns information they obtained from a customer or about a customer in the course of consulting their legal affairs, representing them in court proceedings, and/or in relation to such

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

- (2) Should an auditor, court distrainer, or tax advisor suspect their customer of seeking legal advice to legitimize proceeds of crime or finance terrorism the subsection (1) does not apply.
- (3) The report pursuant to section 18 is:
  - a) made by an auditor and submitted to the Chamber of Auditors of the Czech Republic,
  - b) made by a court distrainer and submitted to the Chamber of Court Distrainers of the Czech Republic,
  - c) made by a tax advisor and submitted to the Chamber of Tax Advisors of the Czech Republic.
- (4) The respective professional chamber reviews compliance of the report received pursuant to subsection (3) with subsection (1) or section 18 (1) hereof and verifies its conformity with requirements stipulated by this Act. Should the report not conform with requirements stipulated by this Act, the respective professional chamber notifies the reporting entity. Should the report meet requirements stipulated in the first sentence above, the respective professional chamber proceeds to submit the report to the Office without any undue delay, but no later than 7 calendar days after the respective suspicious transaction was detected. Before the end of the first calendar month following the end of the calendar year, the respective professional chamber submits to the Office information on the number of suspicious transaction reports received in the given calendar year and the number of suspicious transaction reports submitted to the Office. The respective professional chamber makes this summary publicly available online.

## Section 27

### **Special Provisions on Attorneys and Notaries**

- (1) Provisions pursuant to section 9, section 15a, section 18 (1), section 24 (1) and section 24 (3) as well as powers of the Office to request information in administrative supervision of responsibilities stipulated by this Act or in respect of potential administrative offence proceedings shall not apply in respect of an attorney in terms of information about a customer obtained from the customer or in any other way in the course of or in relation to:
  - a) providing legal advice or subsequent review of the customer's legal status,
  - b) legal representation of the customer in criminal proceedings,
  - c) representation of the customer in court proceedings, or
  - d) providing legal advice regarding proceedings pursuant to paragraphs b) and c) regardless of whether these proceedings have been initiated or be already terminated.
- (2) Provisions pursuant to section 9, section 15a, section 18 (1), section 24 (1) and section 24 (3) as well as powers of the Office to request information in administrative supervision of responsibilities stipulated by this Act or in respect of potential administrative offence proceedings do not apply in respect of a notary in terms of information about a customer obtained from the customer or in any other way in the course of or in relation to:

- a) providing legal advice or subsequent review of the customer's legal status<sup>22)</sup>,
  - b) representation of the customer in court proceedings to the extent of their authorisation pursuant to another legal regulation<sup>23)</sup>, or
  - c) providing legal advice regarding proceedings pursuant to paragraph b) regardless of whether these proceedings have been initiated or be already terminated.
- (3) An attorney submits the report pursuant to section 18 to the Czech Bar Association or by a notary to the Notary Chamber of the Czech Republic. The respective professional chamber analyses the report submitted by the attorney or notary in terms of consistency with subsection (1) or (2), section 2 (1) g) and/or section 18 (1) and compliance with all requirements stipulated in this Act. Should the suspicious transaction report not contain all information required by this Act, the respective professional chamber notifies the respective attorney or notary. If the report meets the requirements stipulated in the first sentence, the respective professional chamber refers the report to the Office without any undue delay, but no later than 7 calendar days from the detection of the suspicious transaction. Before the end of the first calendar month following the end of the calendar year, the respective professional chamber submits to the Office information on the number of suspicious transaction reports received in the given calendar year and the number of suspicious transaction reports submitted to the Office. The respective professional chamber makes this summary publicly available online.
- (4) The Office requires an attorney or notary to communicate data, submit documents, or provide information pursuant to section 24 (1) through the respective professional chamber. The attorney or notary provides the Office with required information or submits required documents within the requested deadline through the respective professional chamber.

## Section 28

### **Special Provisions on Cash Payments and Works of Art**

Obligated entities pursuant to section 2 (1) i), with the exception of a free port operator, and obliged entities pursuant to section 2 (2) c) and d), if they become an obliged entity when making a transaction of EUR 10,000 or more, are only required to:

- a) Identify their customer,
- b) refuse to make a transaction should there be doubts concerning accuracy of obtained customer identification data, should the customer refuse identification or fail to submit an authorisation pursuant to section 8 (6); and inform the Office accordingly,
- c) perform customer due diligence pursuant to section 9 (2),
- d) keep records pursuant to section 16 (1) and 2,
- e) reports suspicious transactions pursuant to section 18,
- f) comply with the duty to inform pursuant to section 24,
- g) comply with the duty of confidentiality pursuant to section 38.

## Section 29

### **Special Provisions on Financial Services Provided by Post Offices**

- (1) Only a holder of a certificate of competence issued by the Office may perform a cash transfer pursuant to a postal contract in compliance with conditions stipulated in the Act on Postal Services. The certificate is to be issued upon request of the person who intends to perform the activity.
- (2) The Office issues the certificate pursuant to subsection (1) if the applicant, a person who is an associate of the applicant, a member of the governing body of the applicant, a person who will manage the applicant's business and the beneficial owner of the applicant have no criminal record.
- (3) For the purposes of this Act, a person having no criminal record means a person who has never been convicted, finally and conclusively, of a criminal offence committed:
  - a) with intent, or
  - b) by negligence when the subject matter of the crime relates to the person's business, if such person is not perceived as not convicted.
- (4) The absence of a criminal record is proven by an extract from the Criminal Record not older than 1 month. Absence of criminal record is also proven by the following:
  - a) an official body of the country of the permanent residence or other residence of such person and countries where the person stayed in the last 5 years for a period longer than 3 months in respect of a natural person having permanent residence or other type of residence outside the territory of the Czech Republic who, in the last 5 years, resided outside the Czech Republic continuously for a period longer than 3 months by a document similar to the extract from the Criminal Records not older than 3 months issued; if the country of permanent residence or other residence of this person is not the same as the country of their citizenship, the person may also submit a document issued by the country of citizenship,
  - b) a document similar to the extract from the Criminal Record not older than 3 months issued by an official body of the country where the person is incorporated in respect of a legal person incorporated outside of the territory of the Czech Republic, or
  - c) an affidavit of no criminal record pursuant to subsection (3) not older than 3 months taken at a public body or a court body of the country which does not issue extracts or similar documents pursuant to paragraphs a) and b).

## Section 29a

### **Special Provisions on the National Administrator**

- (1) The National Administrator keeps information on subjects keeping an account in the Emission Trading Registry of Greenhouse Gas Allowances including contracts and documents submitted to open the account and information relating to the customer due diligence for the period of 10 years after having terminated the relevant business relationship.
- (2) The National Administrator:
  - a) performs customer due diligence pursuant to section 9 to the extent corresponding to activities when establishing accounts,

- b) reports suspicious transactions pursuant to section 18,
- c) introduces and applies the system of internal control and communication pursuant to section 21 (1),
- d) appoints a contact person pursuant to section 22,
- e) organizes training of its employees pursuant to section 23,
- f) complies with the obligation to inform pursuant to section 24,
- g) complies with the duty of confidentiality pursuant to section 38.

## PART THREE

### **ACTIVITY OF THE OFFICE AND OTHER AUTHORITIES (SECTIONS 29c to 37)**

#### CHAPTER I

### **ACTIVITY OF THE OFFICE AND OTHER AUTHORITIES (Sections 29c to 34a)**

#### **The Office**

##### Section 29c

- (1) The Office is established as an administrative authority located in Prague operating as the Financial Intelligence Unit of the Czech Republic. The Office is subordinated to *Ministerstvo financí* (hereinafter referred to as “Ministry of Finance”).
- (2) The Office operates in areas regulated by this Act and by other laws and makes decisions on commencement or termination of investigation, gathers, process, and shares information, and conducts inspections.
- (3) The Office applies and observes organizational, personnel, and other measures to guarantee protection of information gathered pursuant to this Act from unauthorised persons.
- (4) The Ministry of Finance materially, administratively, and financially supports the Office’s activities. The Office is an accounting unit; its revenues and expenses are part of the budget chapter of the Ministry of Finance.

##### Section 29d

- (1) The Office is managed by the director.
- (2) The Public Service Act regulates the selection, appointment, and dismissal of the director.

##### Section 30

#### **Gathering of Information**

- (1) The Office may request information necessary for compliance with obligations pursuant to this Act from the Police of the Czech Republic, intelligence services, and other public authorities.
- (2) When investigating a suspicious transaction, the Office may, pursuant to the Tax Administration Act, request information from authorities having competences pursuant to other laws governing tax administration obtained in the course of tax administration; the

authorities inform the Office immediately of any suspicion that a taxpayer may be abusing the tax administration system to legitimise proceeds of crime or finance terrorism.

- (3) The Office may request, to the extent necessary for investigation of a suspicious transaction, the entity maintaining or administrating records to provide information kept in registers referred to in subsection (4). The entity maintaining or administrating records provides such information free of charge, unless stipulated otherwise by other legislation. The entity maintaining or administrating records is obliged to comply with the request without any undue delay.
- (4) The Office may, to the extent necessary for the investigation of a suspicious transaction and its administrative supervision, request information from the entity maintaining or administrating records to be provided remotely and continually from the information system of the register of identity cards<sup>32)</sup>, information system of the register of passports<sup>33)</sup>, information system of the register of diplomatic and service passports<sup>33)</sup>, information system of foreign nationals, information system of the register of inhabitants<sup>34)</sup>, the land register<sup>35)</sup>, the basic register of inhabitants<sup>36)</sup>, the central register of legal persons, entrepreneurs and public administration<sup>36)</sup>, the central register of territorial identification, addresses and real estates<sup>36)</sup>, the central register of public administration agendas and selected rights and obligations<sup>36)</sup>, information system of territorial identification<sup>36)</sup>, the vehicle register<sup>37)</sup>, the central vehicle register<sup>37)</sup>, the register of vintage and sports cars<sup>37)</sup>, the register of drivers<sup>38)</sup> and the central register of drivers<sup>38)</sup> and from the information system of the register of activities, property, and revenues and liabilities.
- (5) The Office requests information pursuant to subsections (3) and (4) exclusively by ways permitting keeping of the identification data of the employee who requested the information and data on the purpose for which the information was requested for the period of 5 years at least. The entity maintaining or administrating records is obliged to keep these facts confidential.
- (6) Based on a report received from the intelligence service on facts indicating a suspicious transaction, the Office initiates investigation of the suspicious transaction; the Office informs the intelligence service of the results of such investigation.

#### Section 30a

##### **Risk Assessment at the Level of the Czech Republic and Risk Mitigation Measures**

- (1) The Office coordinates assessment of risks of legitimisation of proceeds of crime and terrorist financing in the Czech Republic (hereinafter only „National Risk Assessment“). The National Risk Assessment is supported by obliged entities and public authorities.
- (2) In the course of the National Risk Assessment, the Office, obliged entities, and public authorities identify and analyse risks of legitimisation of proceeds of crime and terrorist financing on the territory of the Czech Republic taking into consideration factors of potentially increased risk pursuant to Appendix No. 2 hereof, supranational risk assessment, assessment of risks made by international institutions, and other available information related to such risks. The National Risk Assessment includes a description of the structure of national bodies responsible for combatting proceeds of crime and terrorist financing as well as information on assigned human and financial resources.

- (3) The National Risk Assessment serves primarily to help improve measures to counter legitimisation of proceeds of crime and financing of terrorism at the level of public administration and obliged entities.
- (4) When drafting the National Risk Assessment, the Office and the respective public authorities comply with internationally recognised standards of measures to counter legitimisation of proceeds of crime and terrorist financing. The Office, based on partial risk assessments, drafts and submits the National Risk Assessment to the government no later than five years after the adoption of the previous National Risk Assessment by the government.
- (5) The Office provides the National Risk Assessment results to the relevant Council of Europe committee, the European Commission, European supervisory body, and bodies and institutions of other member states of the European Union which have similar responsibilities and which use the information received exclusively for the purposes of countering AML. The Office will make a summary of the National Risk Assessment publicly available.
- (6) The Office coordinates implementation of measures to mitigate risks identified by the National Risk Assessment. Public authorities coordinate their activities with the Office and submit to the Office information on measures taken to mitigate risks on related statistical data.
- (7) The Office informs obliged entities on risks identified in the National Risk Assessment and on measures taken to mitigate such risks on an ongoing basis.
- (8) The Office keeps the National Risk Assessment up to date, in particular with respect to the development of the risk of legitimisation of proceeds of crime and terrorist financing and activities of the European Union's bodies. Provisions pertaining to the National Risk Assessment are applied accordingly.

## Section 31

### **Processing of Information**

- (1) When implementing provisions of this Act, the Office collects and analyses information. It is entitled to keep information obtained when implementing provisions of this Act in an information system. In exercising its powers, the Office is entitled to collate information and information systems serving different purposes.
- (2) The Office keeps data and documents relating to received reports and their investigation for a period of 10 years from the end of the year when the investigation was concluded. Should a new report be received or an investigation pertaining to the same matter or to the same person or entity be reopened, the period referred to in the first sentence is suspended pending the conclusion of the new investigation.
- (3) The Office maintains and publishes, at least once a year, statistical reports on effectiveness and results of measures against the legitimisation of proceeds of crime and financing of terrorism on its website. The Office submits such data annually to the European Commission for the purposes of drafting and publishing its Annual Report on efficiency of measures countering legitimisation of proceeds and financing of terrorism in the European Union. Law enforcement authorities provide the Office with summary statistics on matters relating to the legitimisation of proceeds of crime and financing of terrorism on an ongoing basis.

- (4) The Office submits to the European Commission a list of the most prominent national public functions. The Office keeps the list up to date and may make it available online.
- (5) An international organisation accredited on the territory of the Czech Republic submits, upon request of the Office, a list of its most prominent public functions. The international organisation accredited on the territory of the Czech Republic providing such information is obliged to keep them up to date.

#### Section 31a

### **Special Provisions on Personal Data Protection**

- (1) The Director appoints the data protection officer of the Office.
- (2) The Office processes personal data to the extent necessary for compliance with obligations pursuant to this Act.
- (3) The Office refuses to comply with a request for access to personal data, or complies only partially if it may threaten:
  - a) compliance with a task for the purpose of preventing the abuse of the financial system for legitimisation of proceeds of crime or financing of terrorism, or
  - b) conditions for detecting legitimisation of proceeds of crime or financing of terrorism, or
  - c) protection of classified information.
- (4) Should compliance with a request for access to personal data or information including justification on non-compliance thereof pose a threat pursuant to subsection (3), the Office informs the data subject similarly to applicants whose personal data are not processed.
- (5) The Office does not comply with a request for correction or deletion of personal data or restriction on their processing or will comply only partially if compliance could pose threat pursuant to subsection (3). Should information including justification on non-compliance with the request pose threat pursuant to subsection (3), the Office informs the applicant in a manner preventing such threat.
- (6) The Office does not inform the data subject of unauthorised access to their data or informs them only to the extent not posing threat pursuant to subsection (3).
- (7) The Office, if processing personal data which reveal racial or ethnic origin, political views, religious beliefs, or philosophical perceptions, membership in trade unions, health, and sexual habits or sexual orientation limits access to such personal data exclusively to qualified public officials.
- (8) The Office trains, at least once in 12 months, its qualified staff in matters related to protection of personal data processed pursuant to subsection (7).

### **Oversight of the Office's Activities**

#### Section 31b

- (1) Oversight of the Office is entrusted to the Chamber of Deputies and its permanent commission established for this purpose pursuant to the Act Regulating Rules of Procedure of the Chamber of Deputies (thereinafter only „Permanent Commission“) as well as to the Government.



- (2) The Permanent Commission has a minimum of seven members. The Chamber of deputies stipulates the number of members so that each deputy club established alongside membership in a political party or a political movement member of which stood as candidates in the elections be represented. The number of members is always odd. Membership in the Permanent Commission is limited to Members of the Parliament.
- (3) The Permanent Commission has no right to intervene in powers of the director of the Office concerning human resources and/or to interfere with their managerial competences.

#### Section 31c

- (1) The Office submits an annual report to the Permanent Commission and to the Government, the deadline is on 31 March of the following year.
- (2) Upon request, the Office provides the Permanent Commission with information on its activity.
- (3) The report pursuant to subsection (1) and information pursuant to subsection (2) do not include any personal identification data or classified information in line with another law<sup>28)</sup> and may not contain any information on pending investigation conducted pursuant to this Act or investigation conducted pursuant to section 30 (6) or handed over pursuant to section 32 as far as such data could jeopardise activities of law enforcement bodies or intelligence services.
- (4) The report pursuant to subsection (1) and information pursuant to subsection (2) may be debated exclusively at non-public sessions of the Permanent Commission or at closed Government meetings; the above may be discussed by the Permanent Commission only upon presence of a representative of the Office.
- (5) Members of the Permanent Commission may enter premises of the Office accompanied either by the director or by an authorised employee.

#### Section 32

##### **Handling of Investigation Results**

- (1) Should the Office detect facts indicating a crime, it reports such crime pursuant to the Code of Criminal Procedure and, at the same time, provides the law enforcement body with all relevant information gathered by the Office in its investigation.
- (2) Should the Office detect facts that may be of importance to *Policie České republiky* (hereinafter referred to as “Police of the Czech Republic”), *Finanční správa České republiky* (hereinafter referred to as “Tax Administration of the Czech Republic”), or *Celní správa České republiky* (hereinafter referred to as “Customs Administration of the Czech Republic”), it informs the Police of the Czech Republic, *Generální finanční ředitelství* (hereinafter referred to as “General Financial Directorate”), or *Generální ředitelství cel* (hereinafter referred to as “General Directorate of Customs”) of these facts, and informs these authorities of results of its investigation, unless disclosure of such information is contrary to the purposes of this Act.
- (3) Should the Office detect facts significant for the protection of economic, financial or security interests of the Czech Republic or the European Union, it informs the relevant institutions of such facts unless disclosure of such information is contrary to the purposes of this Act. At the same time, it applies measures to protect legitimate interest of other persons pursuant to section 39 (4).

## Section 33

### **International Cooperation**

- (1) To implement this Act, the Office, to the extent stipulated by international agreements binding upon the Czech Republic or by the relevant European Union law<sup>43)</sup>, cooperates with foreign authorities and international organisations which have similar competences.
- (2) International cooperation includes, in particular, exchanging and gathering information, without any undue delay, either upon request or by virtue of office. International cooperation may not be restricted and is without prejudice to section 39 (4).
- (3) The Office may cooperate with the following:
  - a) international organisations and foreign public authorities having comparable competences based on reciprocity,
  - b) other international organisations and foreign public authorities provided that the information exchanged would be used for the purpose of this Act and protected at least to the extent given by this Act.
- (4) In respect of international cooperation upon request of the Office, such request must be justified and must include information on the intended use of the information received. The Office uses the data gathered through international cooperation in compliance with conditions stipulated by the requested foreign authority or international organisation.

## Section 33a

### **Exchange of Data Related to Serious Crimes**

- (1) Should it be necessary for the asset recovery office in the Czech Republic acting in line with the European Union Council decision regulating cooperation of asset recovery offices<sup>45)</sup> (hereinafter only “Asset Recovery Office“) to perform a particular task concerning crimes pursuant to Appendix No. 1 of the directly applicable regulation of the European Union regulating operation of Europol<sup>46)</sup>, the Office provides, based on a justified request and without any undue delay, data obtained in the course of its activities pursuant to this Act. The Office justifies any withholding of such data.
- (2) Should it be necessary to implement specific tasks of Europol, the Office provides, without any undue delay and based on a justified request made by Europol via the Europol National Unit pursuant to the directly applicable regulation of the European Union regulating operation of Europol<sup>46)</sup> (hereinafter only “Europol National Unit“), data gathered pursuant to this Act. The Office handles such request equally to a request submitted by a foreign authority having comparable competences to the Office. The Office justifies any withholding of such data.
- (3) Data provided pursuant to subsection (1) may not be used without the prior consent of the Office for any other purposes but those for which they had been provided; such data may be exchanged with neither other national authorities nor authorities of any other country. The Office justifies any withholding of such consent.
- (4) The Office maintains record of all requests for data pursuant to subsection (1) or (2); such record includes the following:
  - a) the name and contact details of requesting organization,
  - b) the name and contact details of the staff member requesting data on behalf of the organization,

- c) the title or name of the recipient of the requested data,
  - d) the reference to the case in relation to which the data is requested,
  - e) the subject matter of the request, and
  - f) measures taken by the Office in respect of the request.
- (5) The record pursuant to subsection (4) may be used solely to verify lawfulness of processing of the personal data. The Office provides access to the record pursuant to subsection (4) to an authority competent to supervise processing of personal data upon its request.
- (6) The Office keeps record pursuant to subsection (4) for a period of 5 years after their creation.

## Section 34

### **Granting of Exemptions**

- (1) Upon request, the Office issues a conclusion that a financial institution performs an activity referred to in section 2 (1) b), with the exception of money transfers where the payer and the payee do not use an account opened with the payer's provider (money remittance), only occasionally or in a very limited extent, and in a manner that precludes or significantly reduces the risk of such person being abused for legitimisation of proceeds of crime and financing of terrorism, is not to be considered an obliged entity pursuant to this Act.
- (2) The exemption stipulated in subsection (1) is granted provided that:
- a) the respective activity is solely ancillary to the main activity of the obliged entity, which, with the exception of activities pursuant to section 2 (2) d), is not considered an obliged entity pursuant to this Act, and the activity is provided solely to a customer with whom the entity is entering or has entered into a business relationship under the umbrella of its main activity,
  - b) the net annual turnover from this activity does not exceed 5% from the total net annual turnover of the obliged entity in the accounting period, and at the same time does not exceed a limit determine by the Office in its decision with regard to the type of activity in question, and
  - c) it is ensured that the value of an individual transaction or of multiple transactions of one customer in the period of 30 consecutive days in the framework of the activity referred to in paragraph a) does not exceed the amount of EUR 1,000.
- (3) The obliged entity provides in writing a proof of compliance with conditions set in subsections (1) and (2) to the application pursuant to subsection (1).
- (4) An exemption pursuant to subsection (1) may be granted for a limited time. In its decision, the Office specifies any other obligations within the scope of obligations of obliged entities to prevent abuse of the respective exemption for legitimisation of proceeds of crime or financing of terrorism.
- (5) The Office grants exemptions solely should the risk of abuse of the exemption for the legitimisation of proceeds of crime or financing of terrorism on the part of the obliged entity be eliminated or significantly reduced.
- (6) For the period of exemption pursuant to subsection (1), the obliged entity allows the supervisory body [section 35 (1)] to oversee compliance with the specified conditions, and

to supervise that the exemption is not abused for activities facilitating legitimisation of proceeds of crime or financing of terrorism. In this respect, supervisory bodies enjoy the same powers as when supervising obliged entities.

- (7) The obligation of the obliged entity stipulated in section 18 and steps taken by the Office in respect of the obliged entity pursuant to section 24 during investigation of a suspicious transaction are not affected by the decision to grant an exemption pursuant to subsection (1).
- (8) The Office revokes the exemption granted pursuant to subsection (1) should:
  - a) the assessment of risk of abuse of the activity to legitimise proceeds of crime or finance terrorism has significantly changed, or
  - b) the holder of the exemption violated specified conditions.
- (9) An appeal lodged against the decision in subsection (8) does not have a suspensory effect.

#### Section 34a

##### **System to Report Violations of Duties and Obligations pursuant to this Act**

- (1) The Office and the respective professional chambers establish a system to receive reports on violations of duties pursuant to this Act (hereinafter only “Violation Reporting System“).
- (2) The Violation Reporting System stipulates detailed procedures to receive reports, examine their merits, and handle results.
- (3) Procedures pursuant to subsection (2) protect justified interests of the reporting subject and the person who is, according to the report, liable for violations of this Act.
- (4) The reporting subject must not suffer any act of vengeance because of its report.

## CHAPTER II

### **ADMINISTRATIVE SUPERVISION (Sections 35 to 37)**

#### Section 35

##### **Discharge of Administrative Supervision**

- (1) The Office supervises compliance with duties and obligations pursuant to this Act; at the same time, the Office supervises obliged entities’ compliance with provisions to prevent legitimisation of proceeds of crime or financing of terrorism. Other supervisory bodies in charge of administrative supervision of compliance with obligations pursuant to this Act are:
  - a) the Czech National Bank in respect of obliged entities subject to its supervision<sup>21</sup>),
  - b) the respective division of the Customs Administration of the Czech Republic in charge of supervising compliance with legislation regulating gambling in respect of obliged entities pursuant to section 2 (1) c),
  - c) *Česká obchodní inspekce* (hereinafter referred to as “Czech Trade Inspection Authority”) in respect of obliged entities listed in section 2 (1) i) and j),
  - d) the respective professional chambers in respect of attorneys, notaries, auditors, court distrainers, and tax advisors.

- (2) The Office also supervises compliance with obligations in line with the directly applicable regulation of the European Union on information accompanying transfers of funds<sup>20)</sup>; the Czech National Bank supervises compliance with obligations pursuant to this regulation in respect of the obliged entities subject to its supervision<sup>21)</sup>.
- (3) The Office provides information to other supervisory bodies on its own activities, which are necessary for administrative supervision or control and otherwise cooperates as needed.
- (4) At the Office's request, other supervisory bodies provide to the Office written opinions or any other cooperation as requested.
- (5) Should the supervisory body pursuant to subsection (1) a) to c) disclose facts that may indicate legitimisation of proceeds of crime or financing of terrorism, it immediately informs the Office of such facts and provides information in the scope pursuant to section 18 (2).
- (6) In its administrative supervision pursuant to this Act, the supervisory body stipulated by subsection (1) a) to d) applies its supervisory competences in line with the legislation regulating its competences.
- (7) Administrative supervision is based on risk analysis that reflects, among others, the National Risk Assessment, supranational risk assessment, risk assessment by international institutions and, potentially, risk assessment made by the respective professional chamber. The analysis is kept up to date with respect to the development of risks.
- (8) The Office and the Czech National Bank
  - a) cooperate with supervisory bodies in the respective member state in respect of administrative supervision of an obliged entity incorporated in the Czech Republic and having a branch or a business establishment in another member state,
  - b) cooperate with the supervisory bodies in the member state in which the obliged entity is incorporated in respect of administrative supervision of an obliged entity having a branch or a business establishment in the Czech Republic,
  - c) perform administrative supervision of group strategies and procedures of credit and financial institutions which are members of groups mothers of which are incorporated in the Czech Republic and cooperate with supervisory bodies in the member states of incorporation of these credit and financial institutions or where they have their branches or business establishments,
  - d) cooperate with supervisory bodies in other member states which perform administrative supervision of group strategies and procedures of credit and financial institutions which are members of groups incorporated in the Czech Republic or having their branch or business establishment in the Czech Republic,
  - e) cooperate with supervisory bodies in other member states which perform administrative supervision of group strategies and procedures of credit and financial institutions which are members of groups mothers of which are incorporated in the Czech Republic.
- (9) The Office submits to the European Commission a list of supervisory bodies including their contact details. The Office keeps the list up to date.
- (10) In respect of administrative supervision or control, the Office and the Czech National Bank cooperate with the European Central Bank.

- (11) The Office and the Czech National Bank inform the European supervisory bodies supervising credit and financial institutions on all final and conclusive decisions imposing administrative sanctions for administrative offences pursuant to this Act.
- (12) When supervising compliance with duties and obligations pursuant to this Act by providers of services related to virtual assets pursuant to section 2 (1) h), the Office verifies authorisation of the obliged entity to engage in such entrepreneurial activity and confirms that the entity registered its entrepreneurial activity in line with the Entrepreneurial Act which stipulates mandatory registration of such activity.

#### Section 36

##### **Motion to Revoke Business Licence or Licence to Perform another Independent and Gainful Activity or to Impose Penalty**

Should the Office detect that a legal or natural person profiting from business or another independent gainful activity seriously or repeatedly violates their obligations stipulated by this Act or by a bylaw pursuant to this Act or is not authorised to perform such activity, the Office makes a motion to the authority which is, pursuant to another law, empowered to issue a decision on the respective termination, revocation, or penalty to terminate or revoke the business licence or other gainful activity licence or to impose a penalty. This authority notifies the Office of measures imposed and their respective execution, no later than 30 days after receiving the motion.

#### Section 37

##### **Special Provisions on Administrative Supervision in Respect of Attorneys, Notaries, Auditors, Court Distrainers, or Tax Advisors**

- (1) The respective professional chamber supervises compliance of attorneys, notaries, auditors, court distrainers or tax advisors with duties and obligations stipulated by this Act also upon a written request by the Office. The respective professional chamber informs the Office in writing of commencement of the supervision and its results.
- (2) The Office may initiate an inspection of compliance of attorneys, notaries, auditors, court distrainers or tax advisors with duties and obligations stipulated by this Act solely and exclusively should the respective professional chamber based on the Office's written request pursuant to subsection (1) failed to initiate supervision within 60 after receiving the request.
- (3) The Office is authorised to enter premises in which the obliged entity may keep written material containing information pursuant to section 26 (1), with the exception of information pursuant to section 26 (2) or section 27 (1) or (2) exclusively upon presence of the obliged entity concerned. Should the obliged entity declare that the respective written material contains such information, the Office may see such information exclusively in presence and upon consent of a representative of the respective professional chamber. Such representative is appointed, upon request of the Office, by the chairperson or the president of the respective chamber and is one of its employees or members.
- (4) The representative of the respective professional chamber does not grant consent to see the respective written material exclusively should it contain information pursuant to section 26 (1), with the exception of information pursuant to section 26 (2), section 27 (1), or (2). Should there be no consent granted the written material:

- a) is, in presence of the Office, the obliged entity and representative of the respective professional chamber, secured to prevent unauthorised access or partial or total damage, and
  - b) is immediately after being secured handed over to the respective professional chamber.
- (5) The respective professional chamber representative's consent to see the written material in question may be replaced, upon the Office's motion, by a court decision in line with the act regulating special court proceedings; should the statutory period to file the motion expire to no effect, the respective professional chamber returns the written material to the obliged entity.
  - (6) The respective professional chamber submits to the Office, before the end of the first calendar month following the end of the calendar year, information on the number of received reports on violations of this Act, performed inspections, detected noncompliance, and decisions on administrative offence in the given calendar year. The respective professional chamber makes this information publicly available online.
  - (7) Should a respective professional chamber detect facts indicating legitimisation of proceeds of crime or terrorist financing, it informs the Office, without any unnecessary delay, of such facts and provide relevant information to the extent pursuant to section 18 (2), unless it concerned information pursuant to section 26 (1) or section 27 (1) or (2). To comply with the above, the respective professional chamber applies procedure pursuant to section 26 (2).

## PART FOUR

### CONFIDENTIALITY (SECTIONS 38 to 40b)

#### Section 38

##### **Duty of Confidentiality**

- (1) Unless stipulated otherwise by this Act, obliged entities and their employees, employees of the Office, employees of other supervisory bodies or *Rada pro veřejný dohled nad auditem* (hereinafter referred to as "Public Audit Oversight Board") as well as natural persons who are independent contractors of the obliged entity, the Office, another supervisory body or the Public Audit Oversight Board have the duty not to disclose any facts related to suspicious transaction reports and examination of suspicious transactions, Office's related processes or compliance with duties and obligations pursuant to section 24 (1) or section 31c.
- (2) The duty of confidentiality is affected should the persons referred to in subsection (1) be transferred to another job, their employment or other contractual relationship with the obliged entity, the Office, another supervisory body or the Public Audit Oversight Board be terminated, or should the obliged entity cease to perform activities pursuant to section 2.
- (3) The duty of confidentiality applies to all persons who may be exposed to facts referred to in subsection (1).
- (4) In justified cases, the prime minister or, in individual cases, a member of the Government authorised to do so by the prime minister may revoke the duty of confidentiality of persons referred to in subsections (1) to (3).

## Section 39

### Exemptions from the Duty of Confidentiality

- (1) The duty of confidentiality pursuant to section 38 may not be invoked before:
- a) a law enforcement body investigating crime of legitimisation of proceeds of crime or financing of terrorism, or in relation to compliance with the reporting obligation in respect of such crime,
  - b) specialised Police units having competence to detect and investigate cases of legitimisation of proceeds of crime and financing of terrorism should it be in respect of information obtained pursuant to section 42 (3),
  - c) a foreign public authority pursuant to section 33 in respect of exchange of information for the purposes of this Act and information related to crimes pursuant to section 3 (2),
  - d) the Police of the Czech Republic, the General Financial Directorate, or the General Directorate of Customs in relation to facts which are part of information referred to in Section 32 (2),
  - e) supervisory bodies referred to in section 35 (1) or the Public Audit Oversight Board in respect of their competences pursuant to this Act,
  - f) the administrative authority having competences in the system of raw diamonds' certification pursuant to another law,
  - g) administrative authority having competences to perform public control or in administrative offence proceedings pursuant to the Act on Implementation of International Sanctions,
  - h) the authority having competence pursuant to another law to revoke business or other independent gainful activity license or impose penalties upon the Office's motion to revoke such license or to impose such penalty,
  - i) a financial arbitrator having competences pursuant to another law to make decisions in disputes between a private claimant and an institution,
  - j) a person claiming damages incurred by the implementation of this Act, should it concern subsequent communication of facts which are material for asserting the claim; in this instance, the obliged entity may inform its customer of proceedings pursuant to this Act only after the date when the decision of the competent law enforcement body to forfeit or secure the subject of the suspicious transaction had been executed or after the expiration of the period pursuant to section 20 (7); in all other instances such communication requires the Office's written consent,
  - k) a court
    1. competent to hear civil cases concerning claims for damages or non-material damages resulting from implementation of duties and obligations pursuant to this Act,
    2. competent to hear cases regarding discrepancies pursuant to the act regulating register of beneficial owners,
  - l) *Národní bezpečnostní úřad* (hereinafter referred to as "National Security Authority"), *Ministerstvo vnitra* (hereinafter referred to as "Ministry of Interior"), or the intelligence service in implementation of security management pursuant to another law<sup>24)</sup>,



- m) the competent intelligence service in respect of information essential for compliance with its tasks pursuant to the law regulating intelligence services,
  - n) the tax administration in respect of information submitted by the obliged entity pursuant to the Tax Code.
  - o) The Asset Recovery Office and the National Europol Unit in compliance with their duties and obligations of the Office pursuant to section 33a,
  - p) the authority competent to supervise personal data protection in respect of access to the database of requests for data pursuant to section 33a.
- (2) The confidentiality clause pursuant to section 38 may not be invoked in respect of information to be used exclusively for prevention of legitimisation of proceeds of crime and financing of terrorism and share among:
- a) credit or financial institutions, including foreign credit and financial institutions, should they operate on the territory of a member state of the European Union or member country of the European Economic Area and belong to the same group, or between these institutions and their subsidiaries in third countries in which these institutions hold a majority stake and which fully comply with group strategies and procedures to counter legitimisation of proceeds and financing of terrorism,
  - b) obliged entities referred to in section 2 (1) e) and f), or persons of the same type operating on the territory of a state which requires compliance with measures to counter legitimisation of proceeds of crime and financing of terrorism equal to European Union law, provided these persons operate as the obliged entity's employees or independent contractors in respect of information exchanged within the same legal person and amongst legal persons which are bound contractually or personally, or
  - c) credit or financial institutions, or amongst obliged entities referred to in section 2 (1) e) and f), or persons of the same type operating on the territory of a state which requires compliance with measures to counter legitimisation of proceeds of crime and financing of terrorism equal to European Union law, in respect of information related to the same customer and the same transaction made by two or more persons of the same professional category and subject to equal duty of confidentiality and personal data protection.
- (3) The duty of confidentiality may not be invoked in procedures pursuant to the Act on Implementation of International Sanctions.
- (4) Exemptions pursuant to subsection (1) c) to p):
- a) are applied solely to the extent necessary to comply with purposes of information shared and with regards to protection of information pertaining to subjects reporting suspicious transactions,
  - c) do not apply should information exchanged impede or hinder investigation of suspicious transaction or ongoing criminal proceedings or should the exchange of information be clearly disproportionate to the legitimate interests of the person concerned or to the purpose of the respective request for information.

## Section 40

### **Special Non-Disclosure Provisions in Respect of Attorneys, Notaries, Auditors, Court Distrainers, and Tax Advisors**

- (1) Provisions of section 39, except for subsection (1) e) to n) do not apply to attorneys and notaries.
- (2) Provisions of section 39, except for subsection (1) e) to n) and subsection (2) do not apply to auditors, court distrainers and tax advisors.
- (3) Attorneys, notaries, auditors, court distrainers, and tax advisors may disclose information pursuant to section 38 (1) to their customer should such information be disclosed to deter the customer from engaging in crime.
- (4) Subsections (1) to (3) apply accordingly to other persons bound by respective legislation not to disclose information similarly to attorneys, notaries, auditors, court distrainers, and/or tax advisors.

## Section 40a

### **Special Non-Disclosure Provisions in Respect of Employees or Independent Contractors of Respective Professional Chambers or the Public Audit Oversight Board**

Employees of the respective professional chambers or the Public Audit Oversight Board as well as natural persons as independent contractors of the respective professional chambers or the Public Audit Oversight Board eliminate from their communication with the Office, when acting in compliance with their duties and obligations pursuant to this Act, all facts gathered by attorneys, notaries, auditors, court distrainers, and/or tax advisors pursuant to section 26 (1) and section 27 (1) and (2). In compliance with their duties and obligations, the above proceed by analogy to section 26 (2).

## Section 40b

### **Special Non-Disclosure Provisions Concerning Identity of the Reporting Subject**

- (1) Unless stipulated otherwise by this Act, employees or independent contractors of the Office, other supervisory bodies, or the Public Audit Oversight Board may not disclose any information on identity of the reporting subject pursuant to section 34a.
- (2) The duty of confidentiality does not expire should the persons referred to in subsection (1) be transferred to another job, or their employment or other contractual relationship with the Office, another supervisory body, or the Public Audit Oversight Board be terminated.
- (3) The duty of confidentiality concerning identity of the reporting subject may not be invoked
  - a) in respect of supervisory bodies pursuant to section 35 (1) or the Public Audit Oversight Board implementing provisions of this Act,
  - b) in respect of law enforcement bodies,
  - c) in proceedings pursuant to the Act on International Sanctions.
- (4) Exceptions pursuant to subsection (3) may not be applied should disclosure of information impede or hinder either investigation of suspicious transaction or ongoing criminal proceedings, or should such disclosure be clearly disproportionate to the legitimate interests of the reporting subject pursuant to section 34a.

- (5) Duty of confidentiality of persons pursuant to subsection (1) or (2) in respect of identity of the reporting subject may only be withdrawn by the reporting subject pursuant to section 34a.

## PART FIVE

### **CROSS-BORDER TRANSIT (SECTIONS 41 to 42)**

#### Section 41

#### **Cross-border Transit Obligation to Declare**

- (1) When entering the territory of the Czech Republic from countries outside the European Union and when leaving the Czech Republic for any such territory, a natural person is obliged to declare to the customs authority in writing any export or import of Czech or another currency, means of payment pursuant to section 13a (1), bullion coins containing at least 90% of gold, bullions of high purity containing at least 99,5% of gold, travel cheques or money orders convertible into cash, bearer or registered securities or any other financial instruments which are signed, but do not contain the name of the recipient, in the aggregated value of EUR 10,000 or higher and present them to the customs authority for inspection.
- (2) The obligation pursuant to subsection (1) also applies to a legal person or natural person as an entrepreneur exporting or importing any of the items referred to in subsection (1). The natural person in possession of these items upon crossing of the border of the European Union makes the declaration on behalf of the relevant legal or natural person as an entrepreneur.
- (3) Any person sending a postal or other consignment from the Czech Republic to a country outside the European Union, or accepting a postal or other consignment therefrom, which contains items referred to in subsection (1) in the aggregated value of EUR 10,000 or higher, is obliged to declare the consignment to the customs authority and make it available for inspection by the customs.
- (4) The obligation to declare stipulated in subsections (1) to (3) is also binding for a person who imports to the territory of the European Union or exports therefrom, or receives or sends in consignment, during 12 consecutive months, items referred to in subsection (1) in the aggregated value of EUR 10,000 or higher. The obligation to declare commences as of the day when the person realised that the aforementioned limit will be reached.
- (5) The declaration pursuant to subsections (1) to (4) contains the declarant's identification data, the identification data of the owner and the intended recipient of the transported item, if known to the declarant, a description of the transported items, information on the origin of the items and the purpose of the export or import and the route and means of transport.
- (6) The declaration is made via a Common Declaration Form of the European Union, specimen of which is given in Annex to this Act. The Common Declaration Form of the European Union is available at the customs authority; the Office also publishes the Common Declaration Form of the European Union including all its language versions published by the European Commission online. The declarant is responsible for accuracy and comprehensiveness of the declared information.
- (7) For conversion of another currency to Euro for the purpose of subsection (1), (3) or (4) for the whole calendar month, the authorities use the exchange rate, published by the Czech

National Bank on the second last Wednesday of the previous calendar month. Upon oral request, the customs authority informs potential declarants of the applicable exchange rate for the purpose of compliance with the obligation to declare pursuant to subsections (1) to (4). Value of securities means their fair market value, or the value determined by official market rates.

## Section 42

### **Activities of the Customs Administration of the Czech Republic**

- (1) The customs administration oversees compliance with the obligation to declare pursuant to section 41.
- (2) The customs administration records and processes declarations referred to in section 41, including personal data contained therein. To exercise control pursuant to subsection (1), the customs authority may also take record of and process information in respect of transport or posting of items referred to in section 41 (1) of value below EUR 10,000; should the customs authority suspect that the items are related to crime, such information must always be recorded.
- (3) The customs administration, via the General Directorate of Customs, submits to the Office information on compliance with the obligation to declare pursuant to section 41, including all cases of violation of this duty. The Office keeps such information for the period stipulated by the directly applicable European Union legislation stipulating conditions of the system of controls of cash entering or leaving the European Union. The customs administration makes a report on violation of the obligation to declare pursuant to section 41 by virtue of office.
- (4) The customs administration may, upon detection of a violation of obligations set out in section 41 (1) to (4) or should it suspect that the items are related to crime, seize the items concerned by the violation or suspicion. There is no appeal possible against the decision to seize items issued by the customs authority; the decision is enforceable upon its verbal delivery to the person in possession of the items. The person in possession of the items receives the decision in writing and a notification of seizure is also sent to the importer or exporter and the owner, should the person in possession not be one and should identity of the importer, exporter or owner be known to the customs authority.
- (5) The person receiving the decision on seizure pursuant to subsection (4) hands the items over the customs. Items not handed over on order may be taken from the person in possession of them. The customs administration issues an acceptance note to the person who handed the items over from whom they were taken.
- (6) Seized items not needed for further proceedings, unless the authorities decided to seize or confiscate them or unless they are considered as means towards payment of a fine or compensation of costs of proceedings or forced sale, will be returned without any undue delay to the person who handed them over or from whom they were taken.

## PART SIX

### ADMINISTRATIVE OFFENCES (SECTIONS 43 to 53)

#### Section 43

##### **Violation of the Duty of Confidentiality**

- (1) An obliged entity, obliged entity's employee, employee of the Office, another supervisory body or the Public Audit Oversight Board or a natural person working as independent contractor of an obliged entity, the Office, another supervisory body, or the Public Audit Oversight Board, commits an administrative offence by violating the duty of confidentiality pursuant to section 38 (1) or (2).
- (2) A natural person not listed in subsection (1) commits an administrative offence by violating the duty of confidentiality pursuant to section 38 (3).
- (3) An employee or an independent contractor of the Office, another supervisory body, or the Public Audit Oversight Board commits an administrative offence by violating the duty of confidentiality pursuant to section 40b.
- (4) Perpetrators of administrative offences pursuant to subsections (1) to (3) may be fined up to CZK 200,000.
- (5) Perpetrators of administrative offences pursuant to subsections (1) or (3) may be fined up to CZK 1,000,000, provided such violation impeded or otherwise hindered seizure or confiscation of proceeds of crime or facilitated financing of terrorism.

#### Section 44

##### **Non-compliance with the Obligation to Perform Customer Identification and Customer Due Diligence**

- (1) An obliged entity commits an administrative offence by:
  - a) failing to comply with the obligation to identify a customer,
  - b) failing to comply with the obligation to perform customer due diligence,
  - c) violating the prohibition to make a transaction or to establish a business relationship pursuant to section 15, or
  - d) failing to comply with the obligation to keep records.
- (2) A perpetrator of an administrative offence pursuant to subsection (1) may be fined up to CZK 10,000,000.
- (3) A perpetrator of an administrative offence pursuant to subsection (1) committed under serious circumstances, repeatedly, or systematically may be fined:
  - a) up to twice the value of the unlawfully gained proceeds or up to CZK 30,000,000 whichever is higher,
  - b) up to twice the value of the unlawfully gained proceeds or up to CZK 130,000,000, whichever is higher, should the perpetrator be a financial institution,
  - c) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000 or up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person,

- d) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000, or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity,
- e) a prohibition of business activity, or
- f) publication of the respective decision on administrative offence.

#### Section 44a

#### **Non-compliance with Obligations in Respect of Discrepancies in the Register of Beneficial Owners**

- (1) An obliged entity commits an administrative offence by failing to comply with the obligation to:
  - a) notify the customer pursuant to section 15a (1) of a discrepancy,
  - b) report a discrepancy to a court pursuant to section 15a (2), or
  - c) proceed in line with the Office's instruction pursuant to Section 15a (4).
- (2) A perpetrator of an administrative offence pursuant to subsection (1) a) may be fined up to CZK 100,000.
- (3) A perpetrator of an administrative offence pursuant to subsection (1) b) may be fined up to CZK 1,000,000.
- (4) A perpetrator of an administrative offence pursuant to subsection (1) c) may be fined up to:
  - a) CZK 200,000, or
  - b) CZK 1,000,000 should such conduct impede or hinder seizure or confiscation of proceeds of crime or facilitated financing of terrorism.

#### Section 45

#### **Non-compliance with the Information Duty**

- (1) An obliged entity commits an administrative offence by:
  - a) failing to comply with the information duty pursuant to section 24 (1), or
  - b) failing to comply with the information duty pursuant to section 24 (3).
- (2) A perpetrator of an administrative offence pursuant to subsection (1) may be fined up to CZK 10,000,000.
- (3) A perpetrator of an administrative offence pursuant to subsection (1) a) which was committed under serious circumstances, repeatedly, or systematically may be fined:
  - a) up to twice the value of the unlawfully gained proceeds or up to CZK 30,000,000 whichever is higher,
  - b) up to twice the value of the unlawfully gained proceeds or up to CZK 130,000,000, whichever is higher, should the perpetrator be a financial institution,

- c) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000 or up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person,
- d) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000, or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity,
- e) a prohibition of business activity, or
- f) publication of the respective decision on administrative offence.

## Section 46

### **Non-compliance with the Obligation to Report**

- (1) An obliged entity commits an administrative offence by failing to report to the Office a suspicious transaction pursuant to section 18 (1).
- (2) An obliged entity which is, pursuant to section 22 (1), obliged to inform the Office on appointment of a contact person, commits an administrative offence by failing to inform the Office on appointment of a contact person or on changes thereof in the prescribed statutory period.
- (3) A perpetrator of an administrative offence pursuant to subsection (2) may be fined up to CZK 1,000,000.
- (4) A perpetrator of an administrative offence pursuant to subsection (1) may be fined up to CZK 5,000,000.
- (5) A perpetrator of an administrative offence pursuant to subsection (1) committed under serious circumstances, repeatedly, or systematically may be fined:
  - a) up to twice the value of the unlawfully gained proceeds or up to CZK 30,000,000 whichever is higher,
  - b) up to twice the value of the unlawfully gained proceeds or up to CZK 130,000,000, whichever is higher, should the perpetrator be a financial institution,
  - c) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000 or up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements, whichever is higher, should the perpetrator be credit or a financial institution which is a legal person,
  - d) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000, or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity,
  - e) a prohibition of business activity, or
  - f) publication of the respective decision on administrative offence.

## Section 47

### **Non-compliance with the Obligation to Suspend a Customer's Order**

- (1) An obliged entity commits an administrative offence by violating the obligation to suspend a customer's order pursuant to section 20 (1).
- (2) An obliged entity commits an administrative offence by failing to suspend a customer's order or to seize assets in line with the respective decision issued by the Office pursuant to section 20 (3).
- (3) A perpetrator of an administrative offence pursuant to subsection (1) may be fined up to CZK 1,000,000.
- (4) A perpetrator of an administrative offence pursuant to subsection (2) may be fined up to CZK 10,000,000.
- (5) A perpetrator of an administrative offence pursuant to subsection (1) or (2) committed under serious circumstances, repeatedly, or systematically may be fined:
  - a) up to twice the value of the unlawfully gained proceeds or up to CZK 30,000,000 whichever is higher,
  - b) up to twice the value of the unlawfully gained proceeds or up to CZK 130,000,000, whichever is higher, should the perpetrator be a financial institution,
  - c) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000 or up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person,
  - d) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000, or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity,
  - e) a prohibition of business activity, or
  - f) publication of the respective decision on administrative offence.

## Section 48

### **Non-compliance with the Obligations of Prevention**

- (1) An obliged entity commits an administrative offence by failing, in violation of section 21 (1) or (6), to apply adequate internal control and communication strategies and procedures to mitigate and effectively manage risks of legitimisation of proceeds of crime and terrorist financing identified by the risk assessment and to comply with other obligations pursuant to this Act.
- (2) An obliged entity required, pursuant to section 21 (2), to produce written Internal Rules and is not exempted pursuant to section 21 (3) or section 21 (4) commits an administrative offence by failing to produce the Internal Rules in the format pursuant to section 21 (5) no later than 60 days after becoming an obliged entity.
- (3) An obliged entity required, pursuant to section 21 (8), to submit the Internal Rules and/or a notification of changes thereto to the Office or to the Czech National Bank commits an administrative offence by failing to deliver the Internal Rules or notification on changes



thereof pursuant to section 21 (8) or by failing to submit written information on remedies implemented to correct discrepancies detected pursuant to section 21 (10).

- (4) An obliged entity required, pursuant to section 21a (2), to produce a written risk assessment commits an administrative offence by:
  - (5) failing to produce the risk assessment in the prescribed extent or deadline, or
  - (6) failing to update the risk assessment regularly.
- (7) An obliged entity commits an administrative offence by failing to appoint a member of its governing body responsible for compliance with duties and obligations arising from this Act pursuant to section 22a.
- (8) An obliged entity commits an administrative offence by failing to provide employee training pursuant to section 23.
- (9) A perpetrator of an administrative offence pursuant to subsections (1) to (5) may be fined up to CZK 1,000,000.
- (10) A perpetrator of an administrative offence pursuant to subsections (1) to (6) may be fined up to CZK 5,000,000.
- (11) A perpetrator of an administrative offence pursuant to subsections (5) or (6) committed under serious circumstances, repeatedly, or systematically may be fined:
  - a) up to twice the value of the unlawfully gained proceeds or up to CZK 30,000,000 whichever is higher,
  - b) up to twice the value of the unlawfully gained proceeds or up to CZK 130,000,000, whichever is higher, should the perpetrator be a financial institution,
  - c) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000 or up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person,
  - d) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000, or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity,
  - e) a prohibition of business activity, or
  - f) publication of the respective decision on administrative offence.

#### Section 48a

##### **Non-compliance with Obligations of a Group**

- (1) An obliged entity which is a member of a group commits an administrative offence by, in violation of section 21 (7),
  - a) failing to apply group strategies and internal control procedures to mitigate and manage risks, or
  - b) failing to ensure application of group strategies and internal control procedures to mitigate and manage risks at its subsidiaries located in third countries.

- (2) An obliged entity which has a branch, a business establishment, or a subsidiary business corporation in a third country, commits an administrative offence by:
  - a) failing to apply customer due diligence and record keeping measures at least equal to those enforced by the European Union legislation, in violation of section 24a (1), in the respective branch, business establishment, or subsidiary business corporation,
  - b) failing to provide its branch, business establishment, or subsidiary business corporation with relevant information, in violation of Section 24a (1), ,
  - c) failing to adopt adequate complementary measures to efficiently mitigate risk of abuse, in violation of section 24a (2), or
  - d) failing to inform the Office of the fact that the third country's legislation disallows enforcement of measures at least equal to those enforced by the European Union legislation, in violation of section 24a (2).
- (3) An obliged entity which has a branch or a business establishment in a member state of the European Union or member country of the European Economic Area commits an administrative offence by failing to guarantee compliance with this state's measures to counter legitimisation of proceeds of crime and financing of terrorism in the respective branch or business establishment, in violation of section 24a (3).
- (4) A perpetrator of an administrative offence pursuant to subsections (1) to (3) may be fined up to CZK 10,000,000.
- (5) A perpetrator of an administrative offence pursuant to subsections (1), (2) a), c) and d) and subsection (3) committed under serious circumstances, repeatedly, or systematically may be fined:
  - a) up to twice the value of the unlawfully gained proceeds or up to CZK 30,000,000 whichever is higher,
  - b) up to twice the value of the unlawfully gained proceeds or up to CZK 130,000,000, whichever is higher, should the perpetrator be a financial institution,
  - c) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000 or up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person,
  - d) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000, or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity,
  - e) a prohibition of business activity, or
  - f) publication of the respective decision on administrative offence.

#### Section 49

#### **Non-compliance with Obligations Pertaining to Credit and Financial Institutions**

- (1) An obliged entity as a provider of payment services or an agent brokering payment services commits an administrative offence when transferring funds if, in violation of the directly

applicable regulation of the European Union regulating information accompanying transfers of funds<sup>20</sup>) by:

- a) failing to provide that the transfer was accompanied by information on the payer and the recipient,
  - b) failing to implement effective procedures for identification of missing or incomplete information on the payer and the recipient,
  - c) failing to act against the provider of payment services of the payer who failed to ensure that a transfer of funds is accompanied with information on the payer and on the recipient, or
  - d) failing to present, upon request of the provider of payment services of the recipient, information on the payer and of the recipient in cases when the transfer of funds fails to include complete information on the payer and the recipient.
- (2) A credit or financial institution commits an administrative offence by failing to comply with some of the conditions stipulated for correspondent relationship pursuant to section 25 (1) to (4).
- (3) A foreign provider of payment services commits an administrative offence by failing to, in violation of section 25a:
- a) assign a central contact point, or
  - b) act as a central contact point in the prescribed scope.
- (4) A person pursuant to section 29 (1) commits an administrative offence by operating their business and transferring, on the basis of a postal agreement and pursuant to conditions stipulated by the Act on Postal Services, money without a certificate of competence pursuant to section 29.
- (5) A perpetrator of an administrative offence pursuant to subsection (4) may be fined up to CZK 5,000,000.
- (6) A perpetrator of an administrative offence pursuant to subsections (1) to (3) may be fined up to CZK 10,000,000.
- (7) A perpetrator of an administrative offence pursuant to subsection (2) committed under serious circumstances, repeatedly, or systematically may be fined:
- a) up to twice the value of the unlawfully gained proceeds or up to CZK 30,000,000 whichever is higher,
  - b) up to twice the value of the unlawfully gained proceeds or up to CZK 130,000,000, whichever is higher, should the perpetrator be a financial institution,
  - c) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000 or up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person,
  - d) up to twice the value of the unlawfully gained proceeds, up to CZK 130,000,000, or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity,
  - e) a prohibition of business activity, or

- f) publication of the respective decision on administrative offence.

#### Section 50

##### **Non-compliance with Obligations in Respect of Cross-border Transport**

- (1) A natural person, a legal person, or an entrepreneur commits an administrative offence by:
  - a) failing to comply with the obligation to declare upon entry in the Czech Republic from countries outside the territory of the European Union or upon leaving the Czech Republic to such countries pursuant to section 41 (1), (2) or (4), or
  - b) failing to comply with the obligation to declare upon posting a postal or other consignment from the Czech Republic to countries outside the European Union or upon receiving such consignment coming from countries outside the European Union in the Czech Republic pursuant to section 41 (3) or (4).
- (2) A perpetrator of an administrative offence pursuant to subsection (1) may be fined up to CZK 10,000,000.

#### Section 50a

- (1) A natural person commits an administrative offence pursuant to section 20 (1) and (2) or section 22 (2) and (3) of the Act on Liability for Administrative Offences and Related Proceedings administrative offence by making an obliged entity commit an administrative offence pursuant to section 44 to 48a or section 49 (2) to (4) by making an obliged entity violate its duties and obligations, violation of which would be an administrative offence if the obliged entity had not escaped its liability pursuant to section 21 or section 23 of the Act on Liability for Administrative Offences and Related Proceedings.
- (2) A perpetrator of an administrative offence pursuant to subsection (1) may be fined:
  - a) up to CZK 100,000, or
  - b) a ban on activity.
- (3) A natural person pursuant to subsection (2) b) may be prohibited to act as a member of governing bodies of any obliged entity as well as to hold a management position in any obliged entity.

#### Section 50b

- (1) A tax advisor who is a natural person pursuant to section 20 (1) and (2) of the Act on Liability for Administrative Offences and Related Proceedings commits an administrative offence pursuant to sections 44 to 48 by making a tax advisor, who is a legal person, violate their duties and obligations, violation of which would be an administrative offence pursuant to section 44 to 48 unless such violation was committed by the tax advisor, who is the receptive natural person.
- (2) A tax advisor, who is a legal person, is not liable for the administrative offence pursuant to sections 44 to 48 should the violation of duties and obligations, which would constitute this administrative offence, be perpetrated by the tax advisor, who is a natural person pursuant to subsection (1).

## Joint Provisions on Administrative Offences

### Section 51

Repeated perpetration of an administrative offence means perpetration of an administrative offence by the convicted perpetrator within 12 months after the ruling on the same administrative offence had entered into force.

### Section 52

- (1) Administrative offences pursuant to this Act are examined by the Office as well as the following:
  - a) the Czech National Bank in respect of obliged entities subject to its supervision,
  - b) the respective division of the Customs Administration of the Czech Republic in charge of supervising compliance with legislation regulating gambling in respect of obliged entities pursuant to section 2 (1) c),
  - c) the Czech Trade Inspection Authority in respect of obliged entities listed in section 2 (1)i) and j).
  - d) the respective professional chambers in respect of obliged entities listed in section 2 (1) e) and g).
- (2) Administrative offences committed by employees or physical persons as independent contractors of the obliged entity are examined by the Office or another supervisory body competent to examine administrative offences committed by the respective obliged entity.
- (3) Administrative offences committed by employees or physical persons as independent contractors of the Office, other supervisory bodies, or the Public Audit Oversight Board are examined by the body the person is an employee or an independent contractor of.
- (4) Should the Office disclose facts which result in proceedings related to an administrative offence examination of which is in the competence of the respective professional chamber, the Office submits such facts to the respective professional chamber unless it concerned facts detected in the course of an inspection initiated by the Office pursuant to Section 37 (2); even such facts, however, may be submitted by the Office to the respective professional chamber for examination. Should the respective professional chamber failed to initiate inspection or administrative offence proceedings within 60 days after having received the facts above, the Office may initiate administrative offence proceedings on its own and inform the respective professional chamber thereof.
- (5) Administrative offences pursuant to Section 50 are examined by the Customs Administration.
- (6) Should the fine imposed for an administrative offence pursuant to Section 50 not be paid in the given deadline, the customs authority may use the goods seized pursuant to Section 41 (1), (3) and (4) to pay the fine.

### Section 52a

- (1) The Office keeps record of administrative offence proceedings initiated and terminated pursuant to sections 43 to 49 and 50a (hereinafter only the “Database“).

- (2) The competent body which initiated proceedings on administrative offence pursuant to sections 43 to 49 or 50a submits to the Office, for the purpose a Database entry, the following:
  - a) the start date of the proceedings,
  - b) identification data of the person suspected of having committed the administrative offence,
  - c) legal qualification of the administrative offence concerned,
  - d) description of the unlawful conduct which constitutes the administrative offence, and
  - e) designation of the authority in charge of the proceedings.
- (3) The body leading the proceedings, after having finally and conclusively concluded the administrative offence proceedings pursuant to sections 43 to 49 or 50a, submits to the Office, for the purpose a Database entry, information on the final and conclusive decision made together with its original copy.
- (4) The Database is kept in an electronic form. The Office provides Database data, on request or online, to the supervisory body or the Public Audit Oversight Board to duly perform their respective tasks.
- (5) The Office monitors on an ongoing basis individual administrative offence proceedings pursuant to sections 43 to 49 and 50a and informs, upon request, supervisory bodies or the Public Audit Oversight Board of previous proceedings regarding the same subject as well as proceedings regarding similar subject matter.

### Section 53

- (1) The body which issued decision on administrative offence pursuant to sections 43 to 48a, section 49 (2) to (4) or section 50a, makes the statements of the law publicly available online and without any undue delay after the decision was made final and conclusive. The respective text is made publicly available for a period of five years after it had been made final and conclusive.
- (2) Should publication pursuant to subsection (1) in the given case threaten to destabilise financial markets, impede ongoing criminal or administrative proceedings, or hamper compliance with tasks pursuant to this Act or other tasks in public interest and/or should such publication threaten to have inadequate impact on interests of persons concerned, the body which issued the decision,
  - a) postpones publication until the above obstacles will have ceased to exist,
  - b) publishes the statements of law in an anonymised version, or
  - c) refrains from publishing the statements of law should paragraphs a) or b) not be sufficient.
- (3) The body which issued the decision published pursuant to subsection (1) or (2) publishes online the statements of law of the final and conclusive decision overturning or amending the published decision without any undue delay after becoming aware of them. Subsection (2) applies with the necessary modifications to such publication; the respective body, however, always publishes at least information concerning the overturned or amended decision.

- (4) Should a decision concerning an administrative offence committed by an auditor be issued by the Chamber of Auditors of the Czech Republic, the respective chamber publishes the statements of law of the given final and conclusive decision on the administrative offence pursuant to subsection (1) or (2) or the statement of law of the final and conclusive decision which overturned or amended the final and conclusive decision pursuant to subsection (1) or (2) in the Register of Auditors.

## PART SEVEN

### **JOINT AND FINAL PROVISIONS (SECTIONS 54 to 59)**

#### Section 54

- (1) Obligations of obliged entities pursuant to this Act relate exclusively to the subject of the obliged entities' business or services provided by them.
- (2) Unless otherwise stipulated by this Act, obliged entities pursuant to section 2 (2) a) and b) have rights and responsibilities stipulated by this Act for the respective types of obliged entities pursuant to section 2 (1).
- (3) For the purposes of this Act, sums quoted in EUR mean, unless otherwise stipulated by this Act (section 41 (7)), the equivalent amount in any currency based on the Czech National Bank's exchange rate on the day of compliance with the respective duty or obligation pursuant to this Act; in absence of the exchange rate for the given day, the authorities use the exchange rate for the day before.
- (4) Should a transaction be split into several smaller and related operations, the total sum of the transaction is the aggregate of all these individual operations.
- (5) A transaction in high value commodities, especially precious metals or precious stones, is considered a cash payment.
- (6) An obliged entity products or services of which are traded or provided by third parties ensures these third parties' compliance with measures to counter legitimisation of proceeds of crime and financing of terrorism to the same extent as the respective obliged entity.
- (7) The following is always considered a business relationship:
  - a) an account contract,
  - b) a single deposit,
  - c) an insurance policy,
  - d) the provision of electronic payment services or public mobile telephone payment services, or
  - e) a financial guarantee.
- (8) An obliged entity applies duties, obligations, and limitations related to politically exposed persons for at least 12 months after the day when the respective politically exposed person left their post and always until the obliged entity, based on a risk assessment, no longer perceives any risk specific to the customer's past of a politically exposed person. The same applies to a customer whose beneficial owner is a politically exposed person and/or a person known to act on behalf of a politically exposed person.
- (9) Provisions relating to a customer apply with the necessary modifications to a person acting on behalf of a customer.

- (10) For the purposes of this Act, acting on behalf of a customer also means acting as a trustee in managing of a trust.
- (11) Provisions on securities apply to book entry securities unless excluded by their nature.
- (12) For the purposes of administrative supervision, administrative offence proceedings and duty of confidentiality including penalties for violation of the duty of confidentiality, the notary chamber pursuant to section 29 of Act No. 358/1992 Sb., the Notarial Code is to be understood as the Notary Chamber of the Czech Republic.

#### Section 54a

##### **Joint Provisions on Attorneys and Legal Persons Providing Attorney Services**

- (1) Should an obliged entity be an attorney who is a partner in a legal person incorporated to provide attorney services pursuant to Act on Attorney Practice, a branch, or a subsidiary of this obliged entity means a branch or a subsidiary of legal person in which they are a partner.
- (2) For the purpose of the law to counter legitimisation of proceeds of crime and terrorist financing, an employee of a legal person incorporated to provide attorney services means an employee of all partners of such legal person who are members of governing bodies of such legal person unless it is possible to determine which partner the employee was subordinated to in respect of compliance with duties and responsibilities pursuant to this Act. The first sentence applies by analogy to natural persons working as independent contractors for a legal person incorporated to provide attorney services.
- (3) Responsibility for duties and obligations pursuant to sections 16, 21 to 22, 23, 24 (1) and 24a is borne solely by the partner of a legal person incorporated to provide attorney services who was appointed pursuant to section 22a, should there be a particular person appointed. In respect of the appointment and scope of duties and responsibilities of the appointed person in line with the first sentence, the legal person incorporated to provide attorney services is perceived as an obliged entity instead of its partners. This, however, does not preclude responsibility of members of governing bodies for violations of obligations pursuant to section 22a and powers of the Office to enforce compliance with obligations pursuant to section 24 (1) or (3) in respect of any partner of the legal person incorporated to provide attorney services.

#### Section 55

- (1) Proceedings conducted pursuant to this Act are always non-public.
- (2) The Office starts investigation upon receiving a suspicious transaction report or another motion and conducts it without undue delay.
- (3) Upon termination of investigation, the Office, without undue delay and in an appropriate manner, notifies the person who reported the suspicious transaction accordingly. No other person is notified of the investigation and its conclusions.
- (4) In the course of their activities pursuant to this Act, employees of the Office identify themselves by a service card, specimen of which is stipulated by a dedicated Decree of the Ministry of Finance.



## Section 56

*repealed*

## Section 57

### **Interim Provisions**

- (1) Proceedings initiated prior to this Act entering into effect are to be concluded in line with this Act, except for proceedings related to administrative offences or another administrative offence committed prior to the effect of this Act should the interim legislation be more favourable to the perpetrator.
- (2) A person who, on the day effect of this Act, operates in line with a postal contract pursuant to the Postal Services Act end remits money, may continue to perform such activities without an authorisation pursuant to section 29 for a maximum period of 6 months after the effect of this Act.
- (3) An obliged entity referred to in section 2 (1)a) to d), h) and i) having a system of Internal Rules, procedures, and controls compliant with the interim legislation drafts a new a system of Internal Rules, procedures and controls pursuant to Section 21 (2) within 60 days after the effect of this Act.
- (4) A credit institution, financial institution referred to in section 2 (1) b) 5., 6., 10. and 11., and an obliged entity referred to in section 2 (1) c) having a system of Internal Rules, procedures, and controls compliant with the interim legislation, delivers a system of Internal Rules, procedures and controls pursuant to section 21 (2) to the Ministry within 60 days after the effect of this Act.

## Section 58

### **Repealing Provisions**

The following is repealed:

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

## Section 59

### **Effect**

This Act comes to effect on the first day of the second calendar month following the day of its promulgation.

	<h2 style="margin: 0;">CASH DECLARATION FORM</h2> <p style="font-size: small; margin: 5px 0;">Read the notes on the reverse before completing this form. USE CAPITAL LETTERS / TICK AS APPROPRIATE</p>	<p style="font-size: x-small; margin: 0;"><b>EN</b></p> <p style="font-size: x-small; margin: 0;">Reference number</p>
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<b>1. You are</b>	<input type="checkbox"/> <b>Entering EU</b>	<input type="checkbox"/> <b>Leaving EU</b>	
<b>2. Personal details</b>	<input type="checkbox"/> <b>Male</b> <input type="checkbox"/> <b>Female</b>	Issuing place	
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Nationality		Address	
Date of birth	D D M M Y Y Y Y	(Street / no.)	
Place of birth		Town	
ID-document	<input type="checkbox"/> <b>Passport</b> <input type="checkbox"/> <b>ID</b> <input type="checkbox"/> <b>Other</b>	Post code / Zip	
Passport / ID Number		Country	

<b>3. You are the owner</b>	<input type="checkbox"/> <b>Yes (go to part 4)</b>	<b>No, the owner is a:</b> <small>(fill in the details of the owner)</small>	<input type="checkbox"/> <b>Legal Entity</b> <input type="checkbox"/> <b>Natural person</b>
Legal Entity		Address	
VAT number		(Street / no.)	
Surname(s)		Town	
First name(s)		Post code / Zip	
		Country	

4. Details of the cash/monetary instruments		
	Amount	Currency
Banknotes, coins		
Other (specify)		

5. Origin and intended use of the cash/monetary instruments			
Origin			
Intended use			
You are the intended recipient	<input type="checkbox"/> <b>Yes (go to part 6)</b>	<b>No, the intended recipient is a:</b> <small>(fill in the details of the intended recipient)</small>	<input type="checkbox"/> <b>Legal entity</b> <input type="checkbox"/> <b>Natural person</b>
Legal Entity		Address	
VAT number		(Street / no.)	
Surname(s)		Town	
First name(s)		Post code / Zip	
		Country	

6. Transport details			
Means of transport	<input type="checkbox"/> <b>Air</b>	<input type="checkbox"/> <b>Sea</b>	<input type="checkbox"/> <b>Road</b> <input type="checkbox"/> <b>Rail</b> <input type="checkbox"/> <b>Other</b>
Transport company		Reference number	
Country of departure		Departure date	D D M M Y Y Y Y
Via (Transit Country)		Transit date	D D M M Y Y Y Y
Country of destination		Arrival date	D D M M Y Y Y Y

<b>7. Signature of declarant</b> <small>I declare that all above details are correct. I am aware that a false, inaccurate or incomplete declaration is liable to penalties, detention or confiscation of the cash by the competent authority.</small>   Date: D D M M Y Y Y Y	<b>Signature &amp; stamp competent authority</b>    	<b>For official use only</b>  Recording <input type="checkbox"/> yes <input type="checkbox"/> no  Penalty <input type="checkbox"/> yes <input type="checkbox"/> no  Amount of penalty: .....
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**Indicators of potentially increased risk referred to in sections 21a (1) and 30a (2)**

1. Customer risk factors:
  - a) business relationship conducted under unusual circumstances,
  - b) customers residing in geographical areas with increased risk as set forth in point 3. below,
  - c) legal person or a trust as personal asset-holding vehicles,
  - d) the customer is a business corporation having appointed shareholders or partners or issuing bearer shares,
  - e) the customer's business is cash-intensive,
  - f) the ownership structure of the customer appears unusual or excessively complex in the light of the nature of their business.
  - g) the customer is a beneficiary of life insurance,
  - h) increased risk of customer's activities.
2. Product, service, transaction or delivery channel risk factors:
  - a) private banking,
  - b) products or transactions that might favour anonymity,
  - c) business relationship or transactions which are contactless and in absence of safeguards, such as electronic signatures,
  - d) payment received from unknown or unrelated third parties,
  - e) new products and new business practices, including new delivery mechanisms, and the use of new or developing technology for both new and current products.
3. Geographical risk factors:
  - a) countries identified by EU institutions or international bodies active in the field of countering legitimisation of proceeds of crime and financing of terrorism or proliferation of weapons of mass destruction as locations not having efficient measures to counter legitimisation of proceeds of crime and financing of terrorism or proliferation of weapons of mass destruction,
  - b) countries identified by credible sources as having significant levels of corruption or other criminal activity,
  - c) countries subject to sanctions, embargos or similar measures issued by, for example, the European Union or the United Nations,
  - d) countries providing funding or support for terrorist activities or having recognised terrorist organisations operating on their country.

For the purposes of this Act, work of art means artwork described by both the tariff nomenclature code as well as the code description below.

Artwork

Nomenclature code	Goods in the Customs Tariff <sup>(4)</sup>
5805	Designer handmade tapestries in maximum 8 copies of the original design.
6304	Designer handmade wall fabrics in maximum 8 copies of the original design.
9701	Canvases, paintings, drawings, collages and similar works of art, made by the artist, with the exception of sketches and drawings for architectural, technical, industrial, commercial, topographical or similar purposes, hand-decorated and handmade artwork, stage design, studio and similar background paintings.
9702	Original engravings, prints and lithographs, which are made by the artist by immediate overprint in a limited number of black and white or colour copies exclusively by hand and not by mechanical or photographic process.
9703	Original reliefs and sculptures made from any material and made entirely by the artist; up to 8 cast sculptures made pursuant to supervision of the artist or their legal representative.

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**Notes:**

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

Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU.

Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of selected criminal offences, and repealing Council Decision 2000/642/JHA.

<sup>2)</sup> Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005.

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

<sup>3)</sup> Act No 370/2017 Sb., Act on Payment System.

<sup>4)</sup> Sections 91 to 115, Act No 256/2004 Sb., on Capital Market Business, as amended

<sup>7)</sup> Section 2 (1)v) of Act No 363/1999 Sb., on Insurance Sector, as amended.

<sup>8)</sup> Section 81 and following of Act No 358/1992 Sb., on Notaries (Notarial Act), as amended.

<sup>9)</sup> Section 502 of the Civil Code.

<sup>12)</sup> Section 93 of the Criminal Code.

<sup>13)</sup> Section 95 of the Criminal Code.

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

<sup>15)</sup> Section 89 (8) of the Criminal Code

<sup>17)</sup> Section 2 of Act No. 69/2006 Sb., on Implementation of International Sanctions

<sup>20)</sup> Regulation (EU) 2015/847 of the European Parliament and of the Council

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

<sup>22)</sup> Section 3 (1)a) of Act No. 358/1992 Sb.

<sup>23)</sup> Section 3 (1)b) of Act No. 358/1992 Sb.

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

<sup>27)</sup> Section 5 of Act No. 383/2012 Sb., on Conditions for Greenhouse Gas Allowance Trading.

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

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<sup>29)</sup> E.g. Ministry of Foreign Affairs Regulation No. 61/1974 Sb., on Treaty on the Non-proliferation of Nuclear Weapons, Ministry of Foreign Affairs Regulation No 96/1975 Sb., on Convention on Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Ministry of Foreign Affairs Communication No 14/2009 Sb., on International Treaties, replacing Ministry of Foreign Affairs Communication No 94/1997 Sb., on Adoption of Convention on the Prohibition of the Development, Production and Stockpiling of chemical weapons and on their Destruction

<sup>31)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). Act No 110/2019 Sb., on Personal Data Processing.

<sup>32)</sup> Act. No 328/1999 Sb., on Identity Documents, as amended.

<sup>33)</sup> Act. No 329/1999 Sb., on Travel Documents and on amendment of Act No 283/1991 Sb., on Police of the Czech Republic, as amended (Travel Documents Act), as amended.

<sup>34)</sup> Act No 133/2000 Sb., on Register of Inhabitants and Birth Numbers and on amendment of selected other laws (Act on Register of Inhabitants), as amended.

<sup>35)</sup> Act No 256/2013 Sb., on Land Register (Cadastral Act)

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

<sup>37)</sup> Act No 56/2001 Sb., on Motor Vehicles on Roads and on amendment to Act. No 168/1999 Sb., on third party liability insurance for damage caused by operation of vehicle and on amendments to selected related acts (Third-Party Liability Insurance Act), as amended by Act No 307/1999 Sb., as amended.

<sup>38)</sup> Act No 361/2000 Sb., on Road Traffic and on amendments of selected related acts (Road Traffic Act), as amended.

<sup>39)</sup> Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies.

<sup>40)</sup> Commission Implementing Regulation (EU) 2015/1502 of 8 September 2015 on setting out minimum technical specifications and procedures for assurance levels for electronic identification means pursuant to Article 8 (3) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market .

<sup>41)</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market and on repealing Directive 1999/93/ES.

<sup>42)</sup> Section 3 (1) of Commission Delegated Regulation (EU) 2018/1108 of 7 May 2018 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regulatory technical standards on the criteria for the appointment of central contact points for electronic money issuers and payment service providers and with rules on their functions.

<sup>43)</sup> Sections 51 to 57 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on prevention of the use of the financial system for the purpose of money laundering or terrorist financing as amended by Directive 2018/843 (EU).

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<sup>44)</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

<sup>45)</sup> Council Decision 2007/845/JHA of December 6th, 2007 on Cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

<sup>46)</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA.