

**ACT**

of 1 March 2018

**on counteracting money laundering and terrorist financing<sup>1,2</sup>**

## Chapter 1

**General provisions**

**Article 1.** The Act lays down principles and procedures for counteracting money laundering and terrorist financing.

**Article 2. 1.** Obligated institutions shall mean:

- 1) national banks, branches of foreign banks, branches of credit institutions, financial institutions established in the territory of the Republic of Poland and branches of financial institutions other than established in the territory of the Republic of Poland, within the meaning of the Act of 29 August 1997 – Banking Law (Journal of Laws

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<sup>1</sup> This Act:

- 1) in the scope of its regulations, implements Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes 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 (OJ L 141, 05.06.2015, p. 73);
- 2) is aimed at application of: Council Regulation (EC) 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ L 344, 28.12.2001, p. 70, as amended), Council Regulation (EC) 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with ISIL (Daisy) and Al-Qaida organisations (OJ L 139, 29.05.2002, p. 9, as amended), Regulation (EC) 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, p. 9), Council Regulation (EC) 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan (OJ L 199, 02.08.2011, p. 1, as amended), Commission Regulation (EU) 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ L 122, 03.05.2013, p. 1) and (OJ L 17, 21.01.2017, p. 52), 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 (OJ L 141, 05.06.2015, p. 1).

<sup>2</sup> The following Acts of Law shall be amended by this Act: Act of 26 May 1982 – Law of the Advocates' Profession, Legal Advisers Act of 6 July 1982, Act of 6 April 1984 on Foundations, Act of 7 April 1989 – Associations Law, Act of 14 February 1991 - the Law on Notaries, Act of 5 July 1996 on Tax Advisory Services, Act of 29 August 1997 on Personal Data Protection, Act of 29 August 1997 – Tax Code, Act of 29 August 1997 – Banking Law, Act of 11 April 2001 on Patent Attorneys, Act of 24 May 2002 on the Internal Security Agency and the Foreign Intelligence Agency, Act of 24 April 2003 on the Public Benefit Activity and Voluntarism, Act of 29 July 2005 on Trading in Financial Instruments, Act of 5 November 2009 on Cooperative Savings and Credit Unions, Gambling Act of 19 November 2009, Act of 9 April 2010 on Disclosure of Business Information and Exchange of Business Data, Act of 9 June 2011 - Geological and Mining Law, Act of 19 August 2011 on Payment Services, Act of 11 September 2015 on Insurance and Reinsurance Activity, Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee System and Compulsory Restructuring, Act of 15 December 2016 on the General Counsel to the Republic of Poland, Act of 16 November 2016 on the National Revenue Administration and Act of 9 March 2017 on the Exchange of Tax Information with Other Countries and the Act of 16 November 2016 on Counteracting Money Laundering and Terrorist Financing shall be repealed.

- of 2017 item 1876, as amended<sup>3</sup>;
- 2) cooperative savings and credit unions and the National Cooperative Savings and Credit Union, within the meaning of the Act of 5 November 2009 on Cooperative Savings and Credit Unions (Journal of Laws of 2017 item 2065, as amended<sup>4</sup>);
  - 3) domestic payment institutions, domestic electronic money institutions, branches of European Union payment institutions, branches of European Union and foreign electronic money institutions, offices of payment services and clearing agents within the meaning of the Act of 19 August 2011 on Payment Services (Journal of Laws of 2017, item 2003, as amended<sup>5</sup>).
  - 4) investment firms, custodian banks, within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws of 2017, item 1768, as amended<sup>6</sup>) and branches of foreign investment firms within the meaning of this Act, established in the territory of the Republic of Poland;
  - 5) foreign legal entities pursuing brokerage activities in the territory of the Republic of Poland, including those conducting such activity in the form of a branch and commodity brokerage houses within the meaning of the Act of 26 October 2000 on Commodity Exchanges (Journal of Laws of 2018, items 622 and 685) as well as commercial companies referred to in Article 50a thereof;
  - 6) companies operating a regulated market - to the extent they operate an auction platform referred to in Article 3(10a) of the Act of 29 July 2005 on Trading in Financial Instruments;
  - 7) investment funds, alternative investment companies (AIC), investment fund management companies, alternative investment companies managers, branches of management companies and branches of management companies from the European Union located in the territory of the Republic of Poland, within the meaning of the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds (Journal of Laws of 2018 item 56 and of 2017 item 2491 and of 2018 items 106, 138, 650 and 685);
  - 8) insurance companies performing activity referred to in Section I of the Annex to the Act of 11 September 2015 on Insurance and Reinsurance Activity (Journal of Laws of 2017 item 1170, as amended<sup>7</sup>, including domestic insurance companies, main

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<sup>3</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 2361 and 2491 and of 2018 items 62, 106, 138, 650, 685 and 723.

<sup>4</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 2486 and 2491 and of 2018 items 62, 106, 138, 650 and 723.

<sup>5</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2018 items 62, 650, 723, 864, 1000 and 1075.

<sup>6</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 2486 and 2491 and of 2018 items 106, 138, 650, 685 and 723.

<sup>7</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of

- branches of foreign insurance companies established in a country other than a European Union member state and branches of foreign insurance companies established in a European Union member state other than the Republic of Poland;
- 9) insurance intermediaries performing activities of insurance intermediation in the scope of insurance specified in Group I of the Annex to the Act of 11 September 2015 on Insurance and Reinsurance Activity and branches of foreign intermediaries performing such activities, established in the territory of the Republic of Poland, excluding an insurance agent who is an insurance agent performing activities of insurance intermediation for a single insurance company in the scope of the same group, in accordance with the Annex to the Act of 11 September 2015 on Insurance and Reinsurance Activity and does not collect an insurance premium from the customer nor amounts due to the customer from an insurance company;
  - 10) Krajowy Depozyt Papierów Wartościowych S.A. (National Depository of Securities) and the company to which Krajowy Depozyt Papierów Wartościowych S.A. delegated the performance of activities in the scope referred to in Article 48(1)(1) of the Act of 29 July 2005 on Trading in Financial Instruments, in the scope they operate securities accounts or omnibus accounts;
  - 11) entrepreneurs carrying out activities in the scope of currency exchange within the meaning of the Act of 27 July 2002 - Foreign Exchange Law (Journal of Laws of 2017, item 679 and of 2018 item 650)), other entrepreneurs providing the service of currency exchange or the service of intermediation in currency exchange, other than other obligated institutions and branches of foreign entrepreneurs carrying out such activity in the territory of the Republic of Poland;
  - 12) entities pursuing economic activity involving providing services in the scope of:
    - a) exchange between virtual currencies and means of payment,
    - b) exchange between virtual currencies,
    - c) intermediation in the exchange referred to in letter a or b,
    - d) operating accounts referred to in paragraph 2(17)(e);
  - 13) notaries in the scope of activities performed in the form of a notarial deed, comprising:
    - a) transfer of the ownership of an asset, including sale, exchange or donation of movable property or real estate,
    - b) concluding an agreement on inheritance division, dissolution of co-ownership, life annuity, pension in exchange for the transfer of the ownership of real estate and on distribution of jointly-held assets,
    - c) assignment of the cooperative ownership title, title to premises, perpetual

- usufruct right and alleged promise of a separate ownership of premises,
  - d) in-kind contribution following a company establishment,
  - e) concluding the agreement documenting the contribution or increase of the contributions to the company or contribution or increase of the share capital,
  - f) transformation or merger of companies,
  - g) disposal of an enterprise,
  - h) disposal of shares in the company;
- 14) attorneys, legal advisers, foreign lawyers, tax advisers to the extent they provide legal assistance or tax advisory activities to customers, in relation to:
- a) purchase or sale of real estate, an enterprise or an organised part of an enterprise,
  - b) management of cash, financial instruments or other customer's assets,
  - c) concluding an agreement for operating a bank account, a securities account or performing activities related to operating those accounts,
  - d) in-kind contribution to a capital company or increasing the share capital of a capital company,
  - e) establishing, operating or managing capital companies or trusts
- excluding legal advisers and foreign lawyers practising their profession under the employment relationship or service in offices providing services to public administration authorities, other government and local government units and entities other than companies referred to in Article 8(1) of the Legal Advisers Act of 6 July 1982 (Journal of Laws of 2017, item 1870 and 2400 and of 2018, item 138 and 723), and tax advisers performing their profession under the employment relationship in entities other than referred to in Article 4(1)(1) and (3) of the Act of 5 July 1996 on Tax Advisory Services (Journal of Laws of 2018, item 377, 650 and 723);
- 15) tax advisers in the scope of tax advisory services other than specified in subparagraph 14 and statutory auditors;
- 16) entrepreneurs within the meaning of the Act of 2 July 2004 on Freedom of Economic Activity (Journal of Laws of 2017, item 2168, 2290 and 2486 and of 2018, item 107 and 398), other than other obligated institutions, providing services consisting in:
- a) establishing a legal person or an organisational unit without legal personality,
  - b) fulfilling a function of a member of the management board or enabling other person to fulfil this function or a similar function in a legal person or an organisational unit without legal personality,
  - c) providing a registered office, address of establishment or address for correspondence and other related services to a legal person or an organisational unit without legal personality,

- d) acting or enabling other person to act as a trustee established by means of a legal act,
  - e) acting or enabling other person to act as a person exercising its rights arising from stocks or shares to the benefit of an entity other than a company listed on the regulated market subject to the requirements related to information disclosure in compliance with the European Union law or subject to equivalent international standards;
- 17) entities pursuing activities in the scope of providing bookkeeping services;
  - 18) intermediaries in real estate trading;
  - 19) postal operators within the meaning of the Act of 23 November 2012 - Postal Law (Journal of 2017 item 1481 and of 2018 items 106, 138 and 650);
  - 20) entities pursuing activities in the scope of games of chance, betting, card games and gaming on low-value-prize machines, within the meaning of the Gambling Act of 19 November 2009 (Journal of Laws of 2018, item 165, 650 and 723);
  - 21) foundations established pursuant to the Act of 6 April 1984 on Foundations (Journal of Laws of 2016, item 40, and of 2017 item 1909 and of 2018, item 723) to the extent they accept or make cash payments of the total value equal to or exceeding the equivalent of 10,000 EUR, regardless of whether the payment is performed as a single operation or as several operations which seem linked to each other;
  - 22) associations with legal personality established pursuant to Act of 7 April 1989 – Associations Law (Journal of Laws of 2017, item 210 and of 2018, item 723) to the extent they accept or make cash payments of the total value equal to or exceeding the equivalent of 10,000 EUR, regardless of whether the payment is performed as a single operation or as several operations which seem linked to each other;
  - 23) entrepreneurs, within the meaning of the Act of 2 July 2004 on Freedom of Economic Activity, to the extent they accept or make cash payments for goods of the total value equal to or exceeding the equivalent of 10,000 EUR, regardless of whether the payment is performed as a single operation or as several operations which seem linked to each other;
  - 24) entrepreneurs, within the meaning of the Act of 2 July 2004 on Freedom of Economic Activity, to the extent they carry out activity consisting in making safe deposit boxes available and foreign entrepreneurs carrying out such activity in the territory of the Republic of Poland;
  - 25) credit granting institutions within the meaning of the Act of 12 May 2011 on Consumer Credit (Journal of Laws of 2016, item 1528 and of 2017 item 819).

2. Whenever this Act refers to:

- 1) beneficial owner, it shall mean a natural person or natural persons who exercise,

directly or indirectly, control over a customer through the powers held, which result from legal or actual circumstances, enabling exerting a critical impact on activities or actions undertaken by a customer or a natural person or natural persons, on whose behalf a business relationship is established or an occasional transaction is conducted, including:

- a) in the case of a customer being a legal person other than a company whose securities are admitted to trading on a regulated market and are subject to information disclosure requirements arising from the European Union law or corresponding regulations of a third country:
  - a natural person being the customer's stakeholder or shareholder holding the ownership title of more than 25% of the total number of stocks or shares of such a legal person,
  - a natural person holding more than 25% of the total number of votes in the customer's governing body, also as a pledgee or a user, or under agreements with other persons authorised to vote,
  - a natural person exercising control over a legal person or legal persons holding the ownership title of more than 25% of the total number of stocks or shares of the customer or jointly holding more than 25% of the total number of votes in the customer's governing body, also as a pledgee or a user, or under agreements with other persons authorised to vote,
  - a natural person exercising control over customer, through holding, in relation to such legal person, powers referred to in Article 3(1)(37) of the Accounting Act of 29 September 1994 (Journal of Laws of 2018 items 395 and 398 and 650), or
  - a natural person holding a senior management position, in the case of documented lack of possibility to determine the identity, or doubts regarding the identity of natural persons defined in the first, second, third and fourth indent, and in the case of failure to confirm the suspicion of money laundering or terrorist financing,
- b) in the case of a customer being a trust:
  - a founder,
  - a trustee,
  - a supervisor, if established,
  - a beneficiary,
  - other person exercising control over the trust,
- c) in the case of a customer being a natural person pursuing economic activity in relation to whom no premises or circumstances were found that could indicate

- the fact of exercising control over it by other natural person or natural persons, it is accepted that such a customer is simultaneously a beneficial owner;
- 2) account blockage, it shall mean temporary preventing of using and administering all assets collected on the account or any part thereof, including by the obligated institution;
  - 3) family members of a politically exposed person, it shall mean:
    - a) a spouse or a person remaining in cohabitation with a politically exposed person,
    - b) a child of a politically exposed person and his/her spouse or a person remaining in cohabitation,
    - c) parents of a politically exposed person;
  - 4) Directive 2015/849, it shall mean Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes 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 (OJ L 141, 05.06.2015, p. 73);
  - 5) European supervision authorities, it shall mean the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities Markets Authority;
  - 6) terrorist financing, it shall mean an act referred to in Article 165a of the Act of 6 June 1997 - Penal Code (Journal of 2017 item 2204 and of 2018 items 20, 305 and 663);
  - 7) a group, it shall mean a parent entity including its subsidiaries, within the meaning of the Accounting Act of 29 September 1994;
  - 8) cooperating units, it shall mean any government and local government authorities and other state organisational units as well as the National Bank of Poland (NBP), the Polish Financial Supervision Authority (PFSA) and the Supreme Audit Office (NIK);
  - 9) senior management, it shall mean a member of the management board, a director or an employee of the obligated institution, possessing knowledge in the scope of money laundering and terrorist financing risk associated with the operations of the obligated institution and taking decisions affecting this risk;
  - 10) a customer, it shall mean a natural person, a legal person or an organisational unit without legal personality, in favour of which the obligated institution provides services or performs activities included in the scope of professional activity pursued by it, including a person with whom the obligated institution establishes a business

relationship, or upon the order of which it conducts an occasional transaction; in the case of an insurance agreement, the insurer shall mean a customer of the obligated institution;

- 11) politically exposed persons, it shall mean natural persons holding significant positions or fulfilling significant public functions, including:
  - a) heads of state, heads of governments, ministers, deputy ministers, secretaries of state, undersecretaries of state, including the President of the Republic of Poland, the Prime Minister and the Deputy Prime Minister,
  - b) Members of Parliament or other similar legislative bodies, including deputies and senators,
  - c) members of governing bodies of political parties,
  - d) judges of supreme courts, constitutional tribunals and other high-level judicial bodies whose decisions are not subject to further appeal, with the exception of extraordinary measures, including the judges of the Supreme Court, Constitutional Tribunal, Supreme Administrative Court, regional administrative courts and judges of courts of appeal,
  - e) members of the court of auditors or central bank management boards, including the NBP President and members of the NBP Management Board,
  - f) ambassadors, chargés d'affaires and senior officers of armed forces,
  - g) members of administrative, management or supervisory bodies of state-owned enterprises, including directors of state-owned enterprises and members of management boards and supervisory boards of companies with the State Treasury shareholding, where over a half of stocks or shares belongs to the State Treasury or other state legal persons,
  - h) directors, deputy directors and members of governing bodies of international organisations, or persons exercising corresponding functions in such organisations,
  - i) directors general in offices of supreme and central state authorities, directors general of regional government offices and heads of local offices of special governmental administration;
- 12) persons known as close co-workers of a politically exposed person, it shall mean:
  - a) natural persons being beneficial owners of legal persons, organisational units without legal personality or trusts, jointly with a politically exposed person, or maintaining other close relationship with such a person, related to the economic activity pursued,
  - b) natural persons being the only beneficial owners of legal persons, organisational units without legal personality or trusts, regarding which it is

known that they were established in order to enable gaining actual benefits by a politically exposed person;

- 13) high risk third country, it shall mean a country identified, on the basis of information originating from reliable sources, including reports on evaluation of national systems counteracting money laundering and terrorist financing performed by Financial Action Task Force on anti-money laundering and terrorist financing (FATF) and bodies or organisations affiliated with it, as countries which do not have in place an effective system counteracting money laundering or terrorist financing, or have significant gaps in the system counteracting money laundering or terrorist financing, in particular, a third country identified by the European Commission in the Delegated Act adopted pursuant to Article 9 of Directive 2015/849;
- 14) money laundering, it shall mean an act referred to in Article 299 of the Act of 6 June 1997 - Penal Code;
- 15) performance of transaction, it shall mean execution by the obligated institution of an instruction or an order issued by a customer or a person acting on its behalf;
- 16) information processing, it shall mean any operations performed on information, in particular the acquisition, collection, recording, storage, elaboration, modification, making available and removal, especially those performed in the IT systems;
- 17) an account, it shall mean:
  - a) a payment account within the meaning of the Act of 19 August 2011 on Payment Services,
  - b) a bank account and an account in the cooperative savings and credit union, other than a payment account,
  - c) a securities account and an omnibus account as well as a cash account used for their operation, within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments,
  - d) a register of fund participants or a record of closed-end investment fund participants,
  - e) a collection of identification data maintained in electronic form, providing authorised persons with a possibility to use virtual currency units, including performing transactions of their exchange,
  - f) derivative account within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments;
- 18) correspondent relationships, it shall mean:
  - a) the provision of banking services by a single bank, acting as a correspondent, in favour of another bank, as a respondent,
  - b) relationships between credit institutions, financial institutions, including

relationships under which similar services are provided by an institution being a correspondent in favour of an institution being a respondent as well as relationships which were established for the needs of transactions related to securities or for the needs of fund transfers;

- 19) Regulation 2015/847, it shall mean 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 (OJ L 141, 05.06.2015, p. 1);
- 20) business relationships, it shall mean any relations of an obligated institution with a customer related to professional activity of the obligated institution which, at the time of their establishment, indicate a feature of sustainability;
- 21) a transaction, it shall mean a legal or actual action pursuant to which the transfer of ownership or possession of assets is performed, or a legal or actual action performed with the purpose of transfer of ownership or possession of assets;
- 22) occasional transaction, it shall mean a transaction which is not performed under business relationships;
- 23) transfer of funds, it shall mean the transfer of funds within the meaning of Regulation 2015/847;
- 24) trust, it shall mean a legal relationship regulated by legal provisions of foreign law, resulting from a legal event, an agreement or a memorandum of understanding, including a set of such events or legal activities under which the transfer of the ownership or possession of assets to the trustee is performed for the purpose of exercising trust management and making these assets available to beneficiaries of this relationship;
- 25) insurance agreement, it shall mean an agreement referred to in Section I of the Annex to the Act of 11 September 2015 on Insurance and Reinsurance Activity;
- 26) virtual currency, it shall mean a digital image of values other than:
  - a) a legal tender issued by NBP, foreign central banks or other public administration bodies,
  - b) an international unit of account established by an international organisation and accepted by individual countries belonging to this organisation or cooperating with it,
  - c) electronic money within the meaning of the Act of 19 August 2011 on Payment Services,
  - d) a financial instrument within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments,
  - e) a promissory note or a cheque

– and which is exchangeable in business transactions to legal tender and accepted as the means of exchange as well as can be electronically stored or transferred, or can be subject to electronic trade;

- 27) assets, it shall mean property rights or other movable property or real estate, means of payment, financial instruments, within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments, other securities, foreign currency values and virtual currencies;
- 28) transaction suspension, it shall mean any temporary restriction of using and administering of assets, preventing the performance of the specific transaction, or a larger number of specific transactions by the obligated institution.

**Article 3.** In relation to an insurance agreement and an agreement on making a safebox available, the provisions of this Act shall apply respectively.

**Article 4.** The provisions of Regulation 2015/847 shall not apply to transfers of funds performed between providers of payment services established in the territory of the Republic of Poland to the payee's payment account enabling only payments for the supply of goods or services, if:

- 1) the payee's provider of payment services can monitor, by means of a unique transaction identifier, the transfer of funds between the payee and a natural person, a legal person or an organisational unit without legal personality which concluded an agreement for the supply of goods or services with the payee;
- 2) the amount of the transfer of funds due to payment of the supply of goods or services does not exceed the equivalent of EUR 1000.

**Article 5.** The amounts denominated in euro provided herein shall be converted at the average exchange rate of the currency announced by NBP, effective on the day of performing the transaction, on the day of order for performing the transaction or on the day of issuing the decision on imposing a financial penalty.

**Article 6.** The obligated institutions shall appoint senior management members responsible for the performance of the obligations defined in the Act.

**Article 7.** In the case of an obligated institution where a management board or other governing body operates, a person responsible for the implementation of the obligations defined herein shall be appointed among members of such a governing body.

**Article 8.** Obligated institutions shall appoint an employee holding a management position, responsible for ensuring the compliance of activity of the obligated institution and its employees and other persons performing activities for this obligated institution with the provisions on money laundering and terrorist financing. The appointed employee shall be also responsible for the submission of notifications referred to in Article 74(1),

Article 86(1), Article 89(1) and Article 90 on behalf of the obligated institution.

**Article 9.** In the case of obligated institutions pursuing activity as individual entrepreneurs, the tasks of the senior management and the employee referred to in Article 6 and Article 8 shall be performed by a person pursuing such activity.

## Chapter 2

### **Financial information authorities**

**Article 10.** 1. Competent government administration authorities in charge of counteracting money laundering and terrorist financing, hereinafter referred to as “financial information authorities”, shall be:

- 1) the minister competent for public finance, as the supreme financial information body;
- 2) the General Inspector of Financial Information, hereinafter referred to as the “General Inspector”.

2. The General Inspector shall be appointed and dismissed by the Prime Minister on request of the minister competent for public finance after seeking the opinion of the minister - member of the Council of Ministers competent for coordination of the activity of special forces, if appointed by the Prime Minister.

3. The General Inspector is the Secretary or Undersecretary of State in the office providing services to the minister competent for public finance.

**Article 11.** The General Inspector may be a person who:

- 1) holds Polish citizenship exclusively;
- 2) enjoys full civil rights;
- 3) displays an immaculate moral, civil and patriotic attitude;
- 4) has not been convicted of an intentional offence, prosecuted by the public prosecutor, or for a fiscal offence;
- 5) satisfies the requirements set forth in the regulations on the protection of classified information in the scope of access to classified information with a “top secret” clause;
- 6) has a professional title of the Master or equivalent in law, economics or finance;
- 7) has knowledge in the scope of counteracting money laundering and terrorist financing;
- 8) did not provide professional service or work for the state security bodies specified in Article 2 of the Act of 18 October 2006 on the Disclosure of Information on Documents of the Security Bodies of the State of the period 1944-1990 and the content of those documents (Journal of Laws of 2017 item 2186 as well as of 2018 items 538,650 and 651), and was not a collaborator thereof.

**Article 12.** 1. The duties of the General Inspector comprise undertaking actions with the aim of counteracting money laundering and terrorist financing, in particular:

- 1) analysing information related to assets, in relation to which the General Inspector has become reasonably suspicious that it is associated with the crime of money laundering or terrorist financing;
- 2) carrying out of the procedure of transaction suspension or bank account blocking;
- 3) requesting submission of information on transactions and disclosure thereof;
- 4) submission of information and documentation justifying the suspicion concerning the commitment for criminal offence to authorised bodies;
- 5) exchange of information with cooperating units;
- 6) preparing the national money laundering and terrorist financing risk assessment and strategies on counteracting such criminal offence, in cooperation with cooperating units and obligated institutions;
- 7) exercising control over the compliance with the regulations on counteracting money laundering and terrorist financing;
- 8) issuing decisions concerning entering into the list of persons and entities towards which special restrictive measures referred to in Article 117 are applied, or their deleting from the list as well as keeping this list;
- 9) cooperation with competent authorities of other countries as well as foreign institutions and international organisations dealing with combating money laundering or terrorist financing;
- 10) imposing administrative penalties referred to in the Act;
- 11) making knowledge and information in the scope of money laundering and terrorist financing available in the Public Information Bulletin on the website of the office providing services to the minister competent for public finance;
- 12) information processing according to the procedure defined in the Act;
- 13) initiating other measures to counteract money laundering and terrorist financing.

2. The General Inspector shall perform his duties with the assistance of an organisational unit established for this purpose within the structure of the office providing services to the minister competent for public finance.

3. For the purpose of successful and effective performance of his duties, the General Inspector may issue an instruction regarding the method of implementation of the tasks by the organisational unit referred to in paragraph 2 in the scope of collecting, processing and analysis of information by way of the relevant Act, in compliance with the requirements concerning the protection of classified information.

4. The General Inspector is the administrator of the ICT system used for counteracting money laundering and terrorist financing.

**Article 13.** In order to counteract money laundering and terrorist financing, the General Inspector may also process information originating from clearing houses established under Article 67 of the Act of 29 August 1997 - Banking Law and institutions created pursuant to Article 105(4) of the same Act.

**Article 14.** 1. The General Inspector shall submit the annual activity report to the Prime Minister through the minister competent for public finance within 3 months following the end of the year for which the report is submitted.

2. The report referred to in paragraph 1 shall contain, in particular, information on:

- 1) individual categories of obligated institutions and the economic role of market sectors to which they belong as at 31 December of the year for which the report is submitted;
- 2) the number of information messages submitted by the obligated institutions under the procedure provided herein;
- 3) the number of information messages submitted by the cooperating units under the procedure provided herein;
- 4) measures undertaken by the General Inspector pursuant to submitted information referred to in paragraphs 2 and 3, including the description of these measures;
- 5) the number of criminal proceedings instituted and completed in cases related to money laundering and the number of criminal proceedings instituted and completed in cases related to terrorist financing;
- 6) the number of persons who were accused of having committed the crime of money laundering and the number of persons who were accused of having committed the crime of terrorist financing;
- 7) the number of persons finally convicted of money laundering and the number of persons finally convicted of terrorist financing;
- 8) types of predicate offence referred to in Article 1(e) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done in Warsaw on 16 May 2005 (Journal of Laws of 2008 item 1028), to which information indicated in paragraphs 5–7 refers;
- 9) assets in respect of which either freezing, suspension of transactions and blockage has been performed, or property securing, seizure or forfeiture has been adjudicated;
- 10) statistical data related to information from obligated institutions and cooperating units, submitted by the General Inspector to the prosecutor's office and other public administration bodies and units, under the procedure provided for herein;
- 11) statistical data regarding information referred to in paragraph 10, as a result of which the prosecutor, other public administration body or unit has undertaken further

- activities, including those related to their transferring to other public administration body or unit, and in the case of activities undertaken by the prosecutor – to the institution of preparatory proceedings, presenting allegations of committing offence, performing blocking of account or suspension of transaction, issuing a seizure order;
- 12) number of cross-border requests for information which were submitted by foreign Financial Intelligence Units, examined by the General Inspector;
  - 13) number of inspections of obligated institutions carried out pursuant to the provisions of the Act;
  - 14) administrative penalties imposed on obligated institutions pursuant to the provisions of the Act;
  - 15) activities of the Financial Security Committee.

3. The Minister of Justice shall provide information referred to in paragraph 2(5)-(9) to the General Inspector within a month following the end of the year for which the information is provided.

4. The entities referred to in Article 130(2), in the scope of their competence, shall submit possessed information referred to in paragraph 2(1) to the General Inspector within a month following the end of the year for which the information is provided.

5. The entities referred to in Article 105(1)-(4) shall submit information referred to in paragraph 2(11) to the General Inspector within a month following the end of the year for which the information is provided.

6. The Minister of Justice and entities referred to in Article 105(1)-(4) and Article 130(2), shall submit information in accordance with the procedure and in the format agreed with the General Inspector.

7. Following its submission to the Prime Minister, the General Inspector shall make the report referred to in paragraph 1 available in the Public Information Bulletin on the website of the office providing services to the minister competent for public finance.

**Article 15.** 1. The General Inspector and employees of the organisational unit referred to in Article 12(2) shall be exempted from performing their duties referred to in Article 12(1)(1)-(5) and (7)-(10) in the case of occurrence of circumstances which could raise doubts regarding their impartiality, including in the event of cases related to their rights and obligations, or the rights and obligations of their spouse or a person actually remaining with them in cohabitation, relatives and kinsmen by affinity up to the second degree or persons related to them due to adoption, custody or guardianship. The reasons for the exemption shall continue despite the termination of marriage, cohabitation, adoption, custody or guardianship.

2. The decision on the exemption referred to in paragraph 1 shall be made on an ex officio basis or on request of:

- 1) the minister competent for public finance – in the case of the General Inspector;
- 2) the General Inspector – in the case of the head of the organisational unit referred to in Article 12(2);
- 3) a direct supervisor – in the case of other employees of the organisational unit referred to in Article 12(2).

3. In the case of exclusion:

- 1) of the General Inspector – his duties shall be performed by the minister competent for public finance;
- 2) of the head or an employee of the organisational unit referred to in Article 12(2) - their tasks shall be performed by an employee of this unit appointed by the General Inspector or direct supervisor, respectively.

**Article 16.** 1. The minister competent for internal affairs, the Head of the Central Anti-Corruption Bureau, the Head of the Internal Security Agency and the Head of the Military Counterintelligence Service, in consultation with the minister competent for public finance, on request of the General Inspector, may delegate employees or officers of the units and bodies subordinate to them or supervised by them to work in the organisational unit referred to in Article 12(2).

2. Detailed terms and conditions of delegating employees or officers of units and bodies referred to in subparagraph 1 shall be governed by separate regulations defining the way of operation of such units and bodies.

3. The Minister of National Defence, in the case of agreement on the appointment to the position in the organisational unit referred to in Article 12(2) with the minister competent for public finance, may delegate a professional soldier to the official position, pursuant to Article 22 of the Act of 11 September 2003 on the Military Service of Regular Soldiers (Journal of Laws of 2018, items 173 and 138), in order to designate him by the minister competent for public finance to provide the professional military service in this unit.

**Article 17.** 1. The General Inspector may conclude agreements with entities other than obligated institutions in the scope of collecting information significant for the execution of his duties. In the agreement, the scope, form and procedure for the provision of information shall be defined.

2. The General Inspector may process information referred to in paragraph 1.

**Article 18.** In the event of audit proceedings carried out in the scope and on the terms defined in the provisions on Supreme Audit Office (NIK), the General Inspector shall provide the auditors with information obtained as a result of execution of the duties referred to in Article 12(1), pursuant to a separate authorisation of the President of NIK. The provision of Article 101(1) shall apply.

Chapter 3  
**Financial Security Committee**

**Article 19.** 1. The Financial Security Committee, hereinafter referred to as the “Committee”, acting as the opinion-making and advisory body in the scope of counteracting money laundering and terrorist financing shall operate at the General Inspector.

2. The tasks of the Committee shall include, in particular:

- 1) providing opinions on the national assessment of money laundering and terrorist financing risk;
- 2) issuing opinions on the appropriateness of applying the recommendations of the European Commission referred to in Article 6(4) of Directive 2015/849;
- 3) providing opinions on the strategy referred to in Article 31(1) as well as performing reviews of its implementation progress;
- 4) issuing recommendations concerning the application of specific restrictive measures against a given person or entity;
- 5) providing opinions concerning requests for recognising the application of specific restrictive measures against a person or an entity as irrelevant;
- 6) performing analyses and assessments of legal solutions in the scope of counteracting money laundering and terrorist financing;
- 7) presenting opinions concerning the need to introduce amendments to the provisions on counteracting money laundering and terrorist financing.

**Article 20.** 1. The Committee shall consist of:

- 1) Chairperson of the Committee – the General Inspector;
- 2) Vice Chairperson of the Committee - director of the entity referred to in Article 12(2);
- 3) Committee members - one representative selected among persons appointed by each of the following bodies:
  - a) the minister competent for internal affairs,
  - b) the Minister of Justice,
  - c) the minister competent for foreign affairs,
  - d) the Minister of National Defence,
  - e) the minister competent for economy,
  - f) the minister competent for public finance,
  - g) the minister competent for computerisation,
  - h) the minister - member of the Council of Ministers competent for coordination of the activity of special forces, if appointed by the Prime Minister,

- i) Chairperson of the Polish Financial Supervision Authority.
- j) President of NBP,
- k) Chief Commander of the Police,
- l) Chief Commander of the Military Police,
- m) Chief Commander of the Border Guard,
- n) the National Prosecutor,
- o) Head of the Internal Security Agency,
- p) Head of the Central Anti-Corruption Bureau,
- q) Head of Intelligence Agency,
- r) Head of the Military Intelligence Service,
- s) Head of the Military Counterintelligence Service,
- t) Head of the National Revenue Administration,
- u) Head of the National Security Bureau.

2. A person with expertise in the scope of counteracting money laundering and terrorist financing and meeting the requirements set out in the regulations on the protection of classified information in the scope of access to classified information with a “secret” or “top secret” clause, can be a member of the Committee.

3. The Secretary of the Committee shall be appointed and dismissed by the Chairperson of the Committee. A person who satisfies the requirements set forth in the regulations on the protection of classified information in the scope of access to classified information with a “top secret” clause may act as the Secretary of the Committee.

4. The Chairperson of the Committee may invite other persons to participate in the work of the Committee, without a voting right.

**Article 21.** Meetings of the Committee shall be held at least three times a year, on the dates determined by the Chairperson of the Committee.

**Article 22.** 1. The Committee shall carry out tasks referred to in Article 19(2) on request of the Chairperson of the Committee or a member of the Committee submitted by the Secretary of the Committee. The draft opinion, conclusion, recommendation or analysis, including the justification, shall be attached to the request.

2. The request for issuing the recommendation referred to in Article 19(2)(4) or the opinion referred to in Article 19(2)(5) shall additionally contain information on the results of findings affecting the issuance of the recommendation and other required information.

**Article 23.** 1. Meetings of the Committee shall be held in the presence of at least half of its members.

2. Members of the Committee participate in its meetings personally.

3. Decisions shall be made in ballots by a simple majority of persons present at the Committee meeting. In the case of an equal number of votes, the Chairperson of the

Committee, and in case of his/her absence - the Vice Chairperson, shall have a casting vote.

4. The Chairperson may order that the decision of the Committee shall be made by way of the circulation procedure, using electronic communication means.

**Article 24.** The detailed procedure and method of the Committee's operation is defined in its by-laws adopted by the Committee and approved by the General Inspector.

#### Chapter 4

### **National money laundering and terrorist financing risk assessment and risk assessment of obligated institutions**

**Article 25.** 1. The General Inspector shall prepare the national money laundering and terrorist financing risk assessment, hereinafter referred to as the "national risk assessment", in cooperation with the Committee, the cooperating units and the obligated institutions.

2. While preparing the national risk assessment, the General Inspector shall take into consideration the report of the European Commission referred to in Article 6(1)-(3) of Directive 2015/849.

3. The General Inspector shall verify the validity of the national risk assessment and update it as applicable, in any case at least on a biannual basis.

**Article 26.** 1. The cooperating units shall submit information or documents which may affect the national risk assessment to the General Inspector.

2. On request of the General Inspector, a cooperating unit shall provide information or documents which may affect the national risk assessment. In the request, the General Inspector indicates the format and the time limit for their submission.

3. The Head of the Internal Security Agency may refuse to provide information referred to in paragraphs 1 and 2 if this could prevent him from the performance of his statutory duties.

**Article 27.** 1. The obligated institutions shall identify and assess risks associated with money laundering and terrorist financing referring to their activity, taking into account risk factors related to customers, states or geographical areas, products, services, transactions or their supply channels. Such measures shall be proportionate to the nature and size of the obligated institution.

2. While assessing the risk, the obligated institutions can consider the binding national risk assessment as well as the report of the European Commission referred to in Article 6(1)-(3) of Directive 2015/849.

3. The obligated institutions shall prepare the risk assessments referred to in

paragraph 1 in writing or by electronic means and update them as necessary, and at least on a biannual basis, in particular in connection with the change in risk factors related to customers, states or geographical areas, products, services, transactions or their supply channels, or the documents referred to in paragraph 2.

4. The obligated institutions may make the risk assessments referred to in paragraph 1 available to professional self-regulatory bodies or associations of such obligated institutions.

**Article 28.** 1. On request of the General Inspector, the obligated institutions shall provide risk assessments prepared within their competence and other information potentially affecting the national risk assessment.

2. The submission of risk assessments and information referred to in paragraph 1 can take place through the professional self-regulatory bodies or associations of obligated institutions.

**Article 29.** 1. The national risk assessment shall comprise, in particular:

- 1) a description of the national risk assessment methodology;
- 2) a description of phenomena related to money laundering and terrorist financing;
- 3) a description of applicable regulations related to money laundering and terrorist financing;
- 4) an indication of the level of money laundering and terrorist financing risk in the Republic of Poland, including the substantiation;
- 5) conclusions arising from the money laundering and terrorist financing risk assessment;
- 6) identification of issues related to personal data protection associated with counteracting money laundering and terrorist financing.

2. In the national risk assessment, the General Inspector may define risks typical for individual types of obligated institutions which do not require documenting in risk assessments prepared by those institutions.

3. The General Inspector shall present the national risk assessment to the Committee to obtain its opinion.

**Article 30.** 1. Following the issuance of the opinion by the Committee the national risk assessment shall be submitted to the minister competent for public finance for approval.

2. The General Inspector shall publish the national risk assessment in the Public Information Bulletin on the website of the office providing services to the minister competent for public finance following the approval referred to in paragraph 1 and excluding the part containing classified information.

**Article 31.** 1. On the basis of the national risk assessment, the General Inspector shall draft the strategy on counteracting money laundering and terrorist financing, hereinafter referred to as the “strategy”, containing the action plan aiming to mitigate the risk associated with money laundering and terrorist financing.

2. In the event of a change of the national risk assessment or, if required for the implementation of the European Commission recommendations referred to in Article 6(4) of Directive 2015/849, the General Inspector shall prepare a draft update of the strategy.

3. The provisions of Article 29(3) and Article 30(1) shall apply accordingly.

**Article 32.** 1. The draft strategy shall be submitted for review by the Council of Ministers.

2. The Council of Ministers shall adopt the strategy by way of the resolution.

3. The cooperating units shall submit the following information to the General Inspector:

- 1) way of using the recommendations contained in the strategy - in the case of cooperating units other than government administration bodies,
- 2) undertaken measures arising from the recommendations contained in the strategy - in the case of government administration bodies

- at least once per 6 months following the day of its publishing in the Official Journal of the Republic of Poland “Monitor Polski”.

## Chapter 5

### **Customer due diligence measures and other obligations of the obligated institutions**

**Article 33** 1. The obligated institutions shall apply customer due diligence measures towards their customers.

2. The obligated institutions shall identify the risk of money laundering and terrorist financing associated with the specific business relationship or an occasional transaction and assess the level of the risk identified.

3. The obligated institutions shall document the identified risk of money laundering and terrorist financing associated with the business relationship or with an occasional transaction and its assessment taking into account, in particular, factors related to:

- 1) type of client;
- 2) geographical area;
- 3) purpose of account;
- 4) type of products, services and methods of their distribution;
- 5) level of assets deposited by the customer or value of transactions performed;
- 6) objective, regularity or duration of business relationship.

4. The obligated institutions shall apply customer due diligence measures to the

extent and with an intensity taking into account the identified money laundering and terrorist financing risk related to business relationships or an occasional transaction as well as its assessment.

**Article 34.** 1. Customer due diligence measures comprise:

- 1) identification of a customer and verification of its identity;
- 2) identification of a beneficial owner and undertaking justified measures in order to:
  - a) verify its identity,
  - b) define the ownership and control structure - in the case of a customer being a legal person or an organisational unit without legal personality;
- 3) assessment of business relationship and, as applicable, obtaining information concerning its objective and intended nature;
- 4) ongoing monitoring of customer's business relationship, including:
  - a) the analysis of transactions carried out throughout the course of business relationship in order to ensure that such transactions are compliant with the knowledge of the obligated institution on the customer, the type and scope of activity carried out by it, as well as compliant with the money laundering and terrorist financing risk associated with such a customer,
  - b) examining the origin of assets available to the customer - in cases justified by circumstances,
  - c) ensuring that any possessed documents, data or information concerning the business relationship shall be updated on an on-going basis.

2. The obligated institutions shall identify a person authorised to act on behalf of the customer and verify his/her identity as well as authorisation to act on behalf of the customer while applying the customer due diligence measures referred to in paragraph 1(1) and (2).

3. The obligated institutions shall document the customer due diligence measures applied as well as the results of the on-going analysis of transactions performed. On request of competent authorities referred to in Article 130, the obligated institutions shall demonstrate that they have applied the relevant customer due diligence measures considering the level of identified risk of money laundering and terrorist financing related to the specific business relationship or occasional transaction.

4. For the purpose of applying customer due diligence measures, the obligated institutions may process information contained in the identity documents of a customer and a person authorised to act on its behalf and make copies thereof.

5. Prior to establishing the business relationship or conducting an occasional transaction, the obligated institutions shall notify the customer of processing its personal data, in particular, of the obligations of an obligated institution stemming from the Act in

the scope of such data processing.

6. Processing of information concerning beneficial owners by the obligated institutions shall take place without the knowledge of persons such information refers to.

**Article 35.** 1. The obligated institutions shall apply the customer due diligence measures in the case of:

- 1) establishing business relationship;
- 2) performing an occasional transaction:
  - a) with the value equivalent to EUR 15,000 or more, irrespective of whether the transaction is conducted as a single operation or as several operations which seem to be linked, or
  - b) which constitutes the transfer of funds for the amount exceeding EUR 1,000;
- 3) performing a cash occasional transaction with the value equivalent to EUR 10,000 or higher, irrespective of whether the transaction is conducted as a single operation or as several operations which seem to be linked - in the case of obligated institutions referred to in Article 2(1)(23);
- 4) betting a stake and collecting prizes with the value equivalent to EUR 2,000 or higher, irrespective of whether the transaction is conducted as a single operation or as several operations which seem to be linked in the case of obligated institutions referred to in Article 2(1)(20);
- 5) suspicion of money laundering or terrorist financing;
- 6) doubts regarding the authenticity or completeness of customer identification data obtained so far.

2. The obligated institutions shall also apply customer due diligence measures in relation to customers with whom they maintain business relationship, taking into consideration the identified risk of money laundering or terrorist financing, in particular, in situations when a change in formerly determined nature or circumstances of business relationship occurred.

**Article 36.** 1. The identification of a customer involves determining in the case of:

- 1) natural person:
  - a) name and surname,
  - b) citizenship,
  - c) number of the Universal Electronic System for Registration of the Population (PESEL) or date of birth in the case if the PESEL number has not been assigned, and the state of birth,
  - d) series and number of the document confirming the identity of a person,
  - e) residence address in case of availability of such information to the obligated institution,

- f) name (company), tax identification number (NIP) and address of the principal place of business in the case of a natural person pursuing economic activity;
- 2) a legal person or an organisational unit without legal personality:
- a) name (enterprise),
  - b) organisational form,
  - c) address of the registered office or address of pursuing the activity,
  - d) NIP, and in the case of unavailability of such a number – the state of registration, the commercial register as well as the number and date of registration,
  - e) identification data referred to in subparagraph 1(a) and (c) of a person representing such legal person or organisational unit without legal personality.

2. The identification of the beneficial owner shall comprise determining of the data referred to in section 1(1)(a) and (b) in the case such information is held by the obligated institution, including the data referred to in paragraph 1(1)(c)-(e).

3. The identification of a person authorised to act on behalf of the customer shall comprise determining of the data referred to in paragraph 1(1)(a)-(d).

**Article 37.** The verification of identity of a customer, a person acting of its behalf and the beneficial owner shall be based on confirmation of determined identification data based on a document confirming the identity of a natural person, a document containing valid data from the extract of the relevant register or other documents, data or information originating from a reliable and independent source.

**Article 38.** 1. The obligated institutions can waive the application of the customer due diligence measures referred to in Article 34(1)(1)-(3), taking into consideration the identified money laundering and terrorist financing risk, in relation to electronic money within the meaning of the Act of 19 August 2011 on Payment Services, provided that the following conditions mitigating the money laundering and terrorist financing risk are fulfilled:

- 1) a payment instrument shall not be credited or such instrument has a maximum monthly limit of payment transactions equivalent to the amount of EUR 50 which can be used exclusively in the territory of the Republic of Poland;
- 2) the maximum amount stored electronically shall not exceed the equivalent of EUR 50;
- 3) a payment instrument may be used exclusively for the purchase of goods or services;
- 4) a payment instrument shall not be credited by electronic money issued without applying customer due diligence measures;
- 5) the issuer of the electronic money shall conduct on-going analysis of executed

transactions or monitor business relationships in the manner enabling identification of unusual transactions or transactions where circumstances indicate their potential association with money laundering or terrorist financing.

2. The provision of paragraph 1 shall not apply in the case of redemption of electronic money or withdrawal of the electronic money value in cash, if the amount subject to redemption exceeds the equivalent of EUR 50.

**Article 39.** 1. The verification of identity of the customer or the beneficial owner shall take place before establishing a business relationship or performing an occasional transaction.

2. The verification of the customer's and the beneficial owner's identity may be completed while establishing business relationship if this is necessary to ensure adequate conduct of economic activity and when the risk of money laundering or terrorist financing is low. In such cases the customer's and beneficial owner's identity is verified as soon as possible after the commencement of business relationship.

3. The obligated institutions referred to in Article 2(1)(1)-(5), (7)-(11), (24) and (25) may conclude the agreement for operating a bank account or a securities account provided that the customer due diligence measures referred to in Article 34(1)(1) and (2) are applied prior to conducting transactions with the use of those accounts.

4. In the case of trusts, where beneficiaries are determined on the basis of specific features, the obligated institutions shall acquire information related to the type of such beneficiaries allowing them to identify the beneficiary upon making the withdrawal of assets or exercising by the beneficiary of the rights assigned thereto.

**Article 40.** 1. The obligated institutions referred to in Article 2(1)(8), being parties to an insurance agreement, shall apply customer due diligence measures referred to in Article 34(1)(1) towards beneficiaries of such agreement. Such measures shall be applied immediately upon determining of the beneficiaries of the insurance agreement, upon payment of the benefit, at the latest. The provisions of Article 34(4), Article 36(1)(1) and 37 shall apply accordingly.

2. In the case of acquiring information on a partial or complete transfer of titles arising from the insurance agreement, the obligated institutions referred to in Article 2(1)(8) shall apply the customer due diligence measure referred to in Article 34(1)(2) towards beneficiaries of such agreements.

**Article 41.** 1. Should the obligated institution be unable to apply one of the customer due diligence measures referred to in Article 34(1):

- 1) it shall not establish a business relationship;
- 2) it shall not perform an occasional transaction;
- 3) it shall not conduct transactions through the bank account;

4) it shall terminate a business relationship.

2. The obligated institution shall assess whether the inability to apply the customer due diligence measures referred to in paragraph 1 forms basis for providing the General Inspector with the notification referred to in Article 74 or Article 86.

3. The provisions of paragraphs 1 and 2 shall not apply to the obligated institutions referred to in Article 2(1)(14) to the extent such institutions determine a customer's legal situation in connection with court proceedings, performing the obligations involving defence, representation or substitution of the customer in the court proceedings, or providing legal advice to the customer, related to the institution of court proceedings or avoidance of such proceedings.

**Article 42.** 1. The obligated institutions may apply simplified customer due diligence measures in cases where the risk assessment referred to in Article 33(2) has confirmed a lower risk of money laundering and terrorist financing.

2. The following circumstances may, in particular, substantiate a lower money laundering and terrorist financing risk:

1) a customer being:

- a) a public finance sector entity referred to in Article 9 of the Public Finance Act of 27 August 2009 (Journal of Laws of 2017, item 2077 and of 2018 item 62),
- b) a state-owned enterprise or a company with the majority State Treasury share, local government authorities or their associations,
- c) a company whose securities are admitted to trading on the regulated market, subject to the requirements of disclosing information on its beneficial owner, arising from the European Union law regulations or the corresponding regulations of the third country, or a company with the majority share of such a company,
- d) a resident of a European Union Member State, a member state of the European Free Trade Association (EFTA) – a party to the agreement on the European Economic Area,
- e) a resident of a third country determined by reliable sources as a state of low level of corruption or other criminal activity,
- f) a third country resident where, according to the data derived from reliable sources, provisions related to counteracting money laundering and terrorist financing corresponding to the requirements arising from the European Union provisions related to counteracting money laundering and terrorist financing apply,

2) concluding an insurance agreement in the case where the annual premium does not

exceed the equivalent of EUR 1,500 or a single premium does not exceed EUR 3,500; in the case of group insurance agreements, the indicated value of premiums is calculated in relation to each policyholder;

- 3) accession to and participation in an employee pension scheme, concluding the agreement and collecting savings on an individual pension account or an individual retirement security account;
- 4) offering products or services with the purpose of ensuring an adequately defined and limited access to the financial system to customers with a limited access to products or services offered within this system;
- 5) offering products or services associated with the customer in case of which the money laundering and terrorist financing risk is mitigated by means of other factors, including open-end investment fund units or specialised open-end investment fund units, or specific types of electronic money;
- 6) association of business relationships or an occasional transaction with:
  - a) a European Union Member State, a member state of the European Free Trade Association (EFTA) – a party to the agreement on the European Economic Area,
  - b) a third country determined by reliable sources as a state of low level of corruption or other criminal activity,
  - c) a third country where, according to the data derived from reliable sources, provisions related to counteracting money laundering and terrorist financing corresponding to the requirements arising from the European Union provisions related to counteracting money laundering and terrorist financing apply.

3. The simplified customer due diligence measures shall not apply in cases referred to in Article 35(1)(5) and (6).

**Article 43.** 1. The obligated institutions shall apply enhanced customer due diligence measures in cases of a higher risk of money laundering or terrorist financing as well as in cases referred to in Articles 44-46.

2. The following circumstances may, in particular, substantiate an increased money laundering and terrorist financing risk:

- 1) establishing business relationships under unusual circumstances;
- 2) a customer being:
  - a) a legal person or an organisational entity without legal personality whose activity is aimed at storage of personal assets,
  - b) a company where bearer shares were issued, whose securities are not traded on a regulated market, or a company where rights arising from stocks or shares are exercised by entities other than shareholders or stakeholders;

- 3) the subject of economic activity pursued by the customer comprising processing of a considerable number of cash transactions or cash transactions for high amounts;
- 4) an unusual or excessively complex ownership structure of a customer taking into account the type and scope of economic activity pursued by it;
- 5) a customer's use of services or products offered within private banking;
- 6) a customer's use of services or products fostering anonymity or hindering identification of a customer, including the service involving creating additional numbers of accounts determined in accordance with the provisions issued pursuant to Article 68(3) and (4) of the Act of 29 August 1997 – Banking Law and Article 4a(5) of the Act of 19 August 2011 on Payment Services, linked with the account held, in order to make them available to other entities for identification of payments or originators of such payments;
- 7) establishing or maintaining of business relationships or performing an occasional transaction without a physical presence of the customer - where the associated increased risk of money laundering and terrorist financing has not been otherwise mitigated, including, through the use of notified electronic identification means adequately to the security level, referred to in Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ (OJ L 257, 28.08.2014, p. 73), or the requirement to use a qualified electronic signature or a signature confirmed by the ePUAP trusted profile;
- 8) ordering transactions where the customer is the beneficiary by unknown or non-associated third parties;
- 9) covering new products or services under business relationships, or offering products or services with the use of new distribution channels;
- 10) association of business relationships or an occasional transaction with:
  - a) a high risk third country,
  - b) a state defined by reliable sources as the state with an elevated level of corruption or other type of criminal activity, the state financing or supporting committing of acts of terrorist nature, or the state associated with activity of organisations of terrorist nature,
  - c) a state in relation to which the United Nations Organisation or the European Union made the decision on imposing sanctions or specific restrictive measures.

3. The obligated institutions carry out ongoing analysis of transactions performed.

4. In the case of disclosure of unusual or excessively complex transactions for high

amounts which seem legally or economically unjustified, the obligated institutions:

- 1) undertake measures in order to clarify circumstances under which such transactions were carried out;
- 2) intensify the application of a customer due diligence measure referred to in Article 34(1)(4) in relation to business relationships under which such transactions were performed.

**Article 44.** 1. The obligated institutions shall apply enhanced customer due diligence measures towards customers originating from or established in a high-risk third country.

2. The obligation to apply enhanced customer due diligence measures exclusively for the reason of establishment in a high risk third country shall not apply to:

- 1) branches of obligated institutions,
- 2) subsidiaries with the majority share of obligated institutions,
- 3) branches or subsidiaries with the majority share of entities established on the territory of a European Union Member State subject to the obligations arising from the provisions on counteracting money laundering and terrorist financing issued pursuant to Directive 2015/849

- applying the procedures in the scope of counteracting money laundering and terrorist financing effective in the group they belong to.

3. In the case referred to in paragraph 2, the scope of applied customer due diligence measures shall be defined taking into account the risk assessment referred to in Article 33(2).

**Article 45.** 1. In the case of cross-border correspondent relationships with an institution - third country respondent, the obligated institutions referred to in Article 2(1)(1)-(5), (7)-(11), 24 and 25, operating as institutions - correspondents, shall apply the customer due diligence measures and undertake the following activities:

- 1) acquire information concerning the institution - respondent, in order to understand the nature of operations carried out by such institution;
- 2) determine, based on the commonly available information, the reliability of the institution - respondent and the quality of supervision pursued over it;
- 3) evaluate the procedures in the scope of counteracting money laundering and terrorist financing used by the institution - respondent;
- 4) prior to establishing the correspondent relations, acquire the approval of the senior management;
- 5) determine and document the scope of responsibility of the obligated institution and the institution - respondent for the fulfilment of the obligations associated with counteracting money laundering and terrorist financing;

- 6) ascertain with respect to accounts - that the institution - respondent has applied the customer due diligence measures, including the customer due diligence measures referred to in Article 34(1)(1) towards customers having direct access to such accounts held with the obligated institution, as well as ensure that the institution - respondent makes information concerning the applied customer due diligence measures available on their request.

2. The obligated institutions referred to in Article 2(1)(1)-(5), (7)-(11), 24 and 25 shall not establish and maintain correspondent relationships:

- 1) with a credit, financial institution and an entity pursuing equivalent activity, which is not a part of the group, which does not have a registered office and is not actually managed and governed on the territory of the state under the law of which it was established (a shell bank);
- 2) with credit and financial institutions which are known as institutions concluding contracts for operating accounts with a shell bank.

**Article 46.** 1. In order to determine whether a customer or a beneficial owner is a politically exposed person, the obligated institutions shall implement procedures based on risk assessment, including a possibility to accept a declaration from the customer in written form or a document form confirming that the customer is or is not a person holding such position, submitted subject to criminal liability for the submission of false declaration. A person submitting the declaration shall be bound to include the following clause therein: "I am aware of criminal liability for the submission of a false declaration." This clause shall replace the instruction concerning criminal liability for making a false declaration.

2. In the case of business relationships with a politically exposed person, the obligated institutions shall apply the following customer due diligence measures and undertake the following activities in relation to such persons:

- 1) they shall obtain the permission of the senior management for establishing or continuation of business relationship with a politically exposed person;
- 2) they shall apply adequate measures in order to establish the source of the customer's assets and sources of assets available to the client under the business relationship or the occasional transaction;
- 3) they shall intensify the application of the customer due diligence measure referred to in Article 34(1)(4).

3. The obligated institutions referred to in Article 2(1)(8), being parties to insurance agreements, undertake adequate measures, upon the transfer of rights arising from such agreement or payment of the benefit at the latest, in order to determine whether the beneficiaries of the agreement or their beneficial owners are really politically exposed

persons.

4. Should a higher level of money laundering and terrorist financing risk be identified, prior to the payment of the benefit arising from the insurance agreement or transfer of rights arising from such agreement, the obligated institutions shall apply customer due diligence measures and undertake the following activities:

- 1) perform in-depth analysis of business relationships with the customer;
- 2) inform the senior management of their intention to pay this benefit.

5. In the period from the day of termination of holding the politically exposed position by a given person to the day of determining that no higher risk is associated with a given person, in any case, not shorter than 12 months, the obligated institution shall apply measures taking into account such risk towards such a person.

6. The provisions of paragraphs 1-5 shall apply, respectively, to family members of a politically exposed person and other persons known as close co-workers of the politically exposed person.

**Article 47.** 1. The obligated institutions may use services of other entity while applying the customer due diligence measures referred to in Article 34(1)(1)-(3), subject to such entity immediately providing, on request of the obligated institution, the required information and documents related to applied customer due diligence measures, including copies of documents acquired while applying the customer due diligence measures consisting in identification of a client and a beneficial owner and verification of their identity.

2. The use of third party services shall not discharge the obligated institution from its liability for the application of the customer due diligence measures.

3. The third parties referred to in paragraph 1 may comprise:

- 1) an obligated institution;
- 2) an entity established in other state or a membership organisation or federation associating such entity, bound under the relevant provisions of such a state in the scope of counteracting money laundering and terrorist financing to apply the customer due diligence measures and keep documents and information as well as subject to supervision of competent authorities of such a state in the manner corresponding to the requirements arising from the European Union provisions on counteracting money laundering and terrorist financing.

4. The obligated institutions shall not use services referred to in paragraph 1, if a third party entity is established in a high-risk third country. This prohibition shall not apply to cases involving the use of services provided by:

- 1) branches of obligated institutions or subsidiaries with the majority share of obligated institutions,

- 2) branches or subsidiaries with the majority share of entities established on the territory of a European Union Member State and subject to the obligations arising from the provisions on counteracting money laundering and terrorist financing issued pursuant to Directive 2015/849

2.if they apply group procedures referred to in Article 51(1).

5. The obligated institution included in the group which applies the customer due diligence measures, rules concerning storage of documents and information, has implemented the internal procedure at a group level and is subject to supervision by the competent authorities of a member state or a third country under the rules and in the manner corresponding to the requirements arising from the European Union provisions on counteracting money laundering and terrorist financing, may acknowledge that the obligation to apply the customer due diligence measures referred to in Article 34(1)(1)-(3) was fulfilled if the customer due diligence measures had been applied by an entity included in the same group. The provision of paragraph 1 in the scope of submission of information and documents as well as the provision of paragraph 2 in the scope of rules of liability for applying the customer due diligence measures shall apply.

**Article 48.** 1. The obligated institutions may entrust the application of the customer due diligence measures as well as maintaining and documenting the results of the current analysis of conducted transactions referred to in Article 43(3) to a natural person, a legal person or an organisational unit without legal personality acting for and on behalf of the obligated institution if the entity to which the application of the customer due diligence measures has been entrusted under a written agreement should be regarded as a part of the obligated institution.

2. Entrusting of the application of the customer due diligence measures under the rules defined in paragraph 1 shall not exempt the obligated institution from its liability for the application of the customer due diligence measures.

**Article 49.** 1. The obligated institutions shall keep the following documents for a period of five years, calculating from the first day of the year in which the business relationship with a given customer were terminated or from the day of conducting occasional transactions:

- 1) copies of documents and information obtained as a result of the application of the customer due diligence measures;
- 2) evidence confirming conducted transactions and transaction records comprising original documents or copies of documents required to identify the transaction.

2. The obligated institutions shall keep results of the analyses referred to in Article 34(3) over a period of 5 years, as of the first day of the year following their conducting.

3. Prior to the lapse of the period referred to in paragraph 1 and 2, the General Inspector may require keeping the documentation referred to in paragraphs 1 and 2 over an additional period of maximum 5 years, as of the lapse of the period referred to in paragraphs 1 and 2, if this is required for the purpose of counteracting money laundering or terrorist financing.

4. The provision of paragraph 3 shall not apply to obligated institutions referred to in Article 2(1)(13)-(18) and (21)-(23).

5. In the event of liquidation, merger, demerger or transformation of an obligated institution, the provisions of Article 76 of the Accounting Act of 29 September 1994 shall be applied in relation to documentation keeping.

**Article 50.** 1. The obligated institutions shall introduce an internal procedure on counteracting money laundering and terrorist financing, hereinafter referred to as the “internal procedure of the obligated institution”.

2. The internal procedure of the obligated institution shall define - taking into account the nature, type and extent of the activity conducted - the rules of procedure used in the obligated institution and it comprises, in particular, determining of:

- 1) activities or measures undertaken in order to mitigate the risk of money laundering and terrorist financing as well as adequate management of identified money laundering and terrorist financing risk;
- 2) rules of identification and assessment of money laundering and terrorist financing risk associated with the specific business relationships or an occasional transaction, including the rules of verification and updating of previously performed assessment of money laundering and terrorist financing risk;
- 3) measures used with the purpose of proper management of identified money laundering and terrorist financing risk associated with the specific business relationships or an occasional transaction;
- 4) rules of application of the customer due diligence measures;
- 5) rules related to keeping documents and information;
- 6) rules related to the fulfilment of the obligations comprising the provision of information on transactions and notifications to the General Inspector;
- 7) rules related to dissemination of knowledge in the scope of provisions in the scope of counteracting money laundering and terrorist financing among employees of the obligated institution;
- 8) rules related to reporting real or potential infringements of the provisions in the scope of counteracting money laundering and terrorist financing by employees;
- 9) rules of internal control or oversight of compliance of an obligated institution’s activity with the provisions in the scope of counteracting money laundering and

terrorist financing as well as the rules of conduct defined in the internal procedure.

3. Prior to its introducing for application, the internal procedure of the obligated institution shall be subject to approval by the senior management.

**Article 51.** 1. The obligated institutions included in a group as well as their branches and subsidiaries with the majority share of those institutions, established in a third country, shall introduce a group procedure in the scope of counteracting money laundering and terrorist financing, hereinafter referred to as the “group procedure”, with the purpose of fulfilment of the obligations defined in the provisions on counteracting money laundering and terrorist financing, imposed on the group and on entities included therein.

2. The group procedure defines the rules of exchange and protection of information provided with the purpose of fulfilment of the obligations in the scope of counteracting money laundering and terrorist financing among individual entities included in the group.

3. In the case if the requirements binding in a third country in the scope of counteracting money laundering and terrorist financing are less restrictive than those arising from the Act, the obligated institutions shall require application of the provisions of the Act, also with respect to personal data protection, by their branches and subsidiaries with the majority share of those institutions established in a third country, to the extent permitted by the regulations of that state.

4. Should the third country provisions prevent implementation of the group procedure in branches of obligated institutions and subsidiaries with the majority share of those institutions established in such a country, the obligated institutions shall ensure the application of additional measures by such branches and subsidiaries with the purpose of effective counteracting money laundering and terrorist financing risk and inform thereof the General Inspector and the authorities referred to in Article 130(2), adequate for the obligated institution in the scope of control or supervision. Should the authorities referred to in Article 130 find, including as a result of inspection, that the additional measures applied are insufficient for effective counteracting of money laundering and terrorist financing, they shall undertake the relevant measures, including the prohibition to establish business relationships or the order to terminate them, the prohibition to perform the transactions and, if necessary, the order to terminate operations in a third country.

5. The General Inspector shall inform the European supervision authorities about cases when third party provisions prevent the implementation of a group procedure.

**Article 52.** 1. The obligated institutions shall ensure the participation of employees fulfilling the obligations associated with counteracting money laundering and terrorist

financing in training programmes related to the performance of those obligations.

2. The training programmes referred to in paragraph 1 should take into account the nature, type and extent of activity pursued by the obligated institution and ensure current knowledge in the scope of implementation of the obligated institution's obligations, in particular, the obligations referred to in Article 74(1), Article 86(1) and Article 89(1).

3. With respect to the obligated institutions being natural persons pursuing the economic activity, the provision of paragraph 1 shall apply accordingly.

**Article 53.** 1. The obligated institutions shall develop and implement an internal procedure of anonymous reporting of real or potential infringements of the provisions in the scope of counteracting money laundering and terrorist financing by employees or other persons performing activities for the obligated institution.

2. The procedure of anonymous reporting of infringements referred to in paragraph 1 shall define, in particular:

- 1) person responsible for receiving the reports;
- 2) method of receiving the reports;
- 3) method of protecting whistle-blowers ensuring at least the protection against repressive actions, discrimination or other types of unfair treatment;
- 4) method of protecting personal data of a whistle-blower and a person accused of infringement, in accordance with the provisions on personal data protection;
- 5) confidentiality rules in the case of disclosure of identity of persons referred to in subparagraph 4 or if it is possible to determine their identity;
- 6) type and nature of consequential measures undertaken after receiving of a report;
- 7) time limit for deleting the personal data contained in the reports by obligated institutions.

**Article 54.** 1. The obligated institutions, their employees and other persons acting for and on behalf of obligated institutions shall keep confidentiality of the fact of submitting to the General Inspector or other competent authorities of information defined in chapter 7 and 8 as well as information concerning conducted analyses related to money laundering or terrorist financing.

2. The obligation to keep confidentiality of information referred to in paragraph 1 shall not apply to provision of information between:

- 1) the obligated institutions referred to in Article 2(1)(1)-(5), (7)-(11), (24) and (25) as well as their branches and subsidiaries included in the group and applying the rules of procedure defined in the group procedure, including branches and subsidiaries established in a third country;
- 2) the obligated institutions referred to in Article 2(1)(13)-(15) and persons from third countries who are subject to the requirements set forth in Directive 2015/849 or

equivalent, and perform their professional activities within the same legal person or within a structure having a common owner, common management board or common control of compliance with the provisions in the scope of counteracting money laundering and terrorist financing, comprising a legal person within which such obligated institution performs its professional activities;

- 3) the obligated institutions referred to in Article 2(1)(13)–(15) and their customers in the scope of information provided for the purpose of ceasing the activity performed by the customer contrary to the law or preventing the customer from undertaking such activity;
- 4) the obligated institutions referred to in Article 2(1)(1)-(5), (7)-(11), (13)-(15), (24) and (25) and among those obligated institutions and their corresponding institutions established in a third country which are subject to the requirements defined in Directive 2015/849 or equivalent and apply the relevant provisions concerning the professional secret and personal data protection in cases related to the same customer and the same transaction.

3. In justified cases, the General Inspector can require the obligated institutions referred to in paragraph 2(1) to maintain confidentiality of the fact of providing information to the General Inspector or other competent authorities, pursuant to the rules defined in Chapter 9.

## Chapter 6

### **Central Register of Beneficial Owners**

**Article 55.** The Central Register of Beneficial Owners hereinafter referred to as the “Register” is an ICT system to be used for processing of information concerning beneficial owners of companies listed in Article 58.

**Article 56.** The minister competent for public finance is the authority competent for matters related to the Register.

**Article 57.** 1. The authority competent for the Register is the administrator of the data collected in the Register.

2. The tasks of the authority competent for the Register comprise:

- 1) keeping the Register and defining the organisational conditions and technical methods of its keeping;
- 2) processing information on beneficial owners;
- 3) preparing statistical analyses related to information processed in the Register.

**Article 58.** Entities bound to report information concerning beneficial owners and keeping it up to date include:

- 1) general partnerships;

- 2) limited partnerships;
- 3) limited joint-stock partnerships;
- 4) limited liability companies;
- 5) joint-stock companies, excluding public companies within the meaning of the Act of 29 July 2005 on Public Offering and Conditions Governing the Introduction of Financial Instruments to the Organised Trading, and on Public Companies (Journal of Laws of 2018 items 512 and 685).

**Article 59.** Information subject to submission to the Register comprise:

- 1) identification data of companies specified in Article 58:
  - a) name (enterprise),
  - b) organisational form,
  - c) registered office,
  - d) number in the National Court Register,
  - e) NIP:
- 2) identification data of the beneficial owner and member of a governing body or partner authorised to represent companies specified in Article 58:
  - a) name and surname,
  - b) citizenship.
  - c) state of residence,
  - d) PESEL number or the date of birth - in the case of persons not holding the PESEL number,
  - e) information on the level and character of the share or on powers conferred on the beneficial owner.

**Article 60.** 1. The information referred to in Article 59 shall be submitted to the Register, at the latest, within 7 days following the day of entry of companies specified in Article 58 in the National Court Register and in the case of change in the information submitted - within 7 days following the change.

2. The term referred to in paragraph 1 shall not comprise Saturdays, Sundays and public holidays.

3. In the event of a failure or disruptions in the ICT system operation, the authority competent for the Register shall inform of their occurrence and elimination in the Public Information Bulletin on the website of the office servicing the minister competent for public finance. In such a case, a period from the moment of occurrence of the failure or disruption indicated in the information published in the Bulletin until the moment of publishing information on their elimination, shall not be included in the calculation of time limits referred to in paragraph 1.

**Article 61.** 1. A report to the Register shall be submitted by a person authorised to

represent the company specified in Article 58.

2. The report shall be made with the use of electronic communication means free of charge.

3. The report shall be submitted in the form of an electronic document, in accordance with the template defined by the minister competent for public finance.

4. The report shall bear a qualified electronic signature or a signature confirmed by ePUAP trusted profile and it shall contain the declaration of a reporting person on the authenticity of information reported to the Register.

5. The declaration referred to in paragraph 4 shall be submitted subject to criminal liability for making false declarations. A person submitting the declaration shall be bound to include the following clause therein:

“I am aware of criminal liability for the submission of a false declaration.” This clause shall replace the instruction concerning criminal liability for making a false declaration.

**Article 62.** The minister competent for public finance shall define, by way of the relevant regulation, the procedure for reporting information to the Register referred to in Article 61, taking into consideration the need to ensure a secure, efficient and reliable reporting.

**Article 63.** Information referred to in Article 59 shall be entered in the Register immediately after its submission or updating.

**Article 64.** Information collected in the Register, referred to in Article 59, shall be kept over a period necessary to perform the tasks with the aim of counteracting money laundering or terrorist financing.

**Article 65.** Processing of information concerning beneficial owners collected in the Register shall take place without the awareness of persons such information refers to.

**Article 66.** The provisions of Article 32(1)(3) and (5) of the Act of 29 August 1997 on Personal Data Protection (Journal of Laws of 2016, item 922 and of 2018 item 138 and 723) shall not apply to the processing of personal data collected in the Register.

**Article 67.** The Register is public.

**Article 68.** Data entered in the Register are deemed authentic. A person submitting information on beneficial owners, including its updates, shall be liable for any damage caused by the submission of false data to the Register as well as by the failure to report data and changes in the data covered by the entry in the Register within the statutory time limit, unless the damage occurred as a result of force majeure or exclusively due to the default of the affected party or a third party for which a person submitting information on beneficial owners and its updates is not liable.

**Article 69.** Information concerning beneficial owners collected in the Register is made available free of charge.

**Article 70.** Information concerning beneficial owners collected in the Register is made available via electronic communication means.

**Article 71.** The minister competent for public finance shall determine, by way of a regulation:

- 1) the method for preparation and submission of requests for making information referred to in Article 59 available and the method for making such information available,
  - 2) the procedure for submission of requests for making information referred to in Article 59 available and the procedure for making such information available,
  - 3) time limits for making information referred to in item 59 available
3. taking into consideration the need to ensure a fast, reliable and secure access to information from the Register.

## Chapter 7

### Information submission and collecting

**Article 72.** 1. The obligated institutions, excluding institutions referred to in Article 2(1)(11), (13)–(15) and (18), shall provide the General Inspector with information on:

- 1) accepted payment or executed disbursement of funds exceeding the equivalent of EUR 15,000;
- 2) executed transfer of funds exceeding the equivalent of EUR 15,000, excluding:
  - a) transfer of funds between the payment account and the term deposit account held by the same customer with the same obligated institution,
  - b) domestic transfer of cash from other obligated institution,
  - c) transaction associated with own management of the obligated institution which was executed by the obligated institution in its own name and on its own behalf, including a transaction concluded on the interbank market,
  - d) transaction executed for and on behalf of public finance sector entities referred to in Article 9 of the Public Finance Act of 27 August 2009,
  - e) transaction performed by a bank associating cooperative banks, if the information on the transaction was provided by an associated cooperative bank,
  - f) transaction of temporary lien to secure assets, performed for the duration of the lien agreement with the obligated institution.

2. The obligation referred to in paragraph 1(2) shall also apply to the transfer of funds initiated outside the territory of the Republic of Poland to the benefit of a recipient for whom the obligated institution acts as a payment service provider.

3. The obligated institutions shall provide the General Inspector with information concerning the executed purchase and sale transaction of foreign currency with the value exceeding the equivalent of EUR 15,000, or intermediation in performing such transaction.

4. The obligated institutions referred to in Article 2(1)(13) provide the General Inspector with information concerning the activities specified in this provision with the value exceeding the equivalent of EUR 15,000.

5. The obligated institutions shall provide information within 7 days following the day of:

- 1) accepting the payment or executing the withdrawal of funds – in case information referred to in paragraph 1(1);
- 2) executing the payment transaction of transfer of funds– in case information referred to in paragraph 1(2);
- 3) making means of payment available to the recipient – in case information referred to in paragraph 2;
- 4) performing or intermediating in conducting the purchase and sale transaction of foreign currency – in the case of information referred to in paragraph 3;
- 5) drawing up a notary deed - in case information referred to in paragraph 4.

6. The information referred to in sections 1-5 shall contain:

- 1) a unique transaction identifier in the records of the obligated institution;
- 2) date or date and time of transaction execution;
- 3) identification data referred to in Article 36(1) related to the customer issuing the instruction or order to perform the transaction;
- 4) available identification data referred to in Article 36(1) related to other parties of the transaction;
- 5) amount and currency of the transaction or weight and purity of investment gold or platinum being subject to the transaction;
- 6) transaction type;
- 7) transaction title;
- 8) method of issuing the instruction or order to perform the transaction;
- 9) numbers of accounts used to perform the transaction, designated by the International Bank Account Number (IBAN) or other identification containing country code and account number in case of accounts other than identified by IBAN.

**Article 73.** 1. The information referred to in Article 72 may be submitted to the General Inspector through:

- 1) chambers of commerce associating obligated institutions;
- 2) banks associating cooperative banks;
- 3) clearing houses established under Article 67 of the Act of 29 August 1997 – Banking Law and institutions established pursuant to Article 105(4) thereof;
- 4) other entities, pursuant to agreements signed by the obligated institution.

2. The use of intermediation of entities referred to in paragraph 1 shall not relieve the obligated institution from its liability to provide information to the General Inspector.

**Article 74.** 1. The obligated institution shall notify the General Inspector of any circumstances which may indicate the suspicion of committing the crime of money laundering or terrorist financing.

2. The notification shall be submitted immediately, in any case, not later than two business days following the day of confirming the suspicion referred to in paragraph 1 by the obligated institution.

3. The following data shall be provided in the notification:

- 1) identification data referred to in Article 36(1) related to the customer of the obligated institution providing the notification;
- 2) available identification data referred to in Article 36(1) related to natural persons, legal persons or organisational units without legal personality other than customers of the obligated institution submitting the notification;
- 3) value and type of assets and place of their storage;
- 4) number of the account maintained for the customer of the obligated institution submitting the notification, identified by the International Bank Account Number (IBAN) or other identification containing country code and account number in case of accounts other than identified by IBAN;
- 5) available identification data referred to in Article 72(6) related to the transactions or their attempted execution;
- 6) indicating a state of the European Economic Area the transaction is associated with, if it was conducted under the cross-border activity;
- 7) available information concerning the identified money laundering or terrorist financing risk and a prohibited act from which assets can originate;
- 8) justification of providing the notification.

**Article 75.** The obligation to provide information and notifications referred to in Article 74(1), Article 86(1), Article 89(1) and Article 90 shall not apply to the obligated institutions referred to in Article 2(1)(14) in the scope of information acquired while determining the customer's legal situation in connection with court proceedings, performing the obligations consisting in defence, representation or substitution of the customer at the court proceedings, or providing legal advice to the customer, related to

the institution of court proceedings or avoidance of such proceedings, irrespective of the time of acquiring such information.

**Article 76.** 1. On request of the General Inspector, the obligated institution shall immediately submit or make available any information or documents held, required for the implementation of the General inspector's tasks defined in the Act, including those referring to:

- 1) customers;
- 2) performed transactions in the scope of data defined in Article 72(6);
- 3) value and type of assets and place of their storage;
- 4) application of the customer due diligence measure referred to in Article 34(1)(4);
- 5) IP addresses from which the connection with the ICT system of the obligated institution took place and times of connections with this system.

2. On request of the General Inspector, the obligated institution referred to in Article 2(1)(13) shall also provide information and documents in the scope of notarial activities other than specified in this provision.

3. In the request referred to in paragraph 1 and 2, the General Inspector may indicate:

- 1) the deadline and form of providing or making information or documents available;
- 2) the scope of information as well as the time limit of its acquisition by the obligated institution in connection with the application of the customer due diligence measure referred to in Article 34(1)(4) or in connection with specific occasional transactions.

4. The information and documents referred to in paragraph 1 and 2 shall be provided and made available free of charge.

**Article 77.** 1. For the purpose of the first fulfilment of the obligations referred to in Article 72, Article 74, Article 76, Article 86, Article 89(8) and Article 90, the obligated institution shall submit a form identifying the obligated institution to the General Inspector.

2. The form identifying the obligated institution contains:

- 1) name (company), including determining of the organisational form of the obligated institution;
- 2) NIP of the obligated institution;
- 3) determining of the type of activity carried out by the obligated institution;
- 4) address of the registered office or address of pursuing the activity,
- 5) name, surname, position, telephone number and address of electronic mailbox of the employee referred to in Article 8;
- 6) names, surnames, telephone numbers and addresses of electronic mailboxes of other employees responsible for the implementation of the provisions of the Act, whom the obligated institution is willing to indicate for contacts with the General Inspector;

7) name (company) and NIP or name, surname and PESEL of the intermediary entity referred to in Article 73(1) in the case of using the intermediation of this entity.

3. In the case of change of the data referred to in paragraph 2(1) and (3)–(7), the obligated institution shall immediately update them.

**Article 78.** 1. The obligated institution shall submit information referred to in Article 72 and the form referred to in Article 77 via electronic communication means.

2. The minister competent for public finance shall make available templates of information referred to in Article 72 and the template of the form referred to in Article 77 in the form of an electronic document.

3. The minister competent for public finance shall determine, by way of a regulation, the method of preparation and submission of information referred to in Article 72 and the form referred to in Article 77 as well as the procedure of their submission, taking into account the necessity of their efficient, reliable and secure transmission.

**Article 79.** 1. The obligated institution shall submit the notifications referred to in Article 74 and the information and documents referred to in Article 76 via electronic communication means.

2. The minister competent for public finance shall make available a template of the notification referred to in Article 74 and the template of the information referred to in Article 76 in the form of an electronic document.

3. The minister competent for public finance shall determine, by way of a regulation, the method of the preparation and submission of the notification referred to in Article 74 and the information and documents referred to in Article 76 as well as the procedure of their submission, taking into account the necessity of their efficient, reliable and secure transmission.

**Article 80.** 1. The General Inspector shall accept reports concerning real or potential infringements of the provisions in the scope of counteracting money laundering and terrorist financing from employees, former employees of obligated institutions or other persons who perform or performed activities on behalf of the obligated institutions on the basis other than employment relationship. The submission of a report shall be without prejudice to the obligation of maintaining the professional secrecy.

2. The General Inspector shall ensure the protection of personal data of whistleblowers or persons suspected of committing an infringement in the scope of counteracting money laundering and terrorist financing. The personal data shall be collected in a separate database.

3. The minister competent for public finance shall determine, by way of a regulation, the method of receiving the reports referred to in paragraph 1, the method of

handling and filing the reports as well as informing of measures that can be undertaken after accepting the report, taking into consideration ensuring of the adequate protection, including personal data protection of a whistle-blower or a person suspected of committing an infringement in the scope of counteracting money laundering and terrorist financing

**Article 81.** 1. The Prosecutor shall inform the General Inspector of the issuance of the decision concerning the account blockage or suspension of the transaction, institution of proceedings, presentation of charges and bringing an indictment in cases related to the crime of money laundering or terrorist financing.

2. The submission of the information referred to in paragraph 1 shall take place immediately, however, not later than within 7 days following the day of performing the activity.

3. The information referred to in paragraph 1 shall indicate, in particular, the circumstances related to committing the offence, including the indication of available identification data referred to in Article 36(1) related to natural persons, legal persons and units without legal personality and the file reference number.

4. The General Inspector shall inform the prosecutor immediately of possessing information associated with information provided pursuant to paragraph 1.

**Article 82.** 1. On request of the General Inspector, units cooperating within the scope of their statutory competence shall provide or make available any information or documents held. In its request, the General Inspector may indicate the time limit and form of their submission or making them available.

2. In order to provide information or documents referred to in paragraph 1 or make them available, the General Inspector may conclude an agreement with a cooperating unit, defining technical conditions of providing information or documents or making them available.

**Article 83.** 1. The cooperating units shall elaborate the instructions concerning the procedure in case of suspected committing of money laundering or terrorist financing crime. The cooperating units shall immediately inform the General Inspector of any suspected committing of money laundering or terrorist financing crime.

2. The notification referred to in paragraph 1 should contain, in particular:

- 1) available data referred to in Article 36(1) related to natural persons, legal persons or organisational units without legal personality, associated with circumstances which can indicate a suspicion of committing a crime of money laundering or terrorist financing;
- 2) description of circumstances referred to in paragraph 1;

3) justification of providing the notification.

3. The General Inspector shall inform, within 30 days at the latest, the Internal Security Agency, the Central Anti-Corruption Bureau, the Police, the Military Police and the Border Guard of circumstances indicating the association between information contained in the notification referred to in paragraph 1 and the notifications provided pursuant to Article 74(1), Article 86(1), Article 89(1) and Article 90.

**Article 84.** 1. The information referred to in Article 81 and the notifications referred to in Article 83 shall be provided in a hard copy or via electronic communication means.

2. The minister competent for public finance shall make available the templates of information referred to in Article 81 and the templates of the notifications referred to in Article 83 in the form of an electronic document.

3. The General Inspector shall publish the templates of information referred to in Article 81 and the templates of the notifications referred to in Article 83, submitted in a hard copy, in the Public Information Bulletin on the website of the office servicing the minister competent for public finance.

4. The minister competent for public finance shall determine, by way of a regulation, the method of preparation and submission, with the use of electronic communication means, of the information referred to in Article 81 and the notifications referred to in Article 83 as well as the procedure of their submission, taking into account the necessity of their efficient, reliable and secure transmission.

**Article 85.** 1. The Border Guard bodies and the heads of customs and tax control offices shall provide the General Inspector with the information referred to in Article 5 of Regulation (EC) No 1889/2005 of the European Parliament and the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, p. 9) and with the information contained in the declaration referred to in the regulations issued under Article 21 of the Act of 27 July 2002 - Foreign Exchange Law. Such information is provided by the 14th day of the month following the month in which the import of funds in the territory of the Republic of Poland, or export of funds from the territory of the Republic of Poland, has been performed.

2. The information referred to in paragraph 1 shall be submitted with the use of electronic communication means, through:

- 1) the Head of the National Revenue Administration in the case of information provided by the heads of customs and tax control offices;
- 2) the Chief Commander of the Border Guard in the case of information provided by the Border Guard bodies.

3. The minister competent for public finance shall make available a template of information referred to in paragraph 1 in the form of an electronic document.

4. The minister competent for public finance shall determine, by way of a regulation, the method of preparation and submission of information referred to in paragraph 1 and the procedure of its submission, taking into account the necessity of its efficient, reliable and secure transmission.

## Chapter 8.

### **Transaction suspension and account blocking**

**Article 86.** 1. The obligated institution shall immediately notify the General Inspector, with the use of electronic communication means, of any case of justified suspicion that the specific transaction or specific assets may be associated with money laundering or terrorist financing.

2. In the notification, the obligated institution shall provide information available to it, associated with the suspicion and information on the expected time of performing the transaction referred to in paragraph 1. With respect to the notification, the provision of Article 74(3) shall apply accordingly.

3. Upon the receipt of the notification, the General Inspector shall immediately confirm the receipt thereof in the form of an official confirmation of the receipt, containing in particular the date and the time of accepting the notification.

4. Until the time of receipt of the request referred to in paragraph 5, or the exemption referred to in paragraph 6, in any case no longer than for 24 hours after the confirmation of the receipt of the notification referred to in paragraph 3, the obligated institution shall not carry out the transaction referred to in paragraph 1 or other transactions charging the account on which assets referred to in paragraph 1 have been collected.

5. In case of recognising that the transaction referred to in paragraph 1 can be associated with money laundering or terrorist financing, the General Inspector shall provide the obligated institution with a request to suspend the transaction or block the account for no more than 96 hours from the date and time indicated in the confirmation referred to in paragraph 3. The obligated institution shall suspend the transaction or block the account immediately upon the receipt of such request. In the request, the General Inspector shall determine assets subject to the request.

6. The General Inspector may relieve the obligated institution from the obligation referred to in paragraph 4 in the case if the available information does not provide grounds to notify the prosecutor of suspected crime of money laundering or terrorist financing or in the case of recognising that the transaction suspension or account blocking could jeopardise the performance of tasks by the judicial authorities and services or institutions responsible for the protection of public order, citizens' security or prosecution of perpetrators of crime or fiscal crime.

7. The General Inspector shall submit the request referred to in paragraph 5 or the exemption referred to in paragraph 6 to the obligated institution with the use of electronic communication means.

8. Immediately after the submission of the demand referred to in paragraph 5, the General Inspector shall notify the competent prosecutor on a suspicion of committed crime of money laundering or terrorist financing.

9. Upon receipt of the notification referred to in paragraph 8, the prosecutor may issue the decision to suspend the transaction or block the account for a definite period, in any case no longer than 6 months from the day of receipt of such notification.

10. The decision concerning the suspension of the transaction or the blocking of the account referred to in paragraph 9 can be also issued despite the absence of the notification defined in paragraph 8.

11. In the decision referred to in paragraph 9, the scope, method and time of suspending the transaction or blocking the account shall be determined. The decision may be appealed to the court competent to hear the case.

12. The obligated institution, on request of the customer issuing the instruction or the order to perform the transaction referred to in paragraph 1, or being the account holder or owner of assets referred to in paragraph 1, may inform such customer about the submission of the request referred to in paragraph 1 by the General Inspector. In such a case, the provision of Article 54 shall not apply.

13. The suspension of the transaction or the blocking of the account shall fall before the expiry of 6 months from the receipt of the notification referred to in paragraph 8 unless a decision on asset seizure or a decision concerning material evidence is issued.

**Article 87.** 1. In the event of recognising that the specific transaction or the specific assets may be associated with money laundering or terrorist financing, the General Inspector shall submit the demand to suspend the transaction or block the account to the obligated institution with the use of electronic communication means. In the demand related to account blocking, the General Inspector shall determine assets covered by the demand.

2. The obligated institution shall suspend the transaction or block the account for a period not longer than 96 hours from the moment of receiving the demand referred to in paragraph 1.

3. Immediately after the submission of the demand referred to in paragraph 1, the General Inspector shall notify the competent prosecutor on a suspicion of committed crime of money laundering or terrorist financing.

4. The provisions of Article 86(9-13) shall apply accordingly.

**Article 88.** The General Inspector shall immediately inform the Head of the Internal

Security Agency, with the use of electronic communication means, of submission of the demand referred to in Article 86(5) and Article 87(1).

**Article 89.** 1. The obligated institution, excluding domestic banks, branches of foreign banks, branches of credit institutions and the cooperative savings and credit unions shall immediately notify the competent prosecutor of any case of reasonable suspicion that the specific assets subject to transaction or collected on the account originate from a crime other than the crime of money laundering or terrorist financing or a fiscal crime, or are associated with a crime other than the crime of money laundering or terrorist financing or a fiscal crime.

2. In the notification, the obligated institution shall provide information available to it, associated with the suspicion and information on the expected time of performing the transaction referred to in paragraph 1.

3. Until the time of receipt of the decision referred to in paragraph 4, in any case no longer than for 96 hours after the submission of the notification referred to in paragraph 1, the obligated institution shall not carry out the transaction referred to in paragraph 1 or any other transactions charging the account on which assets referred to in paragraph 1 have been collected.

4. Within the time limit defined in paragraph 3, the prosecutor shall issue the decision on institution or refusal to institute the proceedings, immediately notifying the obligated institution thereof. In the event of institution of the proceedings, the prosecutor shall suspend the transaction or block the account, by way of the relevant decision, for a period not longer than 6 months from the date of receipt of the notification referred to in paragraph 1.

5. The decision concerning the suspension of the transaction or the blocking of the account referred to in paragraph 4 can be also issued despite the absence of the notification defined in paragraph 1.

6. In the decision referred to in paragraph 4, the scope, method and time of suspending the transaction or blocking the account shall be determined. The decision may be appealed to the court competent to hear the case.

7. The suspension of the transaction or the blocking of the account shall fall before the expiry of 6 months from the issuance of the decision referred to in paragraph 4 and 5 unless a decision on asset seizure or a decision concerning material evidence is issued.

8. Immediately upon the receipt of the decisions referred to in paragraph 4 and 7, the obligated institution shall submit, with the use of electronic communication means, information on the notifications referred to in paragraph 1 and copies thereof to the General Inspector.

**Article 90.** 1. The obligated institution shall immediately notify the General

Inspector, with the use of electronic communication means, of performing the transaction referred to in Article 86(1) in the event if the submission of the notification prior to the performance of the transaction was impossible. In the notification, the obligated institution shall justify the reasons of its failure to submit the notification in advance and provides information available to it confirming the acquired suspicion referred to in Article 86(1). The provision of Article 74(3) shall apply accordingly.

2. The obligated institution shall immediately notify the competent prosecutor of performing the transaction referred to in Article 89(1) in the event if the submission of the notification prior to the performance of the transaction was impossible. In the notification, the obligated institution shall justify the reasons of its failure to submit the notification in advance and provide information available to it confirming the acquired suspicion referred to in Article 89(1). The provision of Article 89(8) shall apply accordingly.

**Article 91.** The performance of the obligations referred to in Article 86, Article 87 and Article 89 by the obligated institution shall not result in disciplinary, civil, criminal liability and any other liability defined in separate provisions.

**Article 92.** The time limits referred to in Article 86(4) and (5), in Article 87(2) and in Article 89(3) shall not include Saturdays and public holidays.

**Article 93.** The minister competent for public finance shall make available the following templates:

- 1) notifications referred to in Article 86(1) and Article 90(1),
  - 2) demands referred to in Article 86(5) and Article 87(1),
  - 3) exemptions referred to in Article 86(6),
  - 4) information of the notification referred to in Article 89(8)
4. in the form of an electronic document.

**Article 94.** The minister competent for public finance shall determine, by way of a regulation, the method of drafting and submission of:

- 1) notifications referred to in Article 86(1) and Article 90(1),
  - 2) confirmations referred to in Article 86(3),
  - 3) demands referred to in Article 86(5) and Article 87(1),
  - 4) exemptions referred to in Article 86(6),
  - 5) information of the notification referred to in Article 89(8)
5. as well as the procedure for their submission, taking into account the necessity of their efficient, reliable and secure transmission.

**Article 95.** To the extent not regulated in this chapter, the provisions of the Act of 6 June 1997 - Code of Criminal Procedure (Journal of Laws of 2017 items 1904 and 2405

and of 2018 items 5, 106, 138 and 201) shall apply, respectively, to the suspension of transactions or account blocking.

## Chapter 9

### **Protection and disclosure of information**

**Article 96.** 1. In order to disclose any information in the manner and scope provided by the Act to the General Inspector, the regulations restricting the disclosure of confidential information or data shall not apply, except for classified information within the meaning of the provisions on the protection of classified information.

2. In order to perform its statutory duties, the General Inspector may:

- 1) collect and use required information containing personal data and process it within the meaning of the provisions on personal data protection, also without the awareness and consent of the person such data refers to;
- 2) create personal data sets;
- 3) process information referred to in Article 76(1)(5) subject to telecommunication secrecy within the meaning of the Act of 16 July 2004 - Telecommunication Law (Journal of Laws of 2017 items 1907 and 2201 and of 2018 items 106, 138 and 650).

3. The data referred to in Article 27(1) of the Act of 29 August 1997 on Personal Data Protection can be collected and used as well as processed by the General Inspector only if this is necessary due to the scope of tasks or activities performed.

**Article 97.** 1. The supervision over the compliance of processing personal data collected by the General Inspector with the provisions of the Act and regulations on personal data protection, shall be provided by the plenipotentiary for control of personal data processing by the General Inspector, hereinafter referred to as the “Plenipotentiary”, on behalf of the minister competent for public finance.

2. The Plenipotentiary shall have the powers and duties of an administrator of the information security referred to in Article 36a(2) of the Act of 29 August 1997 on Personal Data Protection.

3. The Plenipotentiary shall be appointed by the minister competent for public finance on request of the General Inspector.

4. In the framework of the supervision, the Plenipotentiary shall conduct a reliable, objective and independent control of the accuracy of data processing by the General Inspector, in particular of their storage, verification and removal.

5. The Plenipotentiary shall be entitled to:

- 1) have an insight into all and any documents relating to the control performed;
- 2) have free access to the premises of the organisational unit referred to in Article 12(2);

3) demand written explanations.

6. The head of the organisational unit referred to in Article 12(2), to whom the Plenipotentiary has submitted a written order to remove the irregularities found, shall notify the General Director within 7 days following the order issuance of the execution or the reason for the failure to execute the order.

7. In the event of infringement of the provisions of the Act or the provisions on personal data protection, the Plenipotentiary shall undertake measures aiming to explain the circumstances of such infringement, notifying thereof the minister competent for public finance and the General Inspector immediately.

8. The Plenipotentiary shall submit a report on the previous calendar year annually, by 31 March, to the minister competent for public finance and the Inspector General for Personal Data Protection, through the General Inspector, in which he shall present the condition of the personal data protection processed by the General Inspector and all cases of infringement of the provisions within this scope.

**Article 98.** 1. The control over the acquisition of the data referred to in Article 76(1)(5) by the General Inspector shall be provided by the Regional Court in Warsaw.

2. Abiding by the provisions on the protection of classified information, the General Inspector shall provide the Regional Court in Warsaw, on a semi-annual basis, with information concerning the number of requests filed to the obligated institutions regarding the submission or making available information or documents held, containing the telecommunication data referred to in Article 76(1)(5).

3. In the framework of the control referred to in paragraph 1, the Regional Court in Warsaw may review materials justifying the General Inspector's request referred to in Article 76(1)(5).

4. The Regional Court in Warsaw shall inform the General Inspector about the findings of the control within 30 days after its termination.

**Article 99.** 1. Information collected and disclosed by financial information authorities pursuant to the procedure provided herein shall be subject to financial information secrecy.

2. Financial information authorities shall make information referred to in paragraph 1 available exclusively under the procedure foreseen in the Act.

3. The obligation to maintain the confidentiality of financial information shall comprise persons fulfilling the functions of financial information authorities, employees of the organisational unit referred to in Article 12(2) and persons performing activities on behalf of this unit on the basis other than employment relationship.

4. The obligation to maintain the confidentiality of financial information shall also

exist after termination of the function of financial information authority, employment in the organisational unit referred to in Article 12(2) and performing the activities on behalf of this unit on the basis other than employment relationship.

5. The obligation to maintain the confidentiality of financial information shall also cover persons fulfilling the function of bodies authorised to acquire information pursuant to the procedure provided in the Act, employees, officers and persons performing activities in favour of those bodies. The provision of paragraph 4 shall apply accordingly.

6. Persons referred to in paragraph 5 shall make available information covered by the financial information secrecy if such obligation arises from separate regulations.

7. Information referred to in paragraph 1, covered by legally protected secrecy defined in separate regulations shall be made available by financial information authorities in the scope and pursuant to the rules indicated therein.

**Article 100.** 1. The General Inspector shall process financial information over a period in which such information is necessary for the execution of its statutory duties.

2. The General Inspector shall verify the need of continued processing of collected information at least once per 5 years.

3. Following the verification, information which is not necessary for the execution of the General Inspector's statutory duties shall be immediately removed by a commission appointed by the General Inspector. The commission shall draw up a report on the activities performed, containing in particular a list of removed information and the method of its removal.

**Article 101.** 1. The disclosure of the fact of providing the General Inspector with information pursuant to the procedure foreseen in the Act to persons unauthorised by persons referred to in Article 99(3) and (5) shall be prohibited.

2. The cooperating units, their employees and officers may exchange information concerning the fact of provision or acquisition of information pursuant to the procedure foreseen in the Act, if this is necessary to ensure the accuracy of tasks executed by them.

**Article 102.** 1. The General Inspector shall disclose personal data of:

- 1) natural persons submitting reports referred to in Article 74 and Article 86(1) on behalf of the obligated institution,
- 2) persons reporting the suspicion of money laundering or terrorist financing within the internal structures of the obligated institutions,
- 3) persons reporting infringements of the provisions in the scope of money laundering and terrorist financing referred to in Article 80(1),
- 4) employees of the organisational unit referred to in Article 12(2), performing the duties of the General Inspector referred to in Article 12(1)(1)–(5)

6. exclusively on request of the Court or the prosecutor, when necessary in the course of conducted proceedings.

2. Personal data disclosed pursuant to paragraph 1 must not be made available to other entities or persons, save for persons referred to in Article 156 § 1 and 5 and Article 321 § 1 of the Act of 6 June 1997 Code of Criminal Procedure, to whom such data may be made available under the terms defined in those provisions.

**Article 103.** 1. If the suspicion of committing a crime of money laundering or terrorist financing arises from the information in possession of the General Inspector, its processing or analysis, the General Inspector shall notify the competent prosecutor of a suspicion of crime commitment, including information or documents supporting this suspicion.

2. Where the basis of the notification referred to in paragraph 1 consisted of:

- 1) the information or the notification referred to in Article 74(1) and Article 86(1),
- 2) the notification referred to in Article 83(1)

7. the General Inspector shall inform thereof the obligated institution or the cooperating unit which submitted information providing basis for such notification not later than within 30 days from the submission of the notification referred to in paragraph 1.

**Article 104.** 1. The General Inspector shall make available, on a written request, any information or documents covered by legally protected secrecy, collected pursuant to the provisions of the Act, to the courts and prosecutors for the purposes of criminal proceedings.

2. In order to verify the data contained in the notification concerning the suspicion of committing a crime of money laundering or terrorist financing submitted by the General Inspector, the prosecutor may request the General Inspector to make available information or documents, including information or documents protected by law.

3. If the General Inspector is not in possession of the requested information referred to in paragraph 2, it shall apply to the obligated institutions, cooperating units or foreign financial analysis units.

**Article 105.** 1. The General Inspector shall make available the information in his possession on a written and justified request of:

- 1) Chief Commander of the Police,
- 2) Commander of the Central Bureau of Investigation of the Police,
- 3) Chief Commander of the Military Police,
- 4) Chief Commander of the Border Guard,
- 5) Head of the Internal Security Agency,
- 6) Head of Intelligence Agency,

- 7) Head of the Military Counterintelligence Service,
  - 8) Head of the Military Intelligence Service,
  - 9) Head of the Central Anti-Corruption Bureau,
  - 10) Internal Supervision Inspector,
  - 11) Commander of the Office for Internal Affairs of the Police,
  - 12) Commander of the Office for Internal Affairs of the Border Guard,
8. or persons authorised by them, in the scope of their statutory duties.

2. The General Inspector shall make available information referred to in Article 72 to:

- 1) the Central Anti-Corruption Bureau, pursuant to the procedure and under the rules defined in Article 22a(5) of the Act of 9 June 2006 on the Central Anti-Corruption Bureau (Journal of Laws of 2017 items 1993 and 2405 and of 2018 item 138 and 650);
- 2) the Head of the Internal Security Agency, under the conditions laid down in Article 34(2a) of the Act of 24 May 2002 on the Internal Security Agency and the Intelligence Agency (Journal of Laws of 2017 items 1920 and 2405 and of 2018 item 138, 650 and 723).

3. The General Inspector shall also make available the information in his possession on a written and justified request of:

- 1) the President of the Polish Financial Supervision Authority (PFSA) – in the scope of oversight exercised by the PFSA pursuant to the Act of 21 July 2006 on Financial Market Oversight (Journal of Laws of 2018 items 621, 650 and 685 );
- 2) President of the Supreme Audit Office (NIK) – to the extent necessary to perform audit proceedings defined in the Act of 23 December 1994 on the Supreme Audit Office (Journal of Laws of 2017, item 524);
- 3) the national administrator referred to in Article 3(22) of Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ L 122, 03.05.2013, p. 1, as amended<sup>8</sup>) within the scope of its competence;
- 4) the minister competent for foreign affairs – in the scope of its statutory competence in connection with the application of specific restrictive measures;
- 5) minister competent for public finance – in connection with the request referred to in Article 11(2) of the Gambling Act of 19 November 2009.

4. The General Inspector shall make available the information in his possession on

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<sup>8</sup> The amendment of the mentioned directive has been published in (OJ L 17, 21.01.2017, p. 52)

a written and justified request of the Head of the National Revenue Administration, director of the Revenue Administration Regional Office or Head of the Customs and Tax Control Office - in the scope of their statutory duties.

5. The provision of Article 99(7) shall not apply to information provided pursuant to paragraph 1, 2, 3(5) and 4, excluding the provisions of the Act of 5 August 2010 on the protection of classified information (Journal of Laws of 2018 items 412 and 650).

6. In particularly justified cases, the General Inspector may refuse making information in his possession available to entities referred to in paragraph 1-4, if its disclosure could:

- 1) negatively affect the process of analysing by the General Inspector of information related to assets in relation to which a suspicion has been acquired that they may be associated with the crime of money laundering or terrorist financing;
- 2) expose a natural or legal person to a disproportionate damage.

**Article 106.** 1. In the event of acquiring a justified suspicion of committing a fiscal crime or an offence other than the crime of money laundering or terrorist financing, the General Inspector shall provide information justifying such suspicion to the competent bodies indicated in Article 105 (1) and (4) for the purpose of undertaking activities resulting from their statutory duties.

2. In the event of acquiring a justified suspicion of violating the provisions related to the financial market operation, the General Inspector shall provide information justifying this suspicion to the PFSA.

3. The provision of Article 99(7) shall not apply to information made available pursuant to paragraph 1, excluding the provisions of the Act of 5 August 2010 on the protection of classified information.

**Article 107.** 1. Upon receiving the notification referred to in Article 86(8), Article 87(3) or Article 103(1), within 30 days following the receipt of such notification, the prosecutor shall provide the General Inspector with information on:

- 1) issuing the decision on account blocking or transaction suspension;
- 2) suspension of the proceedings;
- 3) reinstatement of suspended proceedings;
- 4) issuing the decision on the presentation of charges of criminal offence.

2. The information referred to in paragraph 1 shall contain the file reference number of the case as well as the reference and date of the notification referred to in paragraph 1.

**Article 108.** 1. In the case of receiving the information referred to in Article 106, the cooperating unit shall provide a feedback on the way of using the information, within 90 days of its receipt at the latest.

2. The feedback shall contain the file reference number of the cooperating unit, the reference and date of the letter in which the General Inspector provided such information and the indication of the way of using the information.

**Article 109.** The minister competent for public finance may define, by way of a regulation the method of:

- 1) preparing and accepting the requests referred to in Article 104(1) and Article 105(1), (3) and (4) by the General Inspector and the procedure of their acceptance,
  - 2) providing information referred to in Article 106(1) and (2) by the General Inspector
9. taking into account the necessity of its fast and secure receiving and transmission.

**Article 110.** 1. On request or on an ex officio basis, the General Inspector shall make available to foreign Financial Intelligence Units and acquire from them information related to money laundering or terrorist financing, including information on prohibited acts from which assets may originate.

2. The disclosure of information referred to in paragraph 1 shall take place for the purpose of its use for the performance of tasks by Financial Intelligence Units defined in Directive 2015/849, in the national regulations implementing this Directive or in the provisions of international law regulating the principles of operation of Financial Intelligence Units.

**Article 111.** 1. The General Inspector shall make information and documents in his possession available to Financial Intelligence Units of European Union Member States.

2. The General Inspector shall make information in his possession available to Financial Intelligence Units of countries other than European Union Member States on a reciprocity basis.

3. The General Inspector shall make information in his possession available to units of countries - parties to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done in Warsaw on 16 May 2005, under the rules laid down therein.

4. In the scope of his powers defined in the Act, the General Inspector may acquire information for the purpose of its disclosure to a foreign Financial Intelligence Unit.

5. The provision of Article 99(7) shall not apply to information made available to foreign Financial Intelligence Units, save for the provisions of the Act of 5 August 2010 on the protection of classified information.

6. Making information available on request of a foreign Financial Intelligence Unit shall take place within 30 days of the day of receipt of such request by the General Inspector.

7. The disclosure and acquisition of information and documents from Financial Intelligence Units of European Union Member States shall take place with the use of secure communication systems and ICT systems enabling comparison of data in the possession of the General Inspector with the data in the possession of these units in anonymous manner, assuring personal data protection.

**Article 112.** 1. A request of a foreign Financial Intelligence Unit for making information available, addressed to the General Inspector and a request of the General Inspector addressed to a foreign Financial Intelligence Unit in order to acquire information, shall contain the identification data referred to in Article 36(1), the description of circumstances indicating a link with money laundering or terrorist financing as well as the intended purpose of information use.

2. In the event if the request of a foreign Financial Intelligence Unit fails to comply with the requirements referred to in paragraph 1 or insufficiently indicates the association of requested information with money laundering or terrorist financing, the General Inspector shall request its supplementing.

3. In the event if the information provided to the General Inspector in the notification or the information referred to in Article 74(1), Article 86(1), Article 89(8) or Article 90 refers to other European Union Member State, the General Inspector shall immediately submit such information to the Financial Intelligence Unit of the relevant European Union Member State, on an ex officio basis.

**Article 113.** 1. On a justified request of the foreign Financial Intelligence Unit, the General Inspector may allow for submission of the disclosed information to other bodies or Financial Intelligence Units, or for using such information for purposes other than defined in Article 110(2). The General Inspector shall indicate bodies or Financial Intelligence Units to which the disclosed information can be provided and define the purposes for which such information can be used.

2. The General Inspector shall request a foreign Financial Intelligence Unit to give its consent in order to provide information acquired from it to courts, cooperating units, other Financial Intelligence Units or in order to use such information for purposes other than performing its tasks. In the event of the consent granted by the foreign Financial Intelligence Unit, the General Inspector shall transfer or use the information acquired from it only in the scope and for purposes indicated by it.

3. The provision of Article 99(7) shall not apply to information provided pursuant to paragraph 1 and 2, excluding the provisions of the Act of 5 August 2010 on the Protection of Classified Information.

4. On a justified request of a foreign Financial Intelligence Unit allowing for confirming the probability of the suspicion of committing a crime of money laundering

or terrorist financing, the General Inspector may provide the obligated institution with the demand to suspend a transaction or block an account. The provisions of Article 87 shall apply.

**Article 114.** 1. The General Inspector shall refuse to make information available to the foreign Financial Intelligence Unit, if:

- 1) a request of such unit for making the information available does not relate to information referred to in Article 110(1), or the information acquired is to be used for purposes other than referred to in Article 110(2) unless the case defined in Article 113(1) occurs;
- 2) the information is subject to protection in accordance with the provisions on the protection of classified information;
- 3) making information available could jeopardise the performance of tasks by the judicial authorities and services or institutions responsible for the protection of public order, citizens' security or prosecution of perpetrators of crime or fiscal crime;
- 4) making information available could pose threat to the security of the state or the public order;
- 5) a third country does not guarantee an adequate level of personal data protection.

2. The refusal to make information available to the foreign Financial Intelligence Unit requires substantiation.

**Article 115.** 1. The General Inspector may exchange information related to money laundering or terrorist financing with the European Union Agency for Law Enforcement Cooperation (Europol), directly or via the Europol National Unit.

2. The procedure and technical terms of information exchange referred to in paragraph 1 may be laid down in the agreement concluded between the General Inspector and the Head of the Europol National Unit.

3. The provision of Article 99(7) shall not apply to information exchange referred to paragraph 1 and 2, excluding the provisions of the Act of 5 August 2010 on the protection of classified information.

**Article 116.** 1. In the framework of its cooperation with the competent authorities of other countries, foreign institutions and international organisations dealing with counteracting money laundering and terrorist financing and the European supervision authorities, the General Inspector may acquire and make information available. In order to implement the cooperation, the General Inspector can enter into agreements defining the procedure and the technical terms of acquiring and making information available.

2. The provision of Article 99(7) shall not apply to the acquisition and making available information referred to in paragraph 1, excluding the provisions of the Act of 5

August 2010 on the Protection of Classified Information.

## Chapter 10

### Specific restrictive measures

**Article 117.** 1. With the purpose of counteracting terrorism and terrorist financing, the obligated institutions shall apply specific restrictive measures against persons and entities referred to in Article 118(1).

2. The specific restrictive measures involve:

- 1) freezing of the assets owned, held or controlled directly or indirectly by persons and entities as well as proceeds derived from such assets, which shall mean prevention of their transfer, change or use as well as conducting any operations with the share of such values, in any manner which could result in the change of their size, value, place, ownership, possession, character, purpose or any other change which may enable gaining benefits therefrom;
- 2) refraining from making assets available, directly or indirectly, to persons and entities or to their benefit, which shall mean, in particular, refraining from granting loans, a consumer loan or a mortgage loan, refraining from offering donations, refraining from making payments for goods or services.

**Article 118.** 1. The obligated institutions shall apply specific restrictive measures against persons and entities indicated in :

- 1) lists announced by the General Inspector pursuant to the Resolution of the United Nations Security Council, issued under Chapter VII of the United Nations Charter, related to threats for international peace and security caused by terrorist attacks, in particular, in lists referred to in paragraph 3 of Resolution 2253 (2015) of the United Nations Security Council or in paragraph 1 of Resolution 1988 (2011) of the United Nations Security Council,
  - 2) the list referred to in Article 120(1),
10. published in the Public Information Bulletin on the website of the minister competent for public finance.

2. The lists referred to in paragraph 1, including their updates, shall be published immediately.

3. The General Inspector may disseminate the notice on the application of the specific restrictive measures against persons or entities with the use of mass media in the form and within the timeframe determined by the General Inspector.

**Article 119.** 1. The obligated institutions shall freeze assets and refrain from making them available without a prior notification of persons or entities referred to in Article 118(1).

2. Any information held, associated with the freezing of assets or refraining from making them available shall be provided to the General Inspector immediately, in any case not later than within two business days following the day of performing freezing of assets or refraining from making them available.

3. Should the General Inspector receive information on the application of restrictive measures against a person or an entity which are not specified in the lists referred to in Article 118(1), it shall issue the decision on the defreezing of assets or on making them available.

**Article 120.** 1. The General Inspector shall maintain the list of persons and entities against which the specific restrictive measures shall be applied and shall issue decisions concerning listing or delisting.

2. The proceedings concerning the issuance of the decision on listing shall be initiated on an ex officio basis.

3. The decision concerning listing or delisting shall be issued based on the recommendation of the Committee, containing indication of a person or entity against which the decision is to be issued, the justification as well as information and documents confirming the circumstances referred to in Article 121.

4. The decisions referred to in paragraph 1 shall contain, in particular, the date of issue, designation of a person or entity against which the specific restrictive measures are applied or the application of the specific restrictive measures is waived, reference to the legal basis, resolution and substantiation.

5. The decision concerning the listing shall also contain an instruction concerning permissibility of filing an appeal, submission of the request referred to in Article 125(1)(1) and the request referred to in Article 127.

6. The General Inspector may limit the scope of the substantiation due to the state security interest or public order.

7. The decisions referred to in item 1 shall be enforceable with immediate effect.

8. The notification of a party on the decisions referred to in paragraph 1 and other activities undertaken in the course of the proceedings concerning the issuance of those decisions shall take place under the terms and in accordance with the procedure laid down in Article 49 of the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2017, item 1257 and of 2018 item 149 and 650).

9. The decision may be appealed against to the minister competent for public finance within 14 days following the day of submission of the notification referred to in paragraph 8.

**Article 121.** The Committee shall recommend entering of the following persons or entities into the list referred to in Article 120(1):

- 1) persons against whom there is a justified suspicion that they commit on their own or in agreement with other person, a crime defined in Article 115 § 20, Article 120, Article 121, Article 136, Article 166, Article 167, Article 171, Article 252, Article 255a or Article 259a of the Act of 6 June 1997, Penal Code, or recommend committing such a crime, or lead its committing by other person, or abet or aid its commitment;
- 2) entities owned or controlled, directly or indirectly, by persons against whom there is a justified suspicion referred to in paragraph 1;
- 3) persons or entities acting on behalf or at the direction of persons against whom a justified suspicion referred to in paragraph 1 exists, or entities referred to in paragraph 2.

**Article 122.** 1. The Committee may recommend entering into the list referred to in Article 120(1) or delisting therefrom of the persons or entities on a justified request submitted through the minister competent for foreign affairs by entities referred to in Article 12(1)(9).

2. With respect to the listing of persons or entities recommended pursuant to the procedure defined in paragraph 1, the provisions of Article 120 shall apply accordingly.

**Article 123.** Following obtaining of the Committee's recommendation, the General Inspector may apply, through the minister competent for foreign affairs, to certain entities referred to in Article 12(1)(9), requesting them to apply the specific restrictive measures against persons or entities referred to in Article 120(1).

**Article 124.** The Committee shall assess the circumstances justifying further need to apply the specific restrictive measures against persons or entities entered into the list referred to in Article 120(1) on a semi-annual basis.

**Article 125.** 1. The Committee may confirm lack of circumstances justifying further need to apply the specific restrictive measures against persons or entities entered

into the list referred to in Article 120(1), in particular:

- 1) on a motivated request of such a person or entity submitted to the General Inspector;
- 2) as a result of performing the periodical assessment of circumstances justifying further need to apply the specific restrictive measures, referred to in Article 124.

2. In the event of confirming the lack of circumstances justifying the need to apply the specific restrictive measures against persons or entities entered to the list referred to in Article 120(1), the Committee shall recommend delisting of such a person or entity.

**Article 126.** With respect to the first instance proceedings concerning the issuance of the decisions referred to in Article 120(1), the provisions of Article 9, Article 11, Article 13, Article 31, Article 61 § 4, Article 73, Article 78 and Article 79 of the Act of 14 June 1960 - Code of Administrative Procedure, shall not apply.

**Article 127.** 1. Unless contrary to the objective of counteracting terrorism and terrorist financing, on request of persons or entities which will demonstrate a justified interest, the General Inspector shall issue the permit to use assets subject to freezing or make them available, in particular, with the purpose of:

- 1) covering basic needs of a natural person against whom the specific restrictive measures are applied, or basic needs of close relatives, within the meaning of Article 115 § 11 of the Act of 6 June 1997, Penal Code;
- 2) payment of taxes, contributions to mandatory social security, charges for public utility services;
- 3) covering reasonable costs associated with the storage and maintaining of assets subject to freezing;
- 4) covering reasonable costs of royalties and reimbursement of expenses incurred in connection with the provision of legal services.

2. In cases referred to in paragraph 1(1) and (2), documents confirming information related to the family status, assets, income, sources of subsistence and expenditure of a person against whom the specific restrictive measures are applied, shall be attached to the application.

3. In other cases, documents confirming information on reasonable costs and expenses shall be attached to the application.

4. The General Inspector shall issue the decision referred to in paragraph 1 after obtaining of the Committee's recommendation.

5. The provisions of paragraphs (1)-(4) shall apply, respectively, to the requests regarding the permit to use assets subject to freezing or make assets available under Council Regulation (EC) no. 881/2002 of 27 May 2002 imposing certain specific restrictive measures against certain persons and entities associated with ISIL (Daisz)

and Al-Qaida organisations (OJ L 139, 29.05.2002, p. 9, as amended), hereinafter referred to as “Regulation 881/2002”, Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan (OJ L 199, 02.08.2011, p. 1, as amended), hereinafter referred to as “Regulation 753/2011”, Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ L 344, 28.12.2001, p. 70, as amended), hereinafter referred to as “Regulation 2580/2001”.

**Article 128.** Specific restrictive measures referred to in Article 117(2)(2) shall not apply to:

- 1) accruing interest due on funds collected on accounts of persons or entities against which specific restrictive measures are applied, provided that the interest accrued shall be subject to freezing;
- 2) making payments to the accounts of persons or entities against which specific restrictive measures are applied due to liabilities against such persons or entities which had arisen prior to the date of occurring of the obligation to apply the specific restrictive measures, provided that such payments are transferred to the account kept in the European Union and are subject to freezing.

## Chapter 11

### **Other measures aiming at the protection of public interest**

**Article 129.** 1. Natural persons:

- 1) being partners, including shareholders, of a company pursuing activity in the scope referred to in Article 2(1)(16),
  - 2) conducting the activity in the scope referred to in Article 2(1)(16),
  - 3) holding management positions in companies referred to in Article 2(1)(16)
11. shall be bound to meet the requirement of lack of criminal convictions for an intentional crime or an intentional fiscal offence.

2. On request of the authority referred to in Article 130, persons referred to in paragraph 1 shall be bound to present a certificate that they have not been convicted for an intentional crime or an intentional fiscal offence.

## Chapter 12

### **Control of the obligated institutions**

**Article 130.** 1. The General Inspector shall exercise the control of the obligated institutions’ compliance with the obligations in the scope of counteracting money

laundering and terrorist financing, hereinafter referred to as the “control”.

2. In the framework of the surveillance or control performed, the control shall be also exercised by:

- 1) under the terms laid down in separate provisions, without prejudice to Article 131(1), (2) and (5):
  - a) The President of NBP – in accordance with the Act of 27 July 2002 – Foreign Exchange Law, in relation to currency exchange office operators within the meaning of this Act,
  - b) PFSA – in relation to the obligated institutions supervised by it,
  - c) the National Cooperative Savings and Credit Union – in relation to cooperative savings and credit unions,
  - d) presidents of appeal courts – in relation to notaries public,
  - e) heads of customs and tax control offices – in relation to the obligated institutions controlled by these bodies;
- 2) competent governors of provinces (voivodes) or governors of districts – in relation to associations;
- 3) competent ministers or governors of districts – in relation to foundations.

**Article 131.** 1. The control shall be performed based on annual control plans, containing in particular the list of entities subject to control, the scope of control and the justification of its performing.

2. While developing the control plans, the risk of money laundering and terrorist financing is taken into account, defined in particular in the national risk assessment and in the European Commission report referred to in Article 6(1)-(3) of Directive 2015/849.

3. The General Inspector and the entities referred to in Article 130(2) can carry out checks which are not scheduled in the annual control plan (the ad-hoc check).

4. The General Inspector may request entities referred to in Article 130(2) to carry out an ad-hoc check in the obligated institutions.

5. The entities referred to in Article 130(2) shall provide the General Inspector with:

- 1) annual control plans, including the justification, by 31 December of a year preceding the control at the latest, as well as the updates of the plans, within 14 days following their preparation;
- 2) a notice of an intended ad-hoc check including the justification, on the day of the commencing the check at the latest, unless the performance of the check arises from the updated control plan;
- 3) information on control findings, within 14 days of the day following its completion

or the date of issuing post-control recommendations or taking the decision on waiver of their issuing.

6. The General Inspector may request entities referred to in Article 130(2) to provide certified copies of the documentation gathered in the course of the control.

**Article 132.** 1. The General Inspector shall coordinate the control activities performed by entities referred to in Article 130(2).

2. In the framework of the coordination referred to in paragraph 1, by 15 November of each year, the General Inspector shall elaborate and make available information concerning areas and sectors particularly exposed to the risk of money laundering or terrorist financing.

3. The General Inspector may provide entities referred to in Article 130(2) with the guidelines related to the control of compliance with the provisions of the Act.

**Article 133.** 1. The control shall be performed by at least two employees of the organisational unit referred to in Article 12(2), personally authorised by the General Inspector, hereinafter referred to as the “inspectors”.

2. The authorisation to perform the control shall be granted in a written form and contain:

- 1) legal basis for performing the control;
- 2) designation of the authority performing the control;
- 3) date and place of issue of the authorisation;
- 4) name and surname of the inspector and the number of his/her service card;
- 5) designation of the controlled obligated institution;
- 6) venue of performing the control;
- 7) subject and scope of control;
- 8) date of commencement of the control and its expected duration;
- 9) signature of a person granting the authorisation;
- 10) instruction on the rights and obligations of the controlled obligated institution.

**Article 134.** 1. The control activities shall be performed by the inspector upon presentation of the service card and the written authorisation referred to in Article 133(2).

2. The minister competent for public finance shall define, by way of a regulation, the template of the inspector’s service card and determine the procedure for its issuing and replacement, taking into consideration the need to identify the inspector and ensure his/her adequate protection.

**Article 135.** 1. The inspector shall perform control activities at the place of business of the controlled obligated institution and in any other place associated with

its business, on business days and within the working hours of the controlled obligated institution.

2. In the event of suspected committing of a crime or a fiscal offence, urgent control activities can be undertaken on non-business days or beyond the working hours of the controlled obligated institution, after a prior notification of a person authorised to represent the controlled obligated institution.

3. Particular control activities can be also undertaken outside the place defined in paragraph 1, in particular, on the premises of the organisational unit referred to in Article 12(2), if this is justified by the nature of such activities and if it can contribute to faster and more effective performing of the control.

**Article 136.** 1. Each inspector shall be authorised to move freely across the sites and premises of the obligated institution without having to obtain a pass and shall not be subject to personal control, to the extent arising from the subject of control.

2. The control activities shall be carried out in the presence of the person authorised by the controlled obligated institution, excluding the activities referred to in Article 135(3).

3. After the completion of control activities, however, prior to signing a control report, the inspector may request the controlled obligated institution to submit additional documents and written explanations in the scope covered by the control, within the time limit prescribed. The period from the day of sending written explanations to the day of receiving additional explanations or documents shall be excluded from time limit specified in Article 141(3).

**Article 137.** 1. The controlled obligated institution shall be bound to ensure that the inspector has proper conditions and means necessary for efficient performance of the control, in particular, it shall present required documents and materials within the time limit determined, assure timely provision of information, make available communication means and other technical equipment within the required scope, enable making copies, filming, taking photos, making audio recording and it shall provide official translations of documents significant for the control, drafted in a foreign language into Polish.

2. The costs of performing the obligations defined in paragraph 1 shall be borne by the controlled obligated institution.

3. In the case of hampering or preventing the control activities, the inspector may use the assistance of Police officers. On a command of the inspector, the Police officers shall perform activities enabling efficient and uninterrupted performance of the control.

4. In connection with performing the control activities, the inspector shall use the protection provided for in the Act of 6 June 1997 - Penal Code for public officers.

**Article 138.** Prior to undertaking the first control activity, such as receiving information, explanations, conducting hearing, the inspector shall be bound to inform a person authorised by the controlled obligated institution, its employees or other persons performing work for the institution on the basis other than employment relationship, of their rights and obligations as well as instruct on the legal implications of hampering or preventing the performance of the control activities and of the liability for submission of false explanations or non-disclosure of true information. A person submitting explanations may refuse to respond in the event if the answer could expose him/her or persons referred to in Article 83 § 1 of the Act of 14 June 1960 – Code of Administrative Procedure, to penal liability or direct economic loss.

**Article 139.** 1. Any written information prepared by the controlled obligated institution for the needs of the control performed, shall be signed by persons authorised to prepare such information. In the event of refusal to sign the information, the inspector shall make an adequate note in the report on submission of the materials.

2. The compliance of document copies with the original shall be confirmed by a person authorised to represent the controlled obligated institution.

3. The confirmation referred to in paragraph 2 shall contain a clause “true copy of the original” and a signature of a certifying person. The compliance of copies of the data contained in IT systems or copies stored in data storage media other than documents shall be confirmed in writing, indicating the content of the data storage medium and its type.

**Article 140.** 1. Receiving the oral explanations shall require drawing up of a report in two copies, one for the controlled obligated institution. The inspector and the person submitting oral explanations shall sign the report and initial each of its pages.

2. Should a person submitting oral explanations refuse to sign the report, this fact shall be mentioned in the report, indicating the reason of the refusal.

3. The explanations submitted in oral form can be recorded with the use of a registering device, following a prior notification thereof of a person submitting the explanations. A person authorised to represent the controlled obligated institution shall be authorised to participate in the activities. The provisions of paragraphs 1 and 2 shall not apply.

4. The inspector shall provide the controlled obligated institution with a copy of oral explanations recorded with the use of a registering device on an electronic data storage medium. The controlled obligated institution or a person authorised by it shall certify the receipt of such a copy in writing.

**Article 141.** 1. The control report of the control performed shall be drawn up in two copies.

2. The control report shall contain:

- 1) the name and address of the controlled obligated institution;
- 2) names and surnames as well as official positions of the inspectors;
- 3) date of authorisation to perform the control and comments of any amendments thereto;
- 4) defining the subject and scope of the control;
- 5) determining the day of commencement and termination of the control;
- 6) names and surnames as well as official positions of persons submitting declarations and providing testimony during the performance of the control;
- 7) description of performed control activities, actual findings and description of irregularities found and their scope as well as persons responsible for such irregularities;
- 8) description of attachments, including the name of each annex;
- 9) instruction of the entity controlled of the right to notify any objections to the report;
- 10) defining the place and day of drawing up the control report.

3. The control report shall be delivered to the controlled obligated institution within 30 days from the day of termination of the control, directly or against receipt, by the operator appointed within the meaning of the Act of 23 November 2012 - Postal Law.

4. The control report shall be signed by the inspector and the person authorised to represent the controlled obligated institution.

5. The person authorised to represent the controlled obligated institution shall initial each page of one of the control report copies received and subsequently submit such copy to the General Inspector within 14 days following the day of delivery of the control report.

6. In the copy of the control report received by the General Inspector, the inspector shall insert a comment on the refusal to sign the report. The refusal to sign the control report shall not exempt the controlled obligated institution from the performance of the recommendations referred to in Article 142(3)(3).

7. The controlled obligated institution shall be entitled to report reasoned objections to the control report. The objections shall be notified in writing to the General Inspector within 14 days following the day of receipt of the control report.

8. Having examined the objections, not later than after the lapse of a period of 30 days from the day of their receipt, the General Inspector shall amend the report in the required scope, taking into account the objections of the controlled obligated institution in the form of a written annex to be delivered to this institution within 30 days following

the receipt of the objections. In the case of failure to take the objections of the controlled obligated institution into consideration, a written position concerning those objections shall be delivered to this institution within 30 days from the day of their receipt.

9. Obvious typing and calculation errors shall be corrected by the inspector initialling the corrections. The General Inspector shall inform the controlled obligated institution of the correction of obvious errors.

**Article 142.** 1. The inspector shall draw up the follow-up statement of the General Inspector, hereinafter referred to as the “follow-up statement” within 30 days following the date of delivery of the following documents to the controlled obligated institution:

- 1) the control report - in the case of the lack of objections referred to in Article 141(7);
- 2) the position referred to in Article 141(8).

2. The follow-up statement referred to in paragraph 1 shall be delivered to the controlled obligated institution.

3. The follow-up statement shall contain:

- 1) the assessment of activity of the obligated institution in the scope covered by the control;
- 2) a concise description of control findings and in the case of detected irregularities - indicating the legal regulations infringed;
- 3) post-control recommendations, indicating the method and time limit for remedying of the irregularities found.

4. Within 30 days from the date of receipt of the follow-up statement, the controlled obligated institution shall submit information on the way of implementation of the post-control recommendations or the status of their implementation to the General Inspector, indicating the final deadline of their accomplishment.

5. The change of the deadline for implementation of post-control recommendations may take place provided that the General Inspector has granted his consent, on request of the controlled obligated institution submitted prior to the lapse of the deadline for implementation of the recommendation at the latest.

**Article 143.** The General Inspector may at any time waive further control activities, informing the controlled obligated institution thereof in written form. In such a case, the control report referred to in Article 141(1) shall not be prepared.

**Article 144.** The General Inspector shall submit written information on the results of the control performed by the General Inspector and on the waiver referred to in Article 143 to authorities supervising controlled obligated institutions within 14 days following preparing of the follow-up statement or the date of waiver, respectively.

**Article 145.** 1. The General Inspector may carry out the control of compliance

with the provisions of the Act by organizational units established on the territory of a European Union Member State operating in the territory of the Republic of Poland subject to the obligations arising from the provisions on counteracting money laundering and terrorist financing issued pursuant to Directive 2015/849.

2. In order to ensure the compliance of the organisational units referred to in paragraph 1 with the provisions of the Act, the General Inspector may exchange information with the authorities of the European Union Member States supervising the compliance with the provisions on counteracting money laundering and terrorist financing issued pursuant to Directive 2015/849.

**Article 146.** To the extent not settled in this chapter, the provisions of Chapter 5 of the Act of 2 July 2004 on Freedom of Economic Activity shall apply.

## Chapter 13

### **Administrative penalties**

**Article 147.** Any obligated institution which fails to fulfil the obligation to:

- 1) appoint a person responsible for the performance of the obligations defined in the Act, referred to in Article 8,
- 2) prepare risk assessment and its update referred to in Article 27(3),
- 3) provide risk assessment and other information which may affect the national risk assessment referred to in Article 28, on request of the General Inspector,
- 4) apply the customer due diligence measures referred to in:
  - a) Article 33,
  - b) Article 43 - in cases of increased risk of money laundering or terrorist financing as well as in cases referred to in Articles 44-46,
- 5) document the applied customer due diligence measures and the results of the current analysis of performed transactions as well as demonstrate the application of the adequate due diligence measures referred to in Article 34(3) on request of the authorities referred to in Article 130,
- 6) keep the documentation referred to in Article 49(1) and (2),
- 7) introduce an internal procedure of the obligated institution referred to in Article 50,
- 8) introduce a group procedure referred to in Article 51,
- 9) ensure the participation of persons performing obligations related to counteracting money laundering and terrorist financing in the training programmes referred to in Article 52,
- 10) implement an internal procedure of anonymous reporting of infringements of the provisions in the scope of money laundering and terrorist financing referred to in Article 53,

- 11) maintain confidentiality of providing information to the General Inspector or other competent authorities referred to in Article 54(1),
- 12) forward or make available information referred to in Article 72 or Article 76,
- 13) submit notifications referred to in Article 74, Article 86(1) or Article 90(1)
12. shall be subject to administrative penalty.

**Article 148.** Any obligated institution which fails to fulfil the obligation to:

- 1) ensure that the transfer of funds is accompanied by information on the payer or the payee referred to in Articles 4-6 of Regulation 2015/847,
- 2) implement effective procedures to detect the absence of information on the payer or the payee referred to in Article 7, Article 8, Article 11 and Article 12 of Regulation 2015/847,
- 3) inform the General Inspector of the failure to provide required information on the payer or the payee, or the measures undertaken, referred to in Article 8 of Regulation 2015/847,
- 4) preserve all the information on the payer or the payee accompanying transfer of funds referred to in Article 10 of Regulation 2015/847,
- 5) provide information referred to in Article 14 of Regulation 2015/847 to the General Inspector,
- 6) keep the documentation referred to in Article 16 of Regulation 2015/847  
- shall be subject to administrative penalty.

**Article 149.** Any obligated institution which fails to comply with:

- 1) the obligation to apply the specific restrictive measures referred to in Article 117(1) or to provide the General Inspector with the available information associated with their application,
- 2) the obligation to freeze funds or economic resources defined or the prohibition of making funds or economic resources available, laid down in Article 2(1), (2) and (3) of Regulation 881/2002, Article 3(1) and (2) of Regulation 753/2011 and Article 2(1) of Regulation 2580/2001,
- 3) the prohibition of conscious and intentional participation in activities involving or aiming at attempted, direct or indirect, circumvention of the order to freeze or the order to make funds or economic resources available, or the obligation to inform of such circumvention of such orders and prohibitions, laid down in Article 4(1) and (2) of Regulation 881/2002, Article 3(3) of Regulation 753/2011 and Article 3 of Regulation 2580/2001,
- 4) the obligation of immediate submission of information which would facilitate ensuring the compliance with Regulation 881/2002, Regulation 753/2011 and Regulation 2580/2001 or the obligation to cooperate with the General Inspector in

the scope of verification of such information laid down in Article 5(1) of Regulation 881/2002, Article 8(1) of Regulation 753/2011 and Article 4(1) of Regulation 2580/2001,

- 5) the prohibition to provide financial services laid down in Article 2(2) of Regulation 2580/2001  
- shall be subject to administrative penalty.

**Article 150.** 1. Administrative penalties shall include:

- 1) publication of information on the obligated institution and the scope of violation of the provisions of the Act by this institution in the Public Information Bulletin on the website of the office providing services to the minister competent for public finance;
- 2) the order to cease undertaking specific activities by the obligated institution;
- 3) Revocation of a license or a permit, or deleting from the register of regulated activity;
- 4) prohibition to hold a managerial position by a person responsible for the violation of the provisions of the Act by the obligated institution over a period of maximum one year;
- 5) financial penalty.

2. The financial penalty shall be imposed up to the level of two-fold amount of the benefit gained or the loss avoided by the obligated institution as a result of the violation, or - in the case where determining of such amount of this benefit or loss is impossible - up to the amount equivalent to EUR 1,000,000.

3. The financial penalty shall be also imposed on obligated institutions referred to in Article 2(1)(1-5), (7-11), (24) and (25):

- 1) in the case of a natural person - up to the level of PLN 20,868,500;
- 2) in the case of a legal person or an organisational unit without legal personality - up to the amount equivalent to EUR 5,000,000 or up to the level of 10% of the turnover recognised in the recent approved financial statements for the financial year, or in the recent consolidated financial statements for the financial year, in the case of institutions covered by the consolidated financial statements of a capital group.

4. While determining the type of administrative penalty and the level of the penalty, the following factors shall be taken into consideration:

- 1) weight of the violation and its duration;
- 2) scope of responsibility of the obligated institution;
- 3) financial capacity of the obligated institution;
- 4) scale of benefits gained or losses avoided by the obligated institution, where such

- benefits or losses can be determined;
- 5) losses incurred by third parties in connection with the violation, where they can be determined;
  - 6) level of cooperation of the obligated institution with authorities competent for the issues of money laundering and terrorist financing;
  - 7) former infringements of the provisions of the Act by the obligated institution.

5. In particularly justified cases, where:

- 1) the weight of violation of the provisions of the Act is minor and the obligated institution ceased to violate the provisions of the Act, or
  - 2) an administrative penalty was previously imposed on the obligated institution for the same behaviour pursuant to the final decision issued by other authorised public administration body or a penalty was imposed on the obligated institution pursuant to the final decision for the offence or fiscal offence, or the obligated institution was earlier finally convicted of the crime or fiscal crime, and the previous penalty satisfies the objectives for which the administrative penalty would be imposed
- the authorities referred to in Article 151(1) may waive imposing of the administrative penalty by way of the relevant decision.

**Article 151.** 1. Pursuant to the relevant decision:

- 1) in the scope of infringements found as a result of control referred to in Article 130(1), the General Inspector shall impose administrative penalties referred to in Article 150(1)(1), (2) and (5);
- 2) in the scope of infringements found as a result of control referred to in Article 130(2)(1)(a), the President of NBP shall impose administrative penalties referred to in Article 150(1)(1)-(3) and (5);
- 3) in the scope of infringements found as a result of control referred to in Article 130(2)(1)(b), PFSA shall impose administrative penalties referred to in Article 150(1).

2. The administrative penalty referred to in Article 150(1)(3) regarding:

- 1) the obligated institutions referred to in Article 2(1)(11) carrying out activities of a currency exchange office within the meaning of the Act of 27 July 2002 - Foreign Exchange Law - shall be imposed by the President of NBP;
- 2) the obligated institutions referred to in Article 2(1)(20) - shall be imposed by the minister competent for public finance;
- 3) the obligated institutions subject to supervision pursuant to Article 1(2) of the Act of 21 July 2006 on Financial Market Supervision - shall be imposed by the PFSA.

3. The administrative penalty referred to in Article 150(1)(4) in the scope of

exercised banking oversight shall be imposed by the PFSA.

4. The authorities referred to in paragraph 1 may waive institution of the proceedings concerning imposing of the administrative penalties where the infringement of the obligations referred to in Article 147 or in Article 148 is not material and the obligated institution has implemented the post-control recommendations.

**Article 152.** 1. In the Public Information Bulletin on the website of the office providing services to the minister competent for public finance, the General Inspector shall publish information on:

- 1) issuing the final decision concerning imposing of the administrative penalty,
  - 2) lodging a complaint against the decision referred to in paragraph 1,
  - 3) decisions taken as a result of examining the complaint referred to in paragraph 2
13. including the identification data of the obligated institution on which the administrative penalty was imposed, the type and nature of infringement of the provisions of the Act and the type or level of imposed administrative penalty.

2. The identification data of the obligated institution referred to in paragraph 1 comprise, in the case of:

- 1) a natural person - the data referred to in Article 36(1)(1)(a)-(c) and (f);
- 2) a legal person or an organisational unit without legal personality - data referred to in Article 36(1)(2)(a)-(d).

3. In the case of recognising the publication of information referred to in paragraph 1 as disproportionate in relation to the infringement, posing threat to the stability of financial markets or posing threat to ongoing proceedings:

- 1) the publication of information shall be postponed until the moment when the reasons for postponing the publication cease;
- 2) the scope of the information published shall be limited.

4. The General Inspector shall not publish information referred to in paragraph 1 if postponing the publication of information or limiting the scope of information publication is disproportionate in relation to the infringement or insufficient to avoid the threat to the stability of financial markets.

5. The information referred to in paragraph 1 shall be deleted from the Public Information Bulletin after the lapse of 5 years of its publishing, however, the information referred to in paragraph 2(1) shall be removed after the lapse of one year.

6. The information on imposed administrative penalty shall be provided to the authority supervising the activity of the obligated institution.

7. The information on administrative penalty imposed on the obligated institutions referred to in Article 2(1)(1)-(5), (7)-(11), (24) and (25), in the scope indicated in paragraph (1) shall be submitted to the European supervision authorities.

8. The provisions of this Article shall apply, respectively, to administrative penalties imposed on the authorities referred to in Article 151(1)(2) and (3).

**Article 153.** 1. The companies referred to in Article 58 which have not complied with the obligation to report information referred to in Article 59 within the time limit indicated herein, shall be subject to the financial penalty up to PLN 1,000,000.

2. A natural person referred to in Article 129(1) which has not complied with the obligation to present the certificate that he/she was not convicted by a final judgement for intentional crime or intentional fiscal crime, shall be subject to a pecuniary penalty up to the amount of PLN 10,000.

**Article 154.** 1. In the case of detecting the infringement of the obligations referred to in Article 147 or Article 148 by the obligated institution, the authorities referred to in Article 151(1) may impose a pecuniary penalty up to the amount of PLN 1,000,000 on a person referred to in Article 7, responsible for the performance of the obligations specified in the Act, in the period during which such provisions were infringed.

2. Article 150(4) and (5) and Article 152 shall apply, respectively, to imposing of the penalty referred to in paragraph 1.

**Article 155.** Proceeds gained from financial penalties constitute the income of the state budget.

## Chapter 14

### Penal provisions

**Article 156.** 1. Any person who acts on behalf of or in the interest of the obligated institution who:

- 1) fails to fulfil the obligation to notify the General Inspector of circumstances which can indicate the suspicion of committing a crime of money laundering or terrorist financing, or the obligation to notify the General Inspector of acquiring a justified suspicion that the specific transaction or assets subject to such transaction may be associated with money laundering or terrorist financing,
- 2) provides the General Inspector with false data or hides true data concerning a transaction, accounts or persons,

shall be subject to the penalty of imprisonment from 3 months to 5 years.

2. The same penalty shall apply to any who, contrary to the provisions of the Act, discloses the information collected in accordance with the Act to any unauthorised persons, any account holder or any person to whom the transaction relates or uses this information in any other manner inconsistent with the provisions of the Act.

3. If the perpetrator of an act referred to in paragraph 1(1) or 2 acts unintentionally, he/she shall be subject to a fine.

**Article 157.** Whoever hinders or prevents exercising the control activities referred to in Chapter 12 shall be subject to a fine.

## Chapter 15

### Amendments to the effective provisions

**Article 158.** In the Act of 26 May 1982 - the Law on Advocates (Journal of Laws of 2017, item 2368 and 2400), in Article 6, paragraph 4 shall read as follows:

“4. The obligation to keep the professional secrecy shall not apply to information made available pursuant to the regulations on money laundering and terrorist financing - in the scope defined under these provisions.”

**Article 159.** In the Legal Advisers Act of 6 July 1982 (Journal of Laws 2017 item 1870 and 2400 and of 2018 item 138) in Article 3, paragraph 6 shall read as follows:

“6. The obligation to keep the professional secrecy shall not apply to information made available pursuant to the regulations on money laundering and terrorist financing - in the scope defined under these provisions.”

**Article 160.** In the Act on Foundations of 6 April 1984 (Journal of Laws of 2016 item 40 and of 2017, item 1909) after Article 14, Article 14a shall be added which shall read as follows:

“Article 14a. 1. The authority referred to in Article 13 shall exercise control over the activities of the foundation as an obligated institution within the meaning of the provisions on money laundering and terrorist financing in the scope of its compliance with the provisions of that Act.

2. With respect to the control referred to in paragraph 1, the provisions of chapter 12 of the Act 1 March 2018 on Counteracting Money Laundering and Terrorist Financing (Journal of Laws item ... ) shall apply accordingly”.

**Article 161.** In the Act of 7 April 1989 - the Law on Associations (Journal of Laws 2017, item 210) after Article 25, Article 25a is added which shall read as follows:

“Article 25a. 1. The authority referred to in Article 8(5) shall exercise control over the activities of the association being an obligated institution within the meaning of the provisions on money laundering and terrorist financing in the scope of its compliance with the provisions of that Act.

2. With respect to the control referred to in paragraph 1, the provisions of chapter 12 of the Act 1 March 2018 on Counteracting Money Laundering and Terrorist Financing (Journal of Laws item 723 ) shall apply accordingly”.

**Article 162.** In the Act of 14 February 1991 - the Law on Notaries (Journal of Laws of 2017, item 2291 and of 2018 item 398) in Article 18 paragraph 4 shall read as

follows:

“§ 4. The obligation to keep the secrecy shall not apply to information made available pursuant to the regulations on money laundering and terrorist financing - in the scope defined under these provisions.”

**Article 163.** In the Act of 5 July 1996 on Tax Advisory Services (Journal of Laws of 2018 items 377 and 650) in Article 37, paragraph 4 shall read as follows:

“4. The obligation referred to in paragraph 1 shall not apply to information made available pursuant to the regulations on money laundering and terrorist financing - in the scope defined under these provisions.”

**Article 164.** In the Act of 29 August 1997 on Personal Data Protection (Journal of Laws 2016 item 922 and of 2018 item 138) in Article 43, paragraph 2 shall read as follows:

“2. In relation to data sets referred to in paragraph 1(1), (2a) and (3) and data sets referred to in paragraph 1(1a), processed by the Internal Security Agency, the Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the State Protection Office, the Central Anti-Corruption Bureau and the General Inspector of Financial Information, excluding the data set referred to in Article 80(2) of the Act of 1 March 2018 on counteracting money laundering and terrorist financing (Journal of Laws item 723), the General Inspector shall not be authorised to obtain powers laid down in Article 12(2), Article 14(1) and (3)-(5) and Article (15)-(18).”.

**Article 165.** In the Act of 29 August 1997 - Tax Ordinance (Journal of Laws of 2017 item 201, as amended<sup>9</sup>, the following amendments shall be introduced:

- 1) in Article 119zo, in §4 subparagraph 1 shall read as follows:
  - “1) Article 106 and Article 106a of the Act of 29 August 1997 – Banking Law and Article 15 and Article 16 of the Act of 5 November 2009 on Cooperative Savings and Credit Unions (Journal of Laws of 2017 item 2065, as amended<sup>10</sup>), including performing money laundering and terrorist financing risk assessment, referred to in the provisions on counteracting money laundering and terrorist financing;”;
- 2) in Article 119zr, in §1(5) the introduction to the calculation shall read as follows:
 

“identification data of a proxy for accounts of the eligible entity and a representative of the eligible entity as well as its beneficial owner within the

<sup>9</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017, items 648, 768, 935, 1428, 1537, 2169 and 2491 and of 2018 items 106, 138, 398 and 650.

<sup>10</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 2486 and 2491 and of 2018 items 62, 106, 138, 650 and 723.

meaning of Article 2(2)(1) of the Act of 1 March 2018 on counteracting money laundering and terrorist financing Journal of Laws item .723), if available, containing:”

**Article 166.** In the Act of 29 August 1997 - Banking Law (Journal of Laws 2017 item 1876, as amended<sup>11</sup>) in Article 106a, paragraph 3a shall read as follows:

“3a. In the case of a reasoned suspicion of committing a crime referred to in Article 165a or Article 299 of the Penal Code or using the activity of the bank for the purpose of hiding criminal acts, or for purposes associated with a crime or a fiscal crime, the prosecutor may, by way of the relevant decision, suspend the specific transaction or block funds on the bank account for a defined period not longer than 6 months, also despite the lack of the notification referred to in paragraph 1. In the decision, the scope, method and date of suspending the transaction or blocking funds on the account will be defined.”.

**Article 167.** In the Act of 11 April 2001 on Patent Attorneys (Journal of Laws of 2017 item 1314 and 2201), in Article 14, paragraph 2 shall read as follows:

“2. The obligation to keep the professional secrecy shall not apply to information made available pursuant to the regulations on money laundering and terrorist financing - to the extent defined under these provisions.”

**Article 168.** In the Act of 24 May 2002 on the Internal Security Agency and the Foreign Intelligence Agency (Journal of Laws 2017 item 1920 and 2405 and of 2018 item 138 and 650), in Article 34a(2) subparagraph 4 shall read as follows:

“4) the obligated institutions within the meaning of the provisions on counteracting money laundering and terrorist financing;”.

**Article 169.** In the Act of 24 April 2003 on the Public Benefit Activity and Voluntarism (Journal of Laws of 2018 items 450 and 650), in Article 33a(2) subparagraph 5 shall read as follows:

“5) the failure to fulfil the obligations arising from the provisions on counteracting money laundering and terrorist financing;”.

**Article 170.** In the Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws of 2017 items 1768, as amended<sup>12</sup>), the following amendments shall be introduced:

- 1) in Article 3 subparagraph 25a shall be repealed;
- 2) in Article 150(1), subparagraph 3 shall read as follows:

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<sup>11</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 2361 and 2491 and of 2018 items 62,106, 138, 650 and 685.

<sup>12</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 2486 and 2491 and of 2018 items 106, 138, 650 and 685.

“3) to the General Inspector of Financial Information – to the extent and under the terms laid down in the provisions on counteracting money laundering and terrorist financing;”.

**Article 171.** In the Act of 5 November 2009 on Cooperative Savings and Credit Unions (Journal of Laws of 2017 items 2065, as amended<sup>13</sup>), the following amendments shall be introduced:

- 1) in Article 67, subparagraph 7 shall read as follows:  
“7) the examination of the compliance with the obligations arising from the provisions on counteracting money laundering and terrorist financing;”;
- 2) in Article 68(1), subparagraph 6 shall read as follows:  
“6) the examination of the compliance with the obligations arising from the provisions on counteracting money laundering and terrorist financing;”;
- 3) in Article 71(1), subparagraph 5 shall read as follows:  
“5) the elimination within the time limit prescribed of irregularities in the scope of compliance with the obligations arising from the provisions on counteracting money laundering and terrorist financing;”.

**Article 172.** In the Gambling Act of 19 November 2009 (Journal of Laws of 2018 item 165 and 650) in Article 11, paragraph 2 shall read as follows:

“2. The minister competent for public finance may request the General Inspector of Financial Information, the Head of the Internal Security Agency, the Head of the Central Anti-Corruption Bureau or the Commander-in-Chief of the Police, to provide information whether any justified reservations exist regarding the security of the state, public order or safety of economic interests of the state as well as threats related to counteracting money laundering and terrorist financing in relation to entities referred to in paragraph 1(1).”.

**Article 173.** In the Act of 9 April 2010 on Disclosure of Business Information and Exchange of Business Data (Journal of Laws of 2018 items 470 and 650), in Article 25(1) subparagraph 6 shall read as follows:

“6) The General Inspector of Financial Information - to the extent required to perform the tasks defined in the provisions on counteracting money laundering and terrorist financing;”.

**Article 174.** In the Act of 9 June 2011 - Geological and Mining Law (Journal of Laws of 2017 item 2126 and of 2018 item 650) in Article 49a, paragraph 10 shall read as follows:

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<sup>13</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 2486 and 2491 and of 2018 items 62,106, 138 and 650.

“10. The minister competent for the environment shall immediately submit requests for conducting qualification proceedings aiming at providing the opinion to the Polish Financial Supervision Authority, the Head of the Internal Security Agency and the Head of the Intelligence Agency, to the extent referred to in paragraph 2(1).”.

**Article 175.** In the Act of 19 August 2011 on Payment Services (Journal of Laws of 2017 item 2003 and of 2018 item 62 and 650), the following amendments shall be introduced:

1) in Article 59ic, paragraph 8 shall read as follows:

“8. In cases referred to in paragraphs 6 and 7, the provider shall immediately inform the consumer, free of charge, of the reasons of refusal to conclude the agreement, unless the provision of such information poses threat to the national security or public order, or is in conflict with the legal regulations, including the provisions of the Act of 1 March 2018 on counteracting money laundering and terrorist financing (Journal of Laws 723), hereinafter referred to as the “Act on counteracting money laundering”.

2) in Article 64a(1), subparagraph 1(b) shall read as follows:

“b) rules and procedures concerning the fulfilment of obligations of the obligated institutions within the meaning of Article 2(1) of the Act on counteracting money laundering;”.

**Article 176.** In the Act of 11 September 2015 on Insurance and Reinsurance Activity (Journal of Laws 2017 item 1170 as amended<sup>14</sup>) in Article 35(2), subparagraph 9 shall read as follows:

“9) of the General Inspector of Financial Information – in the scope of its performance of the tasks laid down in the provisions on counteracting money laundering and terrorist financing;”.

**Article 177.** In the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee System and Compulsory Restructuring (Journal of Laws of 2017 item 1937 and 2491 and of 2018 item 685), in Article 54, paragraph 1 shall read as follows:

“1. In the event if the funds deposited on the account were blocked under the provisions on counteracting money laundering and terrorist financing or blocking of the account of the eligible entity took place, within the meaning of Article 119zg(2) of the Act of 29 August 1997 - Tax Ordinance (Journal of Laws of 2017 items 201 as amended.<sup>15</sup>), the disbursement of guaranteed funds shall be

<sup>14</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 1089, 1926, 2102 and 2486 and of 2018 items 8, 106, 650 and 685.

<sup>15</sup> The amendments to the uniform text of the aforementioned Act were announced in Journal of Laws of 2017 items 648, 768, 935, 1428, 1537, 2169 and 2491 and of 2018 items 106, 138, 398, 650 and 723.

suspended for the duration of the blockade.”.

**Article 178.** In the Act of 15 December 2016 on the General Counsel to the Republic of Poland (Journal of Laws item 2261) in Article 39, paragraph 5 shall read as follows:

“5. The obligation to keep the secrecy shall not apply to information made available pursuant to the regulations on money laundering and terrorist financing - in the scope defined under these provisions.”

**Article 179.** In the Act of 16 November 2016 on the National Revenue Administration (Journal of Laws of 2018, items 508 and 650), the following amendments shall be introduced:

- 1) in Article 2(1) subparagraph 11 is repealed;
- 2) in Article 14, in paragraph 1:
  - a) subparagraph 8 shall be repealed,
  - b) subparagraph 9 shall read as follows:
 

“9) coordinating customs and tax inspections performed by officials of the customs and tax control offices, excluding customs and tax inspections referred to in Article 54(1)(5);”;
- 3) in Article 54(1) in subparagraph 4 the full stop shall be replaced by a semi colon and subparagraph 5 shall be added which shall read as follows:
 

“5) on counteracting money laundering and terrorist financing.”;
- 4) in Article 148:
  - a) in paragraph 1(1), letter c shall be repealed,
  - b) paragraph 2 shall read as follows:
 

“2. The minister competent for public finance shall define, by way of the regulation, the rate of the inspector’s allowance referred to in paragraph 1(1) and (2), the terms and procedure for granting, payment, change of the level and loss of the inspector’s allowance, taking into account the need to increase the effectiveness of the tax control, customs and tax control, audit or activities referred to in Article 113–117, Article 118(1)-(17), Article 119 (1)-(10), Article 120(1)-(6), Article 122–126, Article 127(1)-(5), Article 127a (1), (2) and (6)-(12), Article 128(1), Article 131(1), (2) and (5) and Article 133, through ensuring an incentive for their effective performance.”.

**Article 180.** In the Act of 9 March 2017 on the Exchange of Tax Information with Other Countries (Journal of Laws item 648), the following amendments shall be introduced:

- 1) in footnote no 1 in subparagraph 2, the full stop shall be replaced by a semi colon and subparagraph 3 shall be added which shall read as follows:

- “3) Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities (OJ L 342, 16.12.2016, p. 1).”;
- 2) in Article 2 after paragraph 7, subparagraph 7a shall be added which shall read as follows:
- “7a) the Act on counteracting money laundering and terrorist financing - it shall mean the Act of 1 March 2018 on counteracting money laundering and terrorist financing (Journal of Laws item 723);”.
- 3) in Article 4:
- a) after item 1, item 1a shall be added which shall read as follows:
- “1a. In order to implement the tasks associated with the exchange of tax information, the obligated institutions referred to in Article 2(1) of the Act on counteracting money laundering and terrorist financing, on a written request of the minister competent for public finance, the Head of the National Revenue Administration or its authorised representative, shall be bound to provide information collected for the needs of implementation of the obligations related to the application of customer due diligence measures arising from the Act.”,
- b) paragraph 2 shall read as follows:
- “2. The demands referred to in paragraphs 1 and 1a shall bear a clause: “Revenue secret”, and their submission shall take place pursuant to the procedure foreseen for documents containing classified information with a “restricted” clause within the meaning of the provisions on the protection of classified information.”;
- 4) in Article 24(1), subparagraph 20 shall read as follows:
- “20) controlling person - it shall mean a beneficial owner referred to in Article 2(2) of the Act on counteracting money laundering and terrorist financing;”.

## Chapter 16

### **Transitional and adjustment provisions**

**Article 181.** 1. The notifications referred to in Article 74, Article 86(1) and Article 90(1), the confirmation referred to in Article 86(3), the demands referred to in Article 86(5) and Article 87(1), the exemptions referred to in Article 86(6), the information and documents referred to in Article 76, as well as the information on the notification referred to in Article 89(8), shall be submitted in written form until the day of entry into force of the regulations referred to in Article 79(3) and Article 94.

2. The submission referred to in paragraph 1 may take place with the use of electronic communication means if the obligated institution has agreed such method of

transmission with the General Inspector.

**Article 182.** The identification form submitted electronically to the General Inspector by the obligated institution prior to the day of entry into force of the Act shall be deemed the form identifying the obligated institution within the meaning of Article 77(1).

**Article 183.** In the period of 3 months following the day of entry into force of the Act, the obligated institutions referred to in the Act repealed in Article 197, shall provide information referred to in Article 72 and the forms referred to in Article 77(1) in accordance with the existing regulations or provisions, whereas after the lapse of this period, however, not longer than over 12 months following the day of entry into force of the Act - in accordance with the existing regulations or provisions of this Act.

**Article 184.** 1. In the period of 3 months following the day of entry into force of the Act, the provisions of Article 72 shall not apply to the obligated institutions other than the obligated institutions referred to in the Act repealed in Article 197.

2. In the period of 3 months following the day of entry into force of the Act, the obligated institutions other than the obligated institutions referred to in the Act repealed in Article 197, while performing the obligations referred to in Article 74, Article 76, Article 86, in Article 89(8) and in Article 90, shall not submit the identification form referred to in Article 77 to the General Inspector.

3. Following the lapse of the period referred to in paragraph 2, for the purpose of first fulfilment of the obligations referred to in Article 74, Article 76, Article 86, in Article 89(8) and in Article 90, the obligated institutions other than the obligated institutions referred to in the Act repealed in Article 197, shall submit the form referred to in Article 77 to the General Inspector.

**Article 185.** With respect to the proceedings concerning transaction suspension or account blocking, initiated and not completed prior to the day of entry into force of the Act, the existing provisions shall apply.

**Article 186.** With respect to releasing assets subject to freezing prior to the day of entry into force of the Act, pursuant to Article 20d of the Act repealed in Article 197, the existing provisions shall apply.

**Article 187.** The transaction records referred to in Article 8(1) and (3) of the Act repealed in Article 197, shall be kept until the lapse of the period foreseen for their keeping pursuant to the existing provisions.

**Article 188.** 1. With respect to inspections initiated and not completed prior to the day of entry into force of this Act, the existing regulations shall apply.

2. The activities undertaken during the inspection prior to the day of entry into force of this Act shall remain in force.

3. The authorisations of the General Inspector issued under Article 21(2) of the Act repealed in Article 197 shall remain in force.

4. The existing service cards referred to in Article 21(2) of the Act repealed in Article 197 shall remain effective until new service cards are issued, however, not longer than over a period of 3 years following the day of entry into force of this Act.

**Article 189.** With respect to proceedings concerning imposing of financial penalties initiated and not completed prior to the day of entry into force of this Act the existing provisions shall apply unless the provisions hereof are more favourable for the obligated institution.

**Article 190.** The existing implementing provisions issued pursuant to Article 15a(6) of the Act repealed in Article 197, shall remain effective until the day of entry into force of the implementing provisions issued pursuant to Article 85(4) of the Act, however, no longer than over a period of 6 months following the day of entry into force hereof.

**Article 191.** 1. The Interministerial Financial Security Committee is revoked.

2. The Financial Security Committee is hereby created.

3. The Financial Security Committee shall submit the regulations of the Committee for approval by the General Inspector within six months following the entry into force of the Act.

**Article 192.** The General Inspector shall prepare the first national risk assessment referred to in Article 25(1) within 12 months following the entry into force of the Act.

**Article 193.** The obligated institutions shall prepare the first risk assessment referred to in Article 27 within 6 months following the entry into force of the Act.

**Article 194.** The Central Register of Beneficial Owners is hereby created.

**Article 195.** The companies referred to in Article 58, entered in the National Court Register prior to the date of the entry into force of Chapter 6, shall report information concerning beneficial owners to the Register of Beneficial Owners within six months following the entry into force of this chapter.

**Article 196.** 1. Employees, officers and soldiers delegated to work in the unit referred to in Article 3(4) of the Act repealed in Article 197, pursuant to Article 5(1) of that Act, shall become employees and officers delegated to work in the organisational unit referred to in Article 12(2) pursuant to Article 16(1).

2. Regular soldiers appointed to serve in the unit referred to in Article 3(4) of the

Act repealed in Article 197, pursuant to Article 5(3) of that Act, shall become regular soldiers appointed to provide military service in the organisational unit referred to in Article 12(2) pursuant to Article 16(3).

## Chapter 17

### **Final Provisions**

**Article 197.** The Act of 16 November 2000 on counteracting money laundering and financing of terrorism (Journal of Laws of 2017, item 1049 and of 2018 item 650) shall become ineffective.

**Article 198.** The Act shall enter into force after the lapse of 3 months of its promulgation, except Article 6, Article 194 and Article 195 which shall enter into force following the lapse of a period of 18 months of its promulgation.

THE SPEAKER OF THE SEJM

/ – / Marek Kuchciński