

Act

on measures against money laundering and terrorist financing

CHAPTER I

General Provisions

Article 1

Objective

The purpose of this Act is to prevent money laundering and terrorist financing by imposing on parties engaging in activities which may be used for the purposes of money laundering and terrorist financing the obligation to obtain knowledge of their customers and their business activities and report to the competent authorities any knowledge of such illegal activities.

Article 2

Scope

The Act covers the following parties:

- a) Financial undertakings pursuant to the definition in the Act on Financial Undertakings;
- b) Life insurance companies and pension funds;
- c) Insurance brokers and insurance intermediaries pursuant to the legislation on insurance brokerage when they broker life insurance or other savings-related insurance pursuant to Article 23 of the Insurance Act No. 60/1994;
- d) Branches of foreign undertakings located in Iceland and falling within the scope of Sub-sections (a) to (c);
- e) Natural or legal persons which, by way of business, engage in foreign exchange trading or the transfer of funds and other assets;
- f) Attorneys and other legal professionals in the following instances:
 - i. When they manage or represent their clients in any form of financial or real estate dealings;
 - ii. When they assist in the organisation or conduct of business for their clients with respect to the purchase and sale of real estate or enterprises, manage cash, securities or other assets of their clients, open or manage commercial bank accounts, savings bank accounts or securities accounts, arrange financing needed for the establishment, operation or management of enterprises or establish, operate or manage custody accounts, enterprises and similar entities;
- g) Auditors;
- h) Other natural or legal persons when, in the course of their work, they perform the same services as those listed in Sub-section (f), e.g. tax consultants or other external consultants;
- i) Brokers of real estate, enterprises or vessels;
- j) Natural or legal persons engaged, by way of business, in trading in goods for payment in

cash in the amount of EUR 15 000 or more, based on the officially posted exchange rate at any time, whether the transaction is executed in a single operation or in several operations which appear to be linked;

- k) Trust and company service providers as defined in Article 3;
- l) Legal or natural persons who have been granted an operating licence on the basis of the Lotteries Act, and parties permitted under special legislation to conduct fund-raising activities or lotteries where prizes are paid out in cash;

The Financial Supervisory Authority may decide that parties falling within the scope of Sub-sections (a) to (d) in Paragraph 1 and engaging in financial activities on an occasional or very limited basis, and where there is little risk of money laundering or terrorist financing, should be exempt from the provisions of this Act.

Anyone to whom the provisions of this Act apply is obliged to provide all the assistance necessary to ensure that the provisions of the Act may be enforced.

Article 3

Definitions

For the purpose of this Act the following definitions shall apply:

1. *Money laundering*: shall refer to actions by which a natural or legal person accepts or acquires, for itself or others, gains by means of a violation punishable under the General Penal Code, such as an acquisitive offence or a major tax or narcotics violation, violation of the Customs Act, the Act on Habit forming and Narcotic Substances, the Alcoholic Beverages Act or the Pharmaceuticals Act. The term shall also apply to actions by which a natural or legal person undertakes to keep, conceal or transfer such gains, assist in their delivery, or promote by other comparable means the achievement for others of the gains from such punishable violations.
2. *Terrorist financing*: shall refer to the collection of funds with the intention that they should be used or in the knowledge that they are to be used for the purpose of carrying out an offence which is punishable pursuant to Article 100 of the General Penal Code.
3. *Gain*: shall refer to any kind of profit and assets of any kind, including documents intended to entitle the bearer to access to assets or other rights of a financial value.
4. *Beneficial owner*: shall refer to the natural person or persons who ultimately own or control the natural person and/or legal person in whose name the transaction is effected or who effects the transaction. A beneficial owner may include:
 - a) The natural person or persons who ultimately own or control a legal person through direct or indirect ownership of more than a 25% share in the legal person or control more than 25% of the voting rights or are deemed to exercise control by other means of the legal person. However, the provision does not apply to legal persons listed on a regulated market pursuant to the definition in the Act on Stock Exchanges and Regulated OTC Markets.
 - b) The natural person or persons who are the future owners of 25% or more of the assets of a trust or a similar legal arrangement or who control more than 25% of its assets. Where the individuals that benefit from such trust have yet to be determined, the beneficiary is the person or persons in whose interest the fund is set up or operates.

5. *Persons under obligation to report*: Persons listed in Paragraph 1 of Article 2.
6. Trust and company service providers: Natural or legal persons providing, by way of business, the following services:
- a) Forming companies or other legal persons;
 - b) Acting as, or arranging for another person to act as, director or executive of an undertaking, as partner in a company or serve in a comparable position in another form of legal person.
 - c) Providing a domicile or other registered address which is used in a similar manner to contact the undertaking, or other related services;
 - d) Acting as, or arranging for another person to act as, a trustee of a trust or a similar legal arrangement;
 - e) Acting as, or arranging for another person to act as, a nominee shareholder for another person other than a company listed on a regulated market.

CHAPTER II

Customer due diligence

Article 4

Investigation of the reliability of information concerning customers

Persons under obligation to report pursuant to this Act shall apply customer due diligence measures pursuant to the provisions of this Chapter in the following cases:

- a) When establishing a permanent business relationship;
- b) When carrying out occasional transactions amounting to EUR 15 000 or more, based on the officially posted exchange rate at any time, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- c) When carrying out foreign exchange transactions amounting to EUR 1,000 or more, based on the officially posted exchange rate at any time, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- d) When there is a suspicion of money laundering or terrorist financing, regardless of any exemption or threshold;
- e) When there are doubts about the veracity or adequacy of previously obtained customer identification data.

Article 5

Obtaining of information by persons under obligation to report

Prior to the establishment of a business relationship, or prior to a business transaction, a person under obligation to report shall require the new customer to prove his/her identity as follows:

- a) Natural persons: by the presentation of identification documents issued by a public entity;

- b) Legal persons: by the submission of a certificate from the register of undertakings of the Directorate of Internal Revenue, or a comparable public agency, with the name, domicile and official registration number or comparable information. Persons under obligation to report shall also require the provision of adequate information concerning any beneficial owner, cf. Article 3. Holders of powers of procuration shall prove their identity in the manner described in Sub-section (a).

Information shall be obtained concerning the purpose of the intended business with the proposed customer.

If a natural person, or the employee of a person under obligation to report, possesses knowledge, or has reason to believe, that certain business is being conducted for the benefit of a third party the customer shall, in accordance with Sub-sections (a) and (b), be required to produce information concerning the identity of the third party.

Persons under obligation to report shall preserve photocopies of personal identification documents and other required documents or adequate information from the documents, for a minimum of five years from the time that the business is concluded.

Article 6

Regular surveillance by persons under obligation to report

Persons under obligation to report shall conduct ongoing monitoring of the business relationship with their customers to ensure that their transactions are consistent with the available information on the customers, e.g. by scrutiny of the transactions undertaken throughout the course of the contractual relationship. Information on customers shall be updated and further information obtained in accordance with this Act as needed.

Article 7

Risk assessment.

Persons under obligation to report are permitted to implement the provisions of Articles 5 and 6 and the provisions of Chapters III and IV on a risk-sensitive basis, where the extent of information gathering and other measures pursuant to this Act in respect of each customer are based on an assessment of the risk of money laundering and terrorist financing. In the event of persons exercising such permission they shall establish rules on the conduct of the risk assessment, and the persons specified in Sub-sections (a) to (d) in Paragraph 1 of Article 2 shall be required to obtain the approval of the Financial Supervisory Authority for the rules, and the parties specified in Sub-sections (e) to (l) in Paragraph 1 of Article 2 shall be required to obtain the approval of the police authorities for the rules.

Article 8

Temporary postponement of information gathering

A new customer shall prove his/her identity pursuant to Article 5 before a contractual relationship is established. However, in order not to interrupt the normal conduct of business this may be postponed until a contractual relationship has been established in cases where little risk is perceived of money laundering or terrorist financing occurring. In such an event the customer shall prove his/her identity as soon as practicable.

A bank account may be opened for a customer even if the conditions of Paragraph 1 have not been met provided that no transactions are carried in respect of the customer until he/she has proven his/her identity pursuant to Article 5.

Notwithstanding the provisions of Paragraph 1, it is permitted, in relation to life insurance business, to allow the verification of the identity of the beneficiary under the policy to take place after the business relationship has been established. In such an event, verification shall take place no later than at the time of payout or before the time the beneficiary intends to exercise rights vested under the policy.

Article 9

Non-compliance with conditions of due diligence

If it has not proven possible to comply with the conditions of Paragraphs 1 and 2 of Article 5, the conduct of a business transaction or establishment of contractual relations with such person shall be prohibited. Consideration should also be given to notification of the police pursuant to Article 17.

Paragraph 1 shall not apply to the work of legal professionals who are in the course of ascertaining the legal position of a client or performing their task of defending or representing that client in, or concerning, judicial proceedings, including advice on instituting or avoiding proceedings.

CHAPTER III

Enhanced customer due diligence requirements

Article 10

Distance selling

At the start of a distance selling transaction, the establishment of contracts through the use of telecommunications or comparable methods, where the customer is not present to prove his/her identity, additional information should be obtained about customers if necessary, and it should be required that the first payment should be made in the name of the customer and through an account established by the customer in a credit institution.

In the rules that persons under obligation to report are required to establish concerning internal control of business activities pursuant to Paragraph 1 of Article 23, more detailed provisions shall be established, where appropriate, concerning business using telecommunications and the preservation of data concerning such business.

Article 11

Correspondent banking

In cross-border correspondent banking business with parties from countries outside the European Economic Area, credit institutions which are subject to this Act shall comply with the following conditions:

- a) Gather sufficient information about the respondent's business and determine from publicly available information the reputation of the institution and the quality of supervision;

- b) Assess the respondent's anti-money laundering and anti-terrorist financing controls;
- c) Obtain approval from senior management before establishing new correspondent banking relationships;
- d) Document the respective responsibilities of each institution pursuant to this Act, and;
- e) With respect to payable-through accounts, be satisfied that the respondent has knowledge of the identity of, and conducts ongoing due diligence on, the customers having direct access to accounts of credit institutions which are subject to this Act and that it is able to provide relevant information concerning the customer upon request.

Article 12

Exposed persons

In respect of contractual relationships or business transactions with politically exposed natural persons residing in another country, persons under obligation to report pursuant to this Act shall comply with the following requirements, in addition to the conditions of Chapter II:

- a) Determine whether the customer is a politically exposed person, which includes natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;
- b) Obtain senior management approval before entering into business transactions with such customers;
- c) Take appropriate measures to verify the source of funds that are involved in the business relationship or transaction;
- d) Conduct regular monitoring of the business relationship.

Article 13

Correspondent banking business with shell banks

Credit institutions falling within the scope of this Act are prohibited from entering into or continuing a correspondent banking relationship with a credit institution or another party engaged in similar business activities which is established within a jurisdiction where it has no real business activities or management and which is not related to a financial consolidation which is subject to regulation. Such institutions are also prohibited from engaging in correspondent banking business with banks which permit such credit institutions to use their accounts.

Article 14

Business anonymity

Parties under obligation to report shall show special caution in the case of products or transactions that might favour anonymity, and shall take measures, if needed, to prevent the use of such business for money laundering or terrorist financing purposes.

CHAPTER IV

Derogations from customer due diligence requirements

Article 15

Parties which are exempt from due diligence concerning customer information

The provisions of Articles 5 and 6 of this Act concerning customer due diligence do not apply to the following parties:

- a) Legal persons listed in Sub-sections (a) and (b) in Paragraph 1 of Article 2 and corresponding legal persons possessing an operating licence in the European Economic Area. The same applies to regulated credit or financial institutions from countries outside the European Economic Area which are subject to similar requirements as those stipulated in this Act.
- b) Companies listed on a regulated market pursuant to statutory definition of the activities of stock exchanges and regulated over-the-counter markets.
- c) Icelandic government authorities.

Before granting an exemption pursuant to Paragraph 1 adequate information shall be obtained concerning the customer in order to ascertain whether the provisions of Sub-sections (a) and (b) apply.

Article 16

Third party information

A party under obligation to report is not required to conduct customer due diligence pursuant to Paragraphs 1 – 2 of Article 5 if corresponding due diligence data is revealed through the agency of a financial undertaking which has been granted an operating licence in Iceland or a corresponding legal person which has been granted an operating licence in the European Economic Area. The same applies to information revealed through the agency of regulated credit or financial institutions from countries outside the European Economic Area which are subject to similar requirements as those stipulated in this Act. The final responsibility as regards customer due diligence pursuant to Paragraphs 1 - 3 of Article 5 rests with the recipient of the information.

A third party providing information pursuant to Paragraph 1 shall, at the request of the recipient of the information, promptly make the information available or forward a copy of the appropriate personal data and other appropriate documents proving the identity of the customer or beneficial owner

CHAPTER V

Reporting obligation and other obligations

Article 17

General obligation to report

Persons under obligation to report are required to have any transactions suspected of being traceable to money laundering or terrorist financing carefully examined and notify the police of any transactions which are considered to have any such links. This applies in particular to

transactions which are unusual, large or complex in the light of the normal business of the customer, or which have no apparent economic or visible lawful purpose.

Upon the request of police investigating cases of money laundering or terrorist financing, any information deemed necessary on account of such notification shall be provided by persons under obligation to report.

Paragraph 1 shall not apply to information obtained by legal professionals in the course of ascertaining the legal position of their client, including advice on instituting or avoiding proceedings, or information obtained before, during or after the conclusion of judicial proceedings, if the information is directly related to such proceedings. The same applies to information obtained by parties pursuant to Sub-sections (g) to (i) in Paragraph 1 of Article 2 when they are providing expert advice to a legal professional before, during or after the conclusion of judicial proceedings.

Article 18

Obligation to refrain from business

Parties shall refrain from doing business when there is knowledge or suspicion that the business can be traced to money laundering or terrorist financing. Such business shall be reported to the police and the report shall include information on the time limits within which the person under obligation to report is required to carry out the transaction. If such transaction cannot be prevented, or if its suspension could hinder the prosecution of parties benefiting from it, the police shall be notified of the transaction as soon as it has been completed.

Article 19

Processing of reports etc.

The police shall confirm the receipt of notifications pursuant to Articles 17 and 18 in writing. The police may, in cases of urgency, request that transactions notified in accordance with Articles 17 and 18 are not carried out until the conclusion of the time limit specified in the notification. The police shall promptly inform the reporting party if it is the opinion of the police that obstruction of the transaction is not needed.

Further provisions on the receipt of reports, analysis and dissemination of information on potential money laundering shall be laid down in a regulation issued by the Minister for Justice.

Article 20

Prohibition of disclosure

Persons under obligation to report and their directors and employees and others working in their interest shall ensure that it is not disclosed to the customer concerned or to other third persons that information has been imparted to the police in accordance with Articles 17 and 18 or that a money laundering or terrorist financing investigation is being or may be carried out.

Notwithstanding the provisions of Paragraph 1, the disclosure of the above information is permitted to the following parties:

- a) The Financial Supervisory Authority;
- b) Within a consolidation as defined in the Annual Accounts Act.
- c) Between parties referred to in Sub-sections (f) and (g) in Paragraph 1 of Article 2 who are discharging their duties within the same legal person or same network of enterprises;
- d) Between parties referred to in Sub-sections (a) to (g) in Paragraph 1 of Article 2, provided that the following conditions are met:
 1. Both parties belong to the same professional category;
 2. The case concerns a natural or legal person who is a customer of both parties;
 3. The information concerns transactions relating to both parties;
 4. Both parties are subject to equivalent obligations as regards professional secrecy and personal data protection; and
 5. The information is used exclusively for the purposes of the prevention of money laundering and terrorist financing.

Information pursuant to Paragraph 2 may only be disclosed to a natural or legal person domiciled outside the European Economic Area if the natural or legal person is subject to similar rules as those laid down in this Act concerning measures against money laundering and terrorist financing.

Parties referred to in Sub-sections (f) and (g) in Paragraph 1 of Article 2 who advise their customers to refrain from participating in illegal activities are not regarded as having violated Paragraph 1 on the prohibition of disclosure.

Article 21

Exemption from the principle of professional secrecy

The disclosure in good faith to the police by a person under obligation to report of information pursuant to this Act shall not constitute a breach of any principle of professional secrecy imposed by law or by other means.

The provision of such information shall not make the natural or legal persons or their employees criminally liable or liable for civil damages.

Article 22

Designation of person responsible

Persons under obligation to report are responsible for compliance with this Act and rules and regulations issued pursuant to this Act. They shall nominate a specific person of managerial rank to be generally responsible for notification pursuant to Articles 17 and 18 and to ensure the development of co-ordinated practices supporting the implementation of this Act. The police shall be informed of the nomination of such responsible person.

Article 23

Internal controls etc.

Persons under obligation to report are required to establish written internal rules and maintain internal controls designed to prevent their business activities from being used for money laundering and terrorist financing. To this end they shall ensure, *inter alia*, that their employees receive special training.

Persons under obligation to report are required to prepare written reports on all suspicious and unusual records that occur in the course of effecting transactions in their business activities. The preservation of such information is subject to the provisions of Paragraph 4 of Article 5.

Persons listed in Paragraph 1 of Article 2 shall have systems in place which enable them to respond promptly to queries from the police or other competent authorities. The preservation of such information, including information on individual customer transactions, is subject to the provisions of Paragraph 4 of Article 5.

Legal persons listed in Paragraph 1 of Article 2 are required, on the appointment of staff, to establish specific rules on the checks to be performed of the record of an applicant for positions with the undertakings and in what instances a transcript from an applicant's judicial record or other comparable certificates of record and former employment shall be required.

Article 24

Branches and subsidiaries in states outside the European Economic Area

The persons listed in Sub-sections (a) to (c) in Paragraph 1 of Article 2 shall ensure that their branches and subsidiaries in states outside the European Economic Area take equivalent measures as regards due diligence concerning information on their customers as provided for in this Act, or as similar as the legislation of the state in question will permit.

If the legislation of a state outside the EEA where a branch or subsidiary is located does not permit the application of such equivalent due diligence concerning customer information as provided for in this Act, the party in question shall notify the Financial Supervisory Authority. In addition, the party in question shall ensure that the branch or subsidiary in question responds to the risk of money laundering or terrorist financing by other means.

The persons listed in Sub-sections (a) to (c) in Paragraph 1 of Article 2 shall ensure that their branches and subsidiaries in states outside the European Economic Area establish written internal rules similar to those required in Paragraph 1 of Article 23, or as similar as the legislation of the state in question will permit.

CHAPTER VI

Surveillance etc.

Article 25

The Financial Supervisory Authority

The Financial Supervisory Authority shall monitor compliance by the parties specified in Sub-sections (a) to (d) in Paragraph 1 of Article 2 with the provisions of this Act and rules and regulations issued pursuant to this Act. Such monitoring is subject to legislation on public surveillance of financial activities and such special legislation as may apply to the activities of regulated parties.

The Financial Supervisory Authority may exercise the supervisory measures provided for in the Act on Official Supervision of Financial Operations in its supervision pursuant to this Act.

Article 26

Reports from regulatory bodies

In the event that the Financial Supervisory Authority or other professional bodies responsible for the supervision of persons under obligation to report obtain, in the course of their work, knowledge of business linked with money laundering or terrorist financing or information which is suspected to relate to money laundering or terrorist financing this shall be reported to police.

The Financial Supervisory Authority shall issue notices and instructions if there is a need for special caution in business transactions with states or regions which do not comply with international recommendations and rules concerning measures against money laundering. Persons under obligation to report are also required to pay particular attention to states or regions which do not comply with international recommendations and rules on measures against money laundering.

CHAPTER VII

Penalties

Article 27

Penalties

In the event that a person under obligation to report, by intent or gross negligence, neglects to conduct due diligence concerning its customers pursuant to Chapters II and III, or neglects the obligation to report or any other obligations pursuant to Chapter V, or neglects the provision of information or assistance, reports or documents as provided for in this Act or rules issued hereunder, such party shall be subjected to penalties.

If an infringement of this Act is committed in the course of the business operations of a legal person, and for its benefit, the legal person may be fined irrespective of whether the guilt of its responsible manager or employee has been established. If the responsible manager of a legal entity or its staff member has infringed this Act, the legal entity may also be fined if the infringement was for its benefit.

CHAPTER VIII

Miscellaneous Provisions

Article 28

Authorisation for the issue of regulations

The Minister for Commerce may, by a government regulation, issue further provisions on the implementation of this Act, including:

1. Further provisions on exemption from due diligence requirements pursuant to Article 15;
2. Further provisions on the enforcement of the obligation to report pursuant to Article 17;
3. Further provision of what information concerning a remittent must accompany transfers;
4. Special rules concerning notification of transfer to, or for the benefit of, natural or legal persons having links with states or regions which do not have in place adequate rules concerning measures against money laundering and terrorist financing;
5. Special rules concerning the prohibition of or restrictions on the permission of persons under obligation to report to enter into a contractual relationship or effect transfers to natural or legal persons having links with states or regions which do not have in place adequate rules concerning measures against money laundering and terrorist financing;

Article 29

Implementation

This Act incorporates into the domestic legal order the provisions of Council Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Article 30

Entry into force

This Act shall enter into force immediately. The provisions of Article 12 shall enter into force on .1 January 2007. On the entry into force of this Act, Act No. 80/1993 on measures to counteract money laundering, as amended, shall be repealed.

Passed by the Althing on 2 June 2006.