

Act No. 297/2008 Coll.

Act on protection against money laundering and terrorist financing and on the amendment to certain acts

(as amended by No. 445/2008 Coll., 186/2009 Coll., 394/2011 Coll., 399/2014 Coll., 35/2015 Coll., 252/2015 Coll., 397/2015 Coll., 444/2015 Coll., 125/2016 Coll., 315/2016 Coll., 267/2017 Coll., 52/2018 Coll.)

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ACT

of 02 July 2008,

on protection against money laundering and terrorist financing and on the amendment to certain acts

The National Council of the Slovak Republic has passed the following act:

PART I

SECTION ONE

GENERAL PROVISIONS

Article 1

Subject Matter

This Act regulates the rights and duties of legal entities and natural persons in preventing and detecting money laundering (hereinafter "money laundering") and terrorist financing.

Definitions

Article 2

Money laundering

(1) For the purposes of this Act, money laundering shall mean intentional conduct consisting in

- a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person's action,
- b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such an activity,
- c) the acquisition, possession or use of property, knowing that such property was derived from criminal activity or from an act of participation in such an activity,
- d) participation in, association to commit, attempts to commit and aiding, abetting,

facilitating and counselling the commission of any of the actions referred to in letters (a), (b) and (c).

(2) Knowledge, intent or purpose required as an element of the activities referred to in paragraph 1 may be inferred from objective factual circumstances, in particular from the nature of an unusual business operation.

(3) Money laundering is prohibited.

Article 3

Terrorist financing

(1) For the purposes of this Act, terrorist financing shall mean the provision or collection of funds or property with the intention that they be used or in the knowledge that they are to be used, in full or in part, in order to

a) commit the offence of establishing, plotting and supporting a terrorist group or the offence of terrorism and some forms of participation in terrorism,

b) finance the everyday needs of a person who is likely to commit or has committed the offence of terrorism and some forms of participation in terrorism,

c) commit the offence of theft, offence of extortion or offence of forgery of administrative documents, official stamp, official sealing, official sign, and official mark or of inciting, aiding or abetting such offence and attempting to commit such offence in order to commit the offence of establishing, plotting and supporting a terrorist group or the offence of terrorism and some forms of participation in terrorism or

d) commit acts according to international treaties,¹ which have been ratified and promulgated in the way specified by the law binding the Slovak Republic.

(2) Knowledge, intent or purpose required as an element of the activities referred to in paragraph 1 may be inferred from objective factual circumstances, in particular from the nature of an unusual business operation.

(3) Terrorist financing is prohibited.

Article 4

Unusual business operation

(1) Unusual business operation means a legal act or other act suggesting that it can be used for money laundering or terrorist financing.

(2) Unusual business operation in particular means the transaction

a) which, considering its complexity, unusually high volume of funds or other nature, obviously deviates from the common framework or nature of a certain type of transaction or transactions of a certain customer,

b) which, considering its complexity, unusually high volume of funds or other nature, has no apparent economic or visible lawful purpose,

c) for which the customer refuses to identify themselves or provide data necessary for due diligence performance by the obliged person pursuant to Article 10, Articles 11 and 12,

d) for which the customer refuses to provide information on the transaction being prepared or tries to provide as little information as possible or provides such information, which the obliged person can verify only with difficulties or with very high costs,

e) for which the customer applies based on a project raising doubts,

f) for which funds with a low nominal value and excessively large volume are used,

g) with a customer, who is not likely to own or cannot own the necessary funds given their employment, status or other characteristics,

h) for which the volume of funds disposed of by the customer is clearly disproportionate to the nature or scope of their business activities or declared property

conditions,

- i)** for which it is reasonably assumed that the funds or the property are to be used or have been used for terrorist financing,
- j)** for which it is reasonably assumed that the beneficial owner is a person collecting or providing funds or property for the purpose of terrorist financing,
- k)** which is carried out from a country or to a country, in the territory of which terrorist organisations operate or which provides funds or other support to terrorist organisations,
- l)** for which it is reasonably assumed that the customer or beneficial owner is a person covered by an international sanction pursuant to a special regulation,**)1a** or a person who can be related to such person or
- m)** for which it is reasonably assumed that its subject is or is to be a thing or service that can be related to a thing or service covered by an international sanction pursuant to a special regulation.**)1a**

Article 5

Obligated person

(1) For the purposes of this Act, obliged person shall mean

- a)** a bank,**)2)**
- b)** a financial institution unless it is a bank, which is
 - 1.** the Central Securities Depository,**)4**
 - 2.** a Stock Exchange,**)5**
 - 3.** a Commodity Exchange,**)6**
 - 4.** a management company and depository,**)7**
 - 5.** a securities trader,**)8**
 - 6.** a financial agent, financial advisor**)9** except for the execution of activities related to non-life insurance,
 - 7.** a foreign collective investment entity,**)10**
 - 8.** an insurance company in performing life insurance activities,**)11**
 - 9.** a pension management company,**)13**
 - 10.** a complementary pension company,**)14**
 - 11.** a legal entity or natural person authorised to perform exchange activities,
 - 12.** a legal entity or natural person authorised to receivables trading,**)17**
 - 13.** a legal entity or natural person authorised to perform auctions except for distraint,**)18** financial lease or other financial activities pursuant to a special regulation,**)19**
 - 14.** a payment institution,**)19a** agent of payment services**)19b** a electronic money institution,**)19c**
- c)** the Export-Import Bank of the Slovak Republic,**)20**
- d)** a gambling game operator,**)21**
- e)** a post enterprise,**)22**
- f)** a court distrainer,**)23** in selling real estate, movable things or an enterprise and in receiving money, deeds and other movable things to safekeeping in connection with distraint execution,
- g)** a trustee performing their activity in the bankruptcy procedure, restructuring procedure or

in the procedure for the discharge of debts pursuant to a special regulation,)24

h) auditor,)25) accountant,)17) tax advisor,)26)

i) a legal entity or natural person authorised to mediate the sale, lease, and purchase of real estate,)17

j) a lawyer)27) or notary,)28) if they provide the customer with a legal service concerning any financial operation or other activity leading to or directly inducing a movement of funds, in

1. purchasing and selling real estate or an enterprise or a part of them,

2. managing or safekeeping of funds, securities or other property,

3. opening an account in a bank or foreign bank branch or an account of securities and in managing them or

4. establishing, operating or managing of a business company, association of natural persons, association of legal entities,)29) special-purpose trust)30) or other legal entity,

k) a trust and company service provider unless it is an obliged person according to letters (h) or (j),

l) a legal entity or natural person authorised to perform the activity of an organisational and economic advisor, services of public carriers and couriers or forwarding,)17

m) a legal entity or natural person authorised to operate a salesroom, a legal entity or natural person authorised to trade in works of art, collectors' pieces, antiquities, cultural monuments, cultural items, precious metals or precious stones, a legal entity or natural person authorised to place products from precious metals or precious stones on the market or a legal entity or natural person authorised to operate a pawn shop,)17

n) a creditor,)32a)

o) other person if it is provided by a special regulation.

(2) For the purposes of this Act, obliged person shall also mean a branch, organisational unit or establishment of a foreign legal entity or natural person mentioned in paragraph 1, including the representation of a foreign bank and the representation of a foreign financial institution, which operate in the territory of the Slovak Republic.

(3) For the purposes of this Act, obliged person shall also mean a legal entity or natural person - entrepreneur not mentioned in paragraphs 1 and 2, if they carry out a cash transaction in the amount of at least EUR 10,000 regardless whether the transaction is carried out individually or as several successive transactions which may or may not be interconnected.

Article 6

Politically exposed person

(1) For the purposes of this Act, politically exposed person shall mean a natural person who is or have been entrusted with a prominent public function.

(2) Prominent public functions shall include

a) head of State, prime minister, deputy prime minister, minister, head of a central government body, state secretary or a similar deputy minister,

b) member of parliament,

c) member of supreme court, of constitutional court or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances,

d) member of court of auditors or of the board of central bank,

e) ambassador, chargé d'affaires,

- f)** high-ranking officer in the armed forces, armed corps or armed security corps,
 - g)** member of the administrative, management or supervisory body of State-owned enterprise or State-owned business company or
 - h)** person in other similar function performed in European Union institutions or international organisations,
 - i)** member of statutory body of a political party or political movement.
- (3)** For the purposes of this Act, politically exposed person shall also mean a natural person who is
- a)** the spouse, or a person considered to be equivalent to a spouse, of the person mentioned in paragraph 1,
 - b)** the children and their spouses of the person mentioned in paragraph 1, or persons considered to be equivalent to a spouse of the child of the person mentioned in paragraph 1 or
 - c)** the parents of the person mentioned in paragraph 1.
- (4)** For the purposes of this Act, politically exposed persons shall also mean a natural person who is known to be the beneficial owner
- a)** of the same customer or to otherwise control the same customer as the person mentioned in paragraph 1 or to run a business together with the person mentioned in paragraph 1 or
 - b)** of the customer established in favour of the person mentioned in paragraph 1.

Article 6a

Beneficial owner

- (1)** Beneficial owner means each natural person who ultimately owns or controls the legal entity, natural person - entrepreneur or trust, and each natural person in favour of whom a transaction or activity is being conducted by these entities; the beneficial owners shall include in particular,
- a)** in the case of a legal entity, which is neither a trust nor an issuer of securities listed on a regulated market that is subject to disclosure requirements pursuant to a special regulation,³⁷ an equivalent legal regulation of a Member State or equivalent international standards, the natural person who
 - 1.** ultimately owns or controls a legal entity through direct or indirect ownership or control over at least 25% of the shares or voting rights in that legal entity, including through bearer share holdings,
 - 2.** has the right to appoint, otherwise determine or withdraw the statutory body, managing body, supervisory body or audit body in the legal entity or any member of these,
 - 3.** controls the legal entity in other way than mentioned in Points 1 and 2,
 - 4.** is the beneficiary of 25 % or more of the economic benefits of the business of the legal entity or other activities of the legal entity,
 - b)** in the case of a natural person – entrepreneur, the natural person who is the beneficiary of 25 % or more of the economic benefits of the business of the natural person – entrepreneur or other activities of the natural person – entrepreneur,
 - c)** in the case of the trust, the natural person who
 - 1.** is the founder or establisher of the trust; if a legal entity is the founder or establisher, the natural person according to letter (a),
 - 2.** has the right to appoint, otherwise determine or withdraw the statutory body, managing body, supervisory body or audit body in the trust or any member of these or is a member of the body having the right to appoint, otherwise determine or withdraw these bodies or a member of these,
 - 3.** is the statutory body, managing body, supervisory body, audit body or a member of these bodies,

4. is the beneficiary of 25 % or more of the resources provided by the trust if future beneficiaries of these resources have been specified; if future beneficiaries of the resources of the trust have not been specified, the beneficial owner shall mean the circle of persons having significant benefit from the foundation or operation of the trust.

(2) If no natural person meets the criteria listed in paragraph 1 (a), members of top management shall be considered the beneficial owner of the entity; member of top management means a statutory body, a member of the statutory body, procurator and manager under the direct authority of the statutory body.

(3) The natural person, who does not meet the criteria pursuant to paragraph 1 (a), (b) or (c) Points 2 and 4 themselves, however, along with other person acting with them in conformity or in joint procedure, meets at least some of these criteria, is also the beneficial owner.

Article 7

Identification

(1) For the purpose of this Act, identification shall mean

a) in the case of a natural person, the ascertainment of name, surname, personal number or date of birth, if no personal number has been assigned, permanent address or other residence, nationality, type and number of identity document; in the case of a natural person - entrepreneur, also the ascertainment of place of business, identification number if assigned, designation of the official register or other official records where the entrepreneur is registered, and the number of registration in the register or records,

b) in the case of a legal entity, the ascertainment of name, registered office, identification number, designation of the official register or other official records where the legal entity is registered, and the number of registration in the register or records, and the identification of the natural person authorised to act on behalf of the legal entity,

c) in the case of a person represented on the basis of a Power of Attorney, the ascertainment of their data pursuant to letter (a) or (b) and the ascertainment of the data of the natural person, who is authorised to act on behalf of this legal entity or natural person within the scope of data according to letter (a),

d) in the case of a minor who does not have an identity document, the ascertainment of name, surname, personal number or date of birth, if no personal number has been assigned, permanent address or other residence, nationality of the minor and their legal representative or

e) for the performance by third parties pursuant to Article 13, taking over the data and documents from a bank or financial institution.

(2) Based on the risk assessment pursuant to Article 20a (1), the obliged person may, in addition to the data listed in paragraph 1, also request other data, such as the telephone number, address for the delivery of electronic mails, data on employment or employer.

Article 8

Identification verification

(1) For the purpose of this Act, identification verification shall mean

a) in the case of a natural person, the verification of the data pursuant to Article 7 (1) (a) in their identity document, if they are provided there, and the verification of person's appearance with the appearance in their identity document in the physical presence of the person or with the use of the technical means and procedures, if the obliged person assesses after taking into account the circumstances of the transaction and security risks of the technology used that such means and procedures can be used to verify the identification at a level, which is similar to the verification in the physical presence in terms of credibility of the verification result; in the case of a natural person - entrepreneur also the verification of the data pursuant to Article 7 (1) (a) on the basis of the documents, data or information obtained from an official register or other official records, in which the entrepreneur is registered, or from other credible and independent source,

b) in the case of a legal entity, the verification of the data pursuant to Article 7 (1) (b) on the basis of the documents, data or information obtained from an official register or other official records, in

which the legal entity is registered, or from other credible and independent source, and the verification of the identification of the natural person, who is authorised to act on behalf of the legal entity, within the scope of the data pursuant to Article 7 (1) (a) in their physical presence, and the verification of the authorisation to act on behalf of the legal entity,

c) in the case of a person represented on the basis of a Power of Attorney, the verification of their data pursuant to Article 7 (1) (c) on the basis of the documents, data or information obtained from the submitted Power of Attorney with the attested signature, from an official register or other official records, or from other credible and independent source, and the verification of the identification of the natural person, who is authorised to act on the basis of the Power of Attorney within the scope of the data pursuant to Article 7 (1) (a) in their identity document in their physical presence,

d) in the case of a minor who does not have an identity document, the verification of the type and number of the identity document and of the appearance of the present minor's legal representative with the appearance in their identity document,

e) the verification of the identification number or code allocated to the customer for transaction execution through the technical equipment by the obliged person pursuant to a special regulation,³⁴ if the customer has already been identified pursuant to Article 7 (1) (a) to (d),

f) proving of customer's identity by a qualified electronic signature,³⁵ if the customer has already been identified pursuant to Article 7 (1) (a) to (d), or by using the official authentication code;^{35a} the verification of the identification with the use of the qualified electronic signature or official authentication code shall be considered the verification of identification in the customer's physical presence,

g) the verification of the identification in other way if such way is allowed by a special regulation.³⁶

(2) The obliged person shall be obliged to verify the identification of the customer that is a natural person, and the identification of each natural person acting for the customer that is a legal entity, before the establishment of a business relationship or the carrying-out of the transaction in their physical presence unless otherwise laid down by this Act.

(3) The verification of the identification of the customer and the adoption of measures for the verification of the identification of the beneficial owner can be completed during the establishment of a business relationship if this is necessary not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing occurring. In these cases, the obliged person shall be obliged to complete the verification of the identification of the customer and the adoption of measures for the verification of the beneficial owner without undue delay after the customer is present physically for the first time at the obliged person's place.

(4) The verification of the identification of the customer and the adoption of measures for the verification of the identification of the beneficial owner can be completed after the transaction has been carried out between the customer and the obliged person mentioned in Article 5 (1) (a) or after an account in the bank has been opened including the accounts allowing transactions with transferable securities, provided that it is sufficiently ensured that neither the customer nor anybody else on behalf of the customer can dispose of the funds or transferable securities until the verification of the identification of the customer and the adoption of measures for the verification of the identification of the beneficial owner.

(5) The verification of the identification of the beneficiary under the life insurance policy covered by the duty of verification shall take place at or before the time of payout or at or before the time the beneficiary intends to exercise rights vested under the policy.

(6) For the purposes of identification and verification of the customer using an official authentication code, the Ministry of Interior of the Slovak Republic shall ensure the verification of the identity of the customer of the obliged person in the same way as for authentication pursuant to a special regulation.^{36a}

Article 9

Definitions of other basic terms

Further, for the purposes of this Act

a) property means assets of every kind, in particular movable or immovable assets, apartments, non-residential premises, securities, receivables, rights to creative intellectual works including industrial rights, and legal documents or

instruments evidencing title to or an interest in such assets,

b) trust and company service provider means an entrepreneur providing third parties with any of the following services:

1. acting as a formation agent of business companies and other legal entities,
2. acting as (or arranging for another person to act as) a statutory body, member of a statutory body, a person under the direct authority of the statutory body or of its member, procurator, manager of the branch or other organisational unit of an enterprise, liquidator of a business company or acting in a similar position in relation to third parties,
3. providing a registered office, business address, correspondence address, and other related services for legal entities and special-purpose trusts regardless of their legal personality, which manage and distribute funds,
4. acting as (or arranging for another person to act as) a trustee,
5. acting as (or arranging for another person to act as) a nominee shareholder for a third person different from the issuer of securities listed on a regulated market that is subject to disclosure requirements pursuant to a special regulation,³⁷

c) shell bank means a bank or a financial institution incorporated in the companies register or in a similar register in the country in which neither its registered office nor its management is present, and which is unaffiliated with a regulated financial group,

d) customer means a person that

1. is a party to an obligation connected with the business activity of the obliged person,
2. takes part in the activity, based on which they are to become party to an obligation connected with the business activity of the obliged person,
3. represents a party to an obligation connected with the business activity of the obliged person in the procedure with the obliged person or
4. is, based on other circumstances, authorised to dispose of the subject of the obligation connected with the business activity of the obliged person,

e) trust means a customer being a foundation,³⁸ non-profit organisation providing services of general economic interest,³⁹ non-investment fund⁴⁰ or other special-purpose trust regardless of its legal personality, which manages and distributes funds,

f) business relationship means a contractual relationship between the obliged person and the customer including any activities related to this relationship, which is expected, at the time when the contact is established, to have an element of duration and further performances or repeated performances,

g) transaction means the establishment, change or end of the obligation between the obliged person and its customer, and any business operation of the customer or on behalf of the customer or disposal of the property of the customer or on behalf of the customer, which are related to the activity of the obliged person, including the operation carried out by the customer in their own name and for their own account,

h) type of transaction means a group of transactions within the activities of the obliged person, for which certain signs or contractual conditions of provision by the obliged person are typical,

i) criminal activity means the criminal activity⁴¹ committed in the territory of the Slovak Republic or out of the territory of the Slovak Republic,

j) financing of everyday needs of the person for whom there is a well-founded reason to believe that they intend to commit or have committed a terrorist offence and certain forms of participation in terrorist acts means the collection or provision of funds or property to such person in order to satisfy their common basic necessities,

k) correspondent relationship means

1. the provision of banking services by one bank as the correspondent bank to another bank as the respondent bank, including the provision of current accounts or other accounts and related services such as cash management, international funds transfers, cheque clearing, payable-through accounts, and foreign exchange services,
2. relationships between and among banks and financial institutions, within which the correspondent institution provides similar services to the respondent institution, including the relationships established for the purposes of securities transactions or funds transfers.

SECTION TWO

CUSTOMER DUE DILIGENCE APPLIED BY THE OBLIGED PERSON

Article 10

Due diligence

- (1) Customer due diligence applied by the obliged person shall include
 - a) identifying the customer and verifying the customer's identification,
 - b) identifying the beneficial owner and taking adequate measures to verify his identification including the measures to understand the ownership and control structure of the customer that is a legal entity or trust; in identifying the beneficial owner, the obliged person must not rely exclusively on the data obtained from the register of legal entities, entrepreneurs and public authorities,
 - c) obtaining information on the purpose and intended nature of the transaction or business relationship,
 - d) the ascertainment whether the customer or beneficial owner of the customer is a politically exposed person or sanctioned person,^{1a}
 - e) depending on the risk of money laundering or terrorist financing, the determination of the origin of funds or property used in the transaction or business relationship,
 - f) the ascertainment whether the customer acts in their own name,
 - g) conducting ongoing monitoring of the business relationship including the review of particular transactions carried out throughout the duration of the business relationship in order to find out whether the transactions being carried out are consistent with obliged person's knowledge of the customer, the customer's business profile and summary of possible risks connected with the customer, and the assurance of updating of the documents, data or information on the customer available to the obliged person.
- (2) The obliged person shall apply customer due diligence measures in the following cases:
 - a) when establishing a business relationship,
 - b) when carrying out occasional transactions out of the business relationship amounting to EUR 15 000 or more, and when carrying out occasional transactions in cash out of the business relationship amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which are or can be linked,
 - c) when there is a suspicion that the customer is preparing or performing an unusual business operation regardless of the value,
 - d) when there are doubts about the veracity or completeness of the previously obtained data necessary to apply customer due diligence pursuant to paragraph 1,
 - e) for providers of gambling services, when carrying out transactions amounting to EUR 2 000 or more, whether the transaction is carried out in a single operation or in several operations which are or can be linked or
 - f) for payment of balance of cancelled bearer deposit.
- (3) The obliged person shall also be obliged to carry out the identification of the customer and verification of the customer's identification in carrying out the transaction, whose value amounts to EUR 1 000 and more unless it is the case pursuant to paragraph 2.

(4) The obliged person shall determine the scope of customer due diligence adequately in respect to the risk of money laundering or terrorist financing. In assessing the risk of money laundering or terrorist financing, the obliged person shall be obliged to evaluate and take into account the risk factors listed in risk assessment pursuant to Article 20a (1). During the control, the obliged person shall be obliged to prove that the scope of customer due diligence is adequate to the risk of money laundering or terrorist financing.

(5) The customer shall provide the obliged person with information and documents necessary for customer due diligence or for the identification and verification of the identification pursuant to paragraph 3.

(6) The obliged person shall also verify the validity and completeness of the identification data and information pursuant to paragraph 1 depending on the risk of money laundering or terrorist financing in the course of the business relationship, and record their changes.

(7) In carrying out due diligence, the obliged person shall ascertain whether the customer acts in their own name. If the obliged person finds out that the customer does not act in their own name, it shall call upon the customer to prove, through a binding written declaration, the name, surname, personal number or date of birth of the natural person, or the business name, registered office, and identification number of the legal entity, in whose name the transaction is carried out; the obliged person shall follow the same procedure in case that there doubts whether the customer acts in their own name.

Article 10a

Retention of data on the beneficial owner

(1) The legal entity that is not an entity of general government^{41a} and a special-purpose trust without legal personality shall be obliged to identify their beneficial owner and keep and continuously update in written or electronic form the identification data on the beneficial owner within the scope pursuant to Article 7 (1) (a), the data establishing the status of the beneficial owner pursuant to Article 6a (1), and the data proving the status of the beneficial owner unless such data are part of the verification document in the register of public sector partners.)^{41b}

(2) The legal entity that is not an entity of general government and a special-purpose trust without legal personality shall retain the data on the beneficial owner pursuant to paragraph 1 for the period, during which the natural person has the status of beneficial owner and for further five years after the status has ended.

(3) If the register of legal entities, entrepreneurs, and public authorities^{41c} does not contain the data on the beneficial owner pursuant to paragraph 1 or in case of doubts about the veracity or completeness of such data, at the request of the obliged person, a special unit of service of financial police of the Police Force (hereinafter the "financial intelligence unit"), National Bank of Slovakia, a court, law enforcement authority or general government authority in the area of taxes, fees and customs, the legal entity that is not an entity of general government and a special-purpose trust without legal personality shall be obliged, within a specified time-limit, to report the requested data pursuant to paragraph 1.

Article 11

Simplified due diligence

(1) The obliged person may apply simplified customer due diligence measures for a customer representing a low risk of money laundering or terrorist financing,

a) if the customer is a bank or financial institution pursuant to Article 5 (1) (b) Points 1 to 10, which operates in the territory of a Member State of the European Union or other state party to the Agreement on the European Economic Area (hereinafter the Member State"),

b) if the customer is a bank or financial institution operating in the territory of a third country, which imposes money laundering and terrorist financing prevention and detection requirements equivalent to those laid down hereby, and supervised for compliance with those requirements,

c) if the customer is a legal entity whose securities are admitted to trading on a regulated market of a Member State or a company operating in the territory of a third country, which imposes money laundering and terrorist financing prevention and detection requirements equivalent to those laid down hereby, and that is subject to disclosure requirements consistent with

the requirements pursuant to a special regulation,)³⁷

d) within the scope of identification and verification of identification of the beneficial owner, if the pooled account is administered by a notary or lawyer operating in a Member State or in a third country, which imposes money laundering and terrorist financing prevention and detection requirements equivalent to those laid down hereby, and if the data on the identification of the beneficial owner are available on demand to the obliged person keeping the account,

e) if the customer is an entity of the general government,

f) if the customer is a public authority, and if

1. the customer has been entrusted with public functions pursuant to the Treaty on European Union and the Treaty on the Functioning of the European Union,

2. the identification data of the customer are publicly available, transparent and certain,

3. the activities of the customer are transparent,

4. the accounts of the customer present a true and fair view of the subject of accounting and its financial situation, and

5. the customer is accountable to a Community institution or to the authorities of a Member State, or appropriate check and balance procedures exist ensuring control of the customer's activity.

(2) The obliged person may also apply simplified customer due diligence measures for

a) life insurance policies where the annual premium is no more than EUR 1 000 or the single premium is no more than EUR 2 500,

b) contracts of old-age pension savings with a pension administration company registered in the register of contracts of old-age pension savings,)⁴²

c) participation contract and employer contracts with a complementary pension company,)¹⁴

d) the types of transaction representing a low risk of money laundering or terrorist financing based on risk assessment pursuant to Article 10 (4) and meeting the following conditions:

1. the contract of provision of the type of transaction is in written form,

2. the payments within the type of transaction are made exclusively through an account kept in favour of the customer in a bank of a Member State or third country, which takes measures in the area of money laundering or terrorist financing prevention and detection equal to the measures laid down hereby,

3. the type of transaction or payments within the type of transaction are not anonymous and their nature is such that it allows for the detection of an unusual business operation,

4. a threshold of EUR 15,000 is predetermined for the type of transaction,

5. the benefits of the transaction cannot be realised for the benefit of third parties, except in the case of death, disablement, survival to a predetermined advanced age, or similar events,

6. in the case of transactions allowing for the investment of funds in financial assets or claims, including insurance or other kind of contingent claims, the benefits are only realisable in the long term, the transaction cannot be used as collateral, the type of transaction does not allow accelerated payments are made, and no surrender clauses are used and no early termination takes place.

(3) In carrying out simplified customer due diligence, the obliged person shall be obliged to carry out the identification of the customer and verify whether according to information on the customer or transaction available to the obliged person there is no suspicion that the customer is preparing or carrying out an unusual business operation and whether simplified customer due diligence is needed. If there is a suspicion that the customer is preparing or carrying out an unusual business operation and if there are doubts whether simplified customer due diligence is needed, the obliged person shall be obliged to apply due diligence.

Article 11a

Exemptions from customer due diligence

(1) The obliged person shall not be obliged to carry out customer due diligence pursuant to Article 10, Article 11 and 12 for

a) electronic money⁴³ held on a payment device, to which electronic money cannot be deposited repeatedly, and the maximum amount stored

1. will not exceed EUR 250 or

2. for the electronic money, which can be used only in the territory of the Slovak Republic, will not exceed EUR 500,

b) electronic money held on a payment device, to which electronic money can be deposited repeatedly, and neither the maximum amount stored nor the total monthly limit for the outgoing payment will EUR 250 or

c) payment services provided through the public electronic communication network without the use of electronic money provided that the value of one transaction does not exceed EUR 30 and at the same time, the total monthly limit of payments made from one telephone number does not exceed EUR 250.

(2) The payment devices pursuant to paragraph 1 can be used exclusively for purchases of goods and services and they cannot be funded by anonymous electronic money.

(3) The provision of paragraph 1 shall not be used in case of reverse exchange of cash or cash withdrawal of an amount exceeding EUR 100.

(4) The obliged person shall be obliged to monitor the transactions or business relationships so that it is possible to detect an unusual business operation.

Article 12

Enhanced due diligence

(1) The obliged person shall be obliged to carry out enhanced customer due diligence if based on risk assessment pursuant to Article 10 (4), some of the customers, some of the types of transactions or some particular transaction present a higher risk of money laundering or terrorist financing. The obliged person shall apply enhanced due diligence always for cross-frontier correspondent relationship of the bank and financial institution with a respondent institution from a third country, for a transaction or business relationship with a politically exposed person or with a person established in the country identified as a high-risk country by the European Commission.^{43a}

(2) Enhanced due diligence means that the obliged person shall carry out additional measures of due diligence depending on the risk of money laundering or terrorist financing. Enhanced due diligence shall be carried out at least in the following scope:

a) where the need of enhanced due diligence results from risk assessment pursuant to Article 10 (4) and the customer has not been physically present for identification and identification verification purposes

1. customer identification through additional documents, data or information and supplementary measures to verify or certify the documents supplied,

2. requiring confirmatory certification by other bank, foreign bank operating in the territory of a Member State or financial institution operating in the territory of a Member State that the customer is their customer or

3. ensuring that the first payment is carried out through an account opened in the customer's name with the bank or foreign bank operating in the territory of a Member State, if the customer has submitted a document proving the existence of such account,

b) in respect of cross-frontier correspondent relationship or the bank and financial institution with a respondent institution from a third country

1. gathering information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information their reputation and the quality of supervision,

2. assessing the respondent institution's anti-money laundering and anti-terrorist financing controls,

3. obtaining approval from the statutory body or designated person pursuant to Article 20 (2) (h) before establishing a new correspondent relationship,
 4. documenting the respective responsibilities of each institution,
 5. with respect to payable-through accounts, the ascertainment that the respondent institution has verified the identification of and performed ongoing due diligence on the customer having direct access to accounts of the respondent institution and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request, within due diligence,
- c) in respect of transactions or business relationships with politically exposed persons
1. obtaining approval from the statutory body or designated person pursuant to Article 20 (2) (h) before establishing or continuing in a business relationship,
 2. establishing the source of wealth and source of funds that are involved in the business relationship or transaction,
 3. enhanced ongoing monitoring of the business relationship,
 4. informing the statutory body or designated person pursuant to Article 20 (2) (h) before paying the benefits under the insurance policy.
- (3) The obliged person shall apply the duties related to a politically exposed person pursuant to Article 6 (1) at least for 12 months from the end of performance of the prominent public function; however, maximum until the obliged person excludes for the customer the risk specific for politically exposed persons based on risk assessment pursuant to Article 20a.

Article 13

Performance by third parties

- (1) The obliged person may take over the data and documents pursuant to Article 10 (1) (a) to (c) necessary for customer due diligence from a bank or financial institution pursuant to Article 5 (1) (b) Points 1 to 10, which operates in the territory of a country, which imposes the duty to take measures equivalent to customer due diligence pursuant to Article 10, Articles 11 and 12 and data retention pursuant to Article 19 in compliance with the requirements of the legislation of the European Union, and supervised at the level consistent with the legislation of the European Union.
- (2) The bank or financial institution that has already applied customer due diligence shall immediately provide data within the scope of Article 10 (1) (a) to (c), including the copies of the relevant documentation, to the obliged person following paragraph 1 a ensuring the take-over of the data.
- (3) The procedure carried out by the obliged person pursuant to paragraph 1 shall not relieve it from the responsibility for applying customer due diligence pursuant to this Act.
- (4) The obliged person shall not take over the data and documents pursuant to paragraphs 1 and 2 from the bank or financial institution pursuant to Article 5 (1) (b) Points 1 to 10, which operates in the country identified as a high-risk country by the European Commission.
- (5) The business relations between the obliged persons and the persons acting for the obliged person based on other contractual relationship than as employees shall not be considered performance by third parties.

SECTION THREE

PROCEDURE UPON THE DETECTION OF AN UNUSUAL BUSINESS OPERATION AND OTHER DUTIES OF OBLIGED PERSONS

Article 14

Detecting unusual business operations

- (1) The obliged person shall be obliged to assess, whether the transaction being prepared or carried out is unusual.
- (2) The obliged person shall be obliged to pay special attention to
- a) all complex and unusually large transactions, and to all transactions with unusual patterns,

which have no apparent economic or lawful purpose, where the obliged person shall examine, as far as reasonably possible, the purpose of these transactions,

b) each risk of money laundering or terrorist financing, which can result from a type of transaction, from the particular transaction or new technological procedures in carrying out the transactions that can support anonymity, and it shall take proper measures, if necessary to prevent their use for the purposes of money laundering and terrorist financing.

(3) The obliged person shall make a written record of the transactions pursuant to paragraph 2 (a) and have it available during the control pursuant to Article 29; the written record must contain information justifying the result of transaction assessment.

Article 15

Refusal to establish a business relationship, termination of a business relationship or refusal to carry out a transaction

The obliged person shall be obliged to refuse to establish a business relationship, to terminate a business relationship or refuse to carry out a particular transaction if

a) the obliged person cannot apply customer due diligence within the scope pursuant to Article 10 (1) (a) to (e) or

b) the customer refuses to prove in whose name they act.

Article 16

Delaying unusual business operations

(1) The obliged person shall be obliged to delay an unusual business operation until the unusual business operation is reported to the financial intelligence unit.

(2) The obliged person shall be obliged to delay an unusual business operation if there is a threat that if it is carried out, it can frustrate or essentially hinder the seizure of proceeds from criminal activity or funds determined for terrorist financing; or if asked for it by the financial intelligence unit in writing, until it receives the notice from the financial intelligence unit that it has to carry out the unusual business operation, however, maximum for 120 hours; after the expiry of this time-limit, the obliged person shall be obliged to delay the unusual business operation based on the notice from the financial intelligence unit that the matter has been handed over to law enforcement authorities, however, no longer than for additional 72 hours. The period of delaying the unusual business operation shall not include Saturdays and rest days. The obliged person shall immediately inform the financial intelligence unit on the delaying of the unusual business operation.

(3) The obliged person shall not delay the unusual business operation if

a) it cannot be delayed for operational or technical reasons; the obliged person shall immediately inform the financial intelligence unit on this fact; or

b) the delay could, according to the previous notice from the financial intelligence unit, frustrate the processing of the unusual business operation.

Article 17

Reporting unusual business operations

(1) The obliged person shall report the unusual business operation or the attempted unusual business operation to the financial intelligence unit without undue delay. The obliged person shall also immediately report the refusal to carry out a requested unusual business operation pursuant to Article 15 to the financial intelligence unit.

(2) The reporting duty shall be fulfilled by reporting the unusual business operation in the way guaranteeing that information contained therein will be kept secret from an unauthorised person,

a) in person,

b) in writing,

- c) in electronic form or
 - d) by phone if the matter brooks no delay; such report shall also be provided in person, in writing or in electronic form within three days from the receipt of the report by the financial intelligence unit.
- (3)** The report of the unusual business operation shall contain:
- a) name, registered office or place of business, and identification number of the obliged person,
 - b) the data within the scope pursuant to Article 7 obtained by identifying the persons connected with the unusual business operation,
 - c) the data on the unusual business operation, in particular the reason of its unusual character, information on the essential circumstances of the transaction, the time flow of events, account numbers, data on the time of their opening, who is their owner and who is authorised to dispose of them, photo copies of the documents based on which the accounts were opened, identifications of the persons authorised to dispose of the accounts, photo copies of the contracts concluded and other related documents and information, as well as other information that can be connected with the unusual business operation and is important for its further assessment,
 - d) the data on the third persons having knowledge of the unusual business operation,
 - e) name and surname of the person pursuant to Article 20 (2) (h) and the phone contact to the person.
- (4)** The report of the unusual business operation must not contain the data on the employee who has detected the unusual business operation.
- (5)** Based on a written request, the obliged person shall provide the financial intelligence unit with additional information to the report of the unusual business operation including the related documents on the unusual business operation.
- (6)** The report of the unusual business operation shall not affect the duty to report the facts suggesting the commission of crime.

Article 18

Obligation of secrecy

- (1)** The obliged person, the employee of the obliged person, as well as the person acting for the obliged person based on other contractual relationship, shall be obliged to keep confidential the reporting of the unusual business operation and the measures taken by the financial intelligence unit in relation to third persons including the persons concerned by the information. The obligation of secrecy shall also apply to the fulfilment of other duties by the obliged person pursuant to Article 17 (5) and Article 21 (1).
- (2)** The employees of the National Bank of Slovakia and of the supervision authority pursuant to a special regulation⁴⁴ shall be obliged to keep confidential the facts which they have learnt of while performing control pursuant to Article 29 in relation to third persons including the persons concerned by the information.
- (3)** The obligation of secrecy of the persons mentioned in paragraphs 1 and 2 shall survive the termination of employment, similar labour relation or other contractual relation.
- (4)** The obligation of secrecy shall apply to everyone who becomes familiarised with the information obtained based on this Act while fulfilling the tasks of the financial intelligence unit or in connection with them.
- (5)** The obliged person may not claim the obligation of secrecy from the National Bank of Slovakia and supervision authority pursuant to a special regulation⁴⁴ in performing supervision and control pursuant to Article 29, and from the competent court within the scope necessary for fulfilling their tasks in identifying the beneficial owner and in keeping the register of public sector partners.^{53a}
- (6)** The financial intelligence unit shall relieve the obliged person from the obligation of secrecy in the case of proceedings before
- a) law enforcement authorities,
 - b) court,
 - c) an authority authorised pursuant to a special regulation⁴⁵ to make decisions on the suggestion of withdrawal of the authorisation for business activity or other independent gainful activity pursuant to Article 34.

(7) The financial intelligence unit shall relieve the obliged person from the obligation of secrecy in the case of proceedings concerning damage compensation pursuant to Article 35 and proceedings before the administrative authority making decisions on the remonstrance against the decision for the violation of a duty laid down in this Act issued in administrative proceedings if it is necessary for such proceedings and it does not frustrate the processing of the unusual business operation.

(8) On the assumption that the provided information will be used exclusively for the purposes of prevention of money laundering or terrorist financing, the obligation of secrecy pursuant to paragraph 1 shall not apply to the provision of information between

a) the banks or financial institutions operating in the territory of a Member State or in the territory of a third country, which imposes money laundering and terrorist financing prevention and detection requirements equivalent to those laid down hereby, and belonging to the same financial conglomerate,⁴⁶

b) the obliged persons pursuant to Article 5 (1) (h) and (j) operating in the territory of a Member State or in the territory of a third country, which imposes money laundering and terrorist financing prevention and detection requirements equivalent to those laid down hereby, if they perform their activity as employees within the same legal entity or group of legal entities, which has joint ownership, management or control of observance of regulations,

c) banks, financial institutions, obliged persons pursuant to Article 5 (1) (h) and (j) in the cases concerning the same customer and the same transaction with the participation of two or more institutions or persons provided that they operate in the territory of a Member State or in the territory of a third country, which imposes money laundering and terrorist financing prevention and detection requirements equivalent to those laid down hereby, and they are obliged persons of the same type and are subject to equivalent measures for the observance of secrecy obligation and personal data protection.

(9) Obligated persons may provide information to each other pursuant to paragraph 8 even without the consent of the persons concerned.⁴⁷

(10) If the obliged person pursuant to Article 5 (1) (h) to (j) acts with a view to prevent the customer from committing an illegal act, the conduct of the obliged person shall not be considered a violation of secrecy obligation pursuant to paragraph 1.

(11) The state authorities pursuant to Article 26 (3) shall be obliged to maintain secrecy in relation to information and documents provided to them pursuant to Article 26 (3).

(12) The fulfilment of the duties pursuant to this act is not limited by the statutory duty to maintain secrecy pursuant to special regulations.^{47a}

Article 19

Data processing and retention

(1) For the purposes of customer due diligence and for the purposes of detection of unusual business operations pursuant to Article 14, the obliged person shall be authorised, even without the consent of the persons concerned, to identify, obtain, record, retain, use and otherwise process⁴⁸ personal data and other data within the scope pursuant to Article 10 (1), Article 11 (3), and Article 12 (1) and (2); the obliged persons shall be entitled to obtain personal data necessary for reaching the purpose of processing by copying, scanning or other recording of official documents to an information carrier and to process personal numbers and other data and documents without the consent of the person concerned⁴⁹ within the scope pursuant to Article 10 (1), Article 11 (3), and Article 12 (1) and (2).

(2) The obliged person shall retain, for a period of five years

a) after the termination of the contractual relationship with the customer, the data and written documents obtained pursuant to Article 10, Article 11, Article 12 and 14,

b) after the transaction has been carried out, all the data and written documents about the transaction.

(3) The obliged person shall be obliged to retain the data and written documents pursuant to paragraph 2 for even longer period than five years, if this is requested in writing by the financial intelligence unit; in its request, the financial intelligence unit shall provide the period, which must not exceed additional five years, and the scope of retention of the data and written documents.

(4) The person terminating the activity of the obliged person shall also have the duties pursuant to paragraphs 2 and 3, until

the expiry of the period, for which the obliged person is obliged to retain the data and written documents mentioned in paragraphs 2 and 3.

(5) Copies of documents must be produced in such a way that the respective data are legible and can be retained pursuant to paragraphs 2 and 3; the image of the identified natural person in the identity document must have such quality that verification of appearance of the person identified is possible.

Article 20

Programme of obliged person's activity

(1) The obliged person shall work out in writing and update the programme of its anti-money laundering and countering the terrorist financing activity (hereinafter the "programme") in the official language⁵⁰ with respect to its own organisational structure and objects of activity so that its contents and focus allow the obliged person and its employees to fulfil the anti-money laundering and countering the terrorist financing duties pursuant to this act. The obliged person shall be obliged to update the programme in particular in connection with a change of objects of activity of the obliged person or before starting providing new products, if the change of objects of activity or commencement of the provision of new products can affect an increase in the risk of money laundering and terrorist financing. The programme shall be approved by the statutory body of the obliged person.

(2) The programme shall contain

- a)** the summary of particular forms of unusual business operations according to the objects of activity of the obliged person, which can occur in its business activity,
- b)** the way of customer due diligence,
- c)** the way of risk assessment and management pursuant to Article 20a,
- d)** the procedure in assessing, whether the transaction being prepared or carried out is unusual,
- e)** the procedure from the moment of detection of an unusual business operation to its immediate reporting to the financial intelligence unit, including the procedure and responsibility of employees assessing the unusual business operation,
- f)** the procedure in delaying unusual business operation pursuant to Article 16,
- g)** the procedure in retaining data pursuant to Article 19,
- h)** the designation of the person ensuring the fulfilment of tasks in the protection against money laundering and terrorist financing, reporting unusual business operations, and providing ongoing liaison with the financial intelligence unit, with the provision of their name, surname and job position; if such person is not the statutory body or a member of the statutory body, the person must be a manager with the possibility of direct communication with the statutory body and supervisory body and with access to the information and documents obtained by the obliged person during customer due diligence,
- i)** the way of assurance of protection of the employee detecting unusual business operations,
- j)** the content and schedule of professional training of the employees who can encounter unusual business operations at work,
- k)** the way of control of the observance of the programme and duties resulting from this Act for the obliged person.

(3) The obliged person shall ensure professional training of employees focused on the familiarisation with the programme, at least once per calendar year and always before assigning the employee to job in order to fulfil the tasks pursuant to this Act. The obliged person shall ensure continuous access to the programme for each employee who fulfils the tasks pursuant to this Act.

(4) The obliged person pursuant to Article 5 (1) (e), (h) to (k), who only performs the activity pursuant to this Act on the contract basis for other obliged person, need not work out its own programme if it follows the programme of the obliged person for which it performs the activity on the contract basis.

Article 20a

Risk assessment

(1) Within the performance of the activities pursuant to this Act, the obliged person shall be obliged to identify, assess, evaluate and update the risks of money laundering and terrorist financing according to the types of transactions and business relationships, taking into account its own risk factors and the risk factors listed in Annex No. 2. The obliged person shall determine the risk factors in particular according to the type of customer, purpose, regularity and length of duration of the business relationship or occasional transaction out of the business relationship, product type, value and way of transaction execution, and the rate of risk in the country to which the business relationships or transactions are related.

(2) Risk assessment must contain the determination of the methods and types of measures, based on which the obliged person manages and mitigates risks in its activities, performs internal control, and verifies employees. Risk assessment must be adequate to the nature and size of the obliged person and must take into account the results of the national risk assessment pursuant to Article 26a.

(3) In its branches and subsidiaries, in which it holds a majority interest and which are located in the territory of a third country, the obliged person shall apply group policies and procedures for the purposes of anti-money laundering/countering the financing of terrorism, including the procedures for information exchange within the group, and personal data protection within the scope allowed by the legislation of the third country.

Article 21

Other duties of the obliged person

(1) The obliged person shall provide the financial intelligence unit for the purposes of fulfilment of its tasks pursuant to this Act with the data on business relationships or transactions, submit documents about them and provide information on the persons that took part in the transaction in any way, if the financial intelligence unit requests for it in writing; in its request, the financial intelligence unit shall provide the time-limit.

(2) The obliged person shall introduce an effective system of the size and nature corresponding to the activity of the obliged person, which will allow providing the financial intelligence unit with the data pursuant to paragraph 1 at the request of the financial intelligence unit without undue delay.

(3) When establishing a business relationship or carrying out an occasional transaction out of the business relationship, the obliged person shall advise the customer of the obliged person's duty to process personal data for the purposes of preventing and detecting money laundering and terrorist financing within the scope provided in Article 19 (1).

(4) The obliged person having a branch or organisational unit in other Member State shall ensure that the branch or organisational unit observes national regulations concerning anti-money laundering and countering the terrorist financing of the other Member State.

(5) In its branches or subsidiaries situated in the territory of a third country, the obliged person shall take measures equivalent with customer due diligence pursuant to Article 10, Articles 11 and 12 and data retention pursuant to Article 19 in compliance with the requirements of the legislation of the European Union. If the legal regulations of the third country do not permit to take such measures, the obliged person shall inform the financial intelligence unit about it and adopt additional measures in order to prevent money laundering or terrorist financing.

Article 22

Special provisions on lawyers and notaries

(1) The provisions of Article 17 (1) and (5) and Article 21 (1) shall not apply to lawyers in relation to information on the customer that they receive from the customer or in other way in the course of or in relation to

- a)** the preparation of legal analyses; this shall not apply if the legal analysis is provided for the purposes of money laundering and terrorist financing,
- b)** defending the customer in criminal proceedings,
- c)** representing the customer in judicial proceedings or
- d)** the provision of legal advice concerning the proceedings mentioned in letters (b) and (c) including providing legal advice on instituting or avoiding the proceedings mentioned in letters (b) and (c),

whether such information is received or obtained before, during or after such proceedings.

(2) The provisions of Article 17 (1) and (5) and Article 21 (1) shall not apply to notaries in relation to information on the customer that they receive from the customer or in other way in the course of or in relation to the provision of legal advice concerning the proceedings mentioned in paragraph 1 (b) and (c) including providing advice on instituting or avoiding the proceedings mentioned in paragraph 1 (b) and (c), whether such information is received or obtained before, during or after such proceedings.

Article 23

Special provisions on auditors, accountants and tax advisors

The provisions of Article 17 (1) and (5) and Article 21 (1) shall not apply to auditors, external accountants and tax advisors in relation to information on the customer that they receive from the customer or in other way in the course of or in relation to the provision of legal advice concerning the proceedings mentioned in Article 22 paragraph 1 (b) and (c) including providing advice on instituting or avoiding the proceedings mentioned in Article 22 paragraph 1 (b) and (c), whether such information is received or obtained before, during or after such proceedings.

Article 24

Special provisions on banks and financial institutions

(1) Banks or financial institutions must not enter into or continue a correspondent relationship with a shell bank or a bank that is known to have entered into a correspondent relationship with a shell bank or with a bank, which does not take measures against money laundering and terrorist financing equivalent to the duties laid down by this Act.

(2) Banks and financial institutions shall be obliged to refuse to enter into a business relationship, perform a particular transaction or type of transaction while preserving the customer's anonymity.

(3) The rights and duties laid down by this Act for banks shall, in carrying out transactions pursuant to a special regulation,⁵¹ also apply to the National Bank of Slovakia, except for the provisions of Article 29 (1), Articles 32 and 33.

SECTION FOUR

TRUSTS AND NATIONAL ADMINISTRATOR

Article 25

(1) A trust shall carry out the identification of the donor and identification of the natural person or legal entity that were provided with funds from the trust, if the value of the donation or the amount of funds provided amounts to EUR 1,000 or more.

(2) The financial intelligence unit is entitled to carry out the control in the trust pursuant to Article 29 for the purposes of identification of the beneficial owner and verification of the veracity and completeness of the data on the beneficial owner, identification of persons pursuant to paragraph 1 or for the purposes of property disposal review. During control, the trust shall have the same duties as the obliged person pursuant to Article 30.

Article 25a

(1) Within the scope of its activity, the national administrator^{51a} shall be obliged

- a)** to carry out customer due diligence pursuant to Article 10, Articles 11 and 12 within the scope corresponding to the activity when an account is opened,
- b)** to assess, whether the transaction being prepared or carried out is unusual,
- c)** to report an unusual business operation to the financial intelligence unit pursuant to Article 17,
- d)** to observe the obligation of secrecy pursuant to Article 18,
- e)** to process and retain data pursuant to Article 19,
- f)** to work out a programme containing details pursuant to Article 20 (2) (a) to (e) and (g) to (k),

- g)** to ensure professional training of employees pursuant to Article 20 (3),
- h)** to provide the financial intelligence unit with the data, information, and documents pursuant to Article 21 (1),
- i)** to introduce the system pursuant to Article 21 (2).

(2) The financial intelligence unit is entitled to carry out the control pursuant to Article 29 at the national administrator's place for the purposes of fulfilment and observance of duties pursuant to paragraph 1. During control, the national administrator shall have the same duties as the obliged person pursuant to Article 30.

SECTION FIVE

STATUS AND TASKS OF THE FINANCIAL INTELLIGENCE UNIT AND OTHER BODIES

Article 26

Financial intelligence unit

(1) The financial intelligence unit fulfils the tasks of central national unit in the area of preventing and detecting money laundering and terrorist financing.

(2) The financial intelligence unit

- a)** receives, analyses, evaluates and processes reports of unusual business operations and other information related to money laundering and terrorist financing for the fulfilment of tasks pursuant to this Act or pursuant to a special regulation,⁵²
- b)** assigns the matter to law enforcement authorities if the facts suggest that a crime has been committed,
- c)** requests and checks the fulfilment of duties of obliged persons laid down by this Act,
- d)** submits a suggestion of imposing a penalty upon the obliged person for the violation of or a failure to fulfil the duties imposed by this Act to the body authorised pursuant to special regulations⁵³ to impose the penalty upon the obliged person, if it does not act in the matter itself pursuant to Article 32 or 33,
- e)** submits a suggestion of withdrawal of the authorisation for business activity or other independent gainful activity of the obliged person for the repeated violation of or a failure to fulfil the duties imposed by this Act to the body authorised to make the decision on the withdrawal of the authorisation pursuant to a special regulation,⁴⁵
- f)** requests the notification of the way of execution of the submitted suggestions and proposals and of the measures taken by the bodies that have been submitted the proposal for imposing a penalty or suggestion withdrawal of the authorisation pursuant to letters (c) a (d); these bodies shall be obliged to notify the financial intelligence unit,
- g)** maintains secrecy regarding the content and origin of information obtained from the obliged person or national administrator through the fulfilment of their notification duty, and ensures the protection of information obtained in such way unless otherwise laid down by this Act,
- h)** publishes information on the forms and ways of money laundering and terrorist financing and on the way of detection of unusual business operations,
- i)** informs the obliged person or the national administrator on the efficiency of the report of unusual business operation and on the procedures following the receipt of the report of unusual business operation unless it frustrates the processing of the unusual business operation,
- j)** provides information obtained during its activity based on this Act to the tax administrator and government authorities in the area of taxes, fees and customs if the information is relevant for tax administration and such provision does not endanger the fulfilment of the tasks of the financial intelligence unit,
- k)** provides, without undue delay, the competent court with the identification of the beneficial owner of the obliged person's customer, always when during its activity, the financial intelligence unit detects inconsistencies in the identification of the beneficial owner pursuant to this Act and the beneficial owner registered in the register of public sector partners,^{53a}
- l)** forwards information to the Police Force for the fulfilment of tasks pursuant to a special regulation,^{53b}

m) submits a suggestion to an authorised authority for the performance of supervision, control, state supervision or state oversight of the obliged person for the violation or failure to fulfil the duties imposed by special regulations.)^{53c}

(3) The financial intelligence unit provides all the information and documents obtained pursuant to this Act to the state authorities fulfilling the tasks in the area of protection of constitutional arrangement, internal order and security of the State for the fulfilment of their statutory tasks in the fight against terrorism and organised criminal activity. The provided information shall not contain the data on its originator.

(4) If there is a suspicion of violation of secrecy pursuant to Article 18 (11), the state authorities pursuant to paragraph 3 shall be obliged, based on the request from the financial intelligence unit, to provide information and documents on the way of disposal of the information and documents provided pursuant to paragraph 3.

Article 26a

National risk assessment

(1) The financial intelligence unit shall conduct the national assessment of the risks of money laundering and terrorist financing at the level of the Slovak Republic. On demand, the obliged persons, the National Bank of Slovakia, law enforcement authorities, other involved state authorities, and other institutions shall participate in preparing and updating the national risk assessment and they shall be obliged to provide the financial intelligence unit with necessary cooperation.

(2) Risk assessment pursuant to paragraph 1 shall take into account the risk factors provided in Annex No. 2, as well as risk assessment worked out by European Union authorities and other international institutions.

(3) National risk assessment shall be updated in particular with respect to the development of risks of money laundering and terrorist financing, and with respect to the activity of European Union bodies.

Article 27

Maintaining statistics

(1) The financial intelligence unit shall maintain summary statistics which shall cover the number of received reports of unusual business transactions, individual methods of the follow-up given to these reports of unusual business transactions and their number, including the number of cases assigned to law enforcement authorities or tax administrators per calendar year, the number of persons prosecuted, the number of persons convicted for money laundering offence or terrorism and some forms of participation in terrorism offence, types of offences, how much property has been frozen, seized or confiscated, and the data on the number and way of execution of requests from foreign counterparts. Once a year, the financial intelligence unit publishes the summary of the statistics in an annual report. The reports of the financial intelligence unit shall include information on the activity of the unit.

(2) For the purposes of maintaining statistics, the financial intelligence unit shall be entitled to request from public authorities, obliged persons and from the national administrator the documents and information necessary for maintaining such statistics.

(3) Public authorities, obliged persons, and the national administrator shall be obliged to provide the data necessary for maintaining the statistics for free, completely, correctly, and within the time-limits specified by the financial intelligence unit.

Article 28

International cooperation

(1) The financial intelligence unit cooperates with the competent bodies of Member States and with the European Commission, the Council of the European Union and the Secretariat of the Council of the European Union, in particular in exchanging and verifying the information necessary for money laundering and terrorist financing prevention and detection.

(2) The financial intelligence unit cooperates with the bodies of other countries within the scope and under the conditions laid down in the international treaty binding the Slovak Republic or on the basis of non-contractual reciprocity principle.

(3) The financial intelligence unit can also cooperate with the international organisations operating

in the area of preventing and detecting money laundering and terrorist financing.

Control

Article 29

- (1)** The financial intelligence unit shall carry out the control of fulfilment and observance of the obliged person's duties laid down by this Act.
- (2)** The control of fulfilment and observance of duties can also be carried out for a person, which has ceased to be an obliged person, within the scope of duties under the Act at the time, when it was an obliged person.
- (3)** The control of fulfilment and observance of the duties laid down by this Act shall also be carried out, for the obliged persons subject to supervision by the National Bank of Slovakia pursuant to a special regulation,⁵⁴ by the National Bank of Slovakia, and for the obliged persons supervised by a supervision authority pursuant to a special regulation,⁴⁴ also by this authority.
- (4)** Before the commencement of the control pursuant to paragraph 3, the National Bank of Slovakia and the supervision authority pursuant to a special regulation⁴⁴ shall notify the financial intelligence unit of the name, place of business or registered office, identification number and type of the obliged person pursuant to Article 5, at whose place the control will be carried out, and after the completion of the control, the result of the control and measures adopted. If during the control, the National Bank of Slovakia or the supervision authority pursuant to a special regulation⁴⁴ detects an unusual business operation or other facts, which could be related to money laundering or terrorist financing, they shall notify it to the financial intelligence unit without undue delay.
- (5)** If the National Bank of Slovakia or the supervision authority pursuant to a special regulation⁴⁴ commences proceedings for imposing a sanction for a failure to fulfil the the duties laid down by this Act, they shall notify the financial intelligence unit, without undue delay, of the date of commencement of the administrative delinquency proceedings, the identification data of the obliged person, the legal qualification and facts of the administrative delinquency committed by the obliged person. After the legally valid completion of administrative delinquency proceedings, the National Bank of Slovakia or the supervision authority pursuant to a special regulation⁴⁴ shall send a counterpart of the legally valid decision on the administrative delinquency to the financial intelligence unit. The financial intelligence unit shall notify the National Bank of Slovakia or the supervision authority pursuant to a special regulation⁴⁴ of the data on proceedings commencement and information on the legally valid decision if these concern the obliged person supervised by it.
- (6)** Based on a mutual agreement, the financial intelligence unit can carry out control of the fulfilment of duties under this Act by the obliged person together with the National Bank of Slovakia or the supervision authority pursuant to a special regulation⁴⁴.

Article 30

- (1)** The obliged person shall create adequate conditions for the financial intelligence unit to carry out the control, provide the financial intelligence unit with necessary cooperation and refrain from any conduct which could frustrate the performance of control.
- (2)** For the purposes of control of the observance and fulfilment of the duties pursuant to this Act, the obliged person shall allow the financial intelligence unit to access the documents or IT equipment, other technology and records on the technical data carrier, to inspect them, make excerpts, notes and copies of them; it shall prepare an official record of it. The obliged person shall be obliged to provide professional written statements related to the objects of its activity.
- (3)** On demand, the obliged person shall provide the financial intelligence unit with any information and written documents in the official language concerning the fulfilment of duties pursuant to this Act for the period of previous five years. If the documentation is prepared in other than the official language, the obliged person shall also submit, at its own expense, the officially certified translation of the documentation into the official language. The financial intelligence unit shall specify a time-limit for the obliged person for submitting the requested documentation.
- (4)** The person shall have the duty pursuant to paragraph 3 for a period of five years from the date, on which it ceased to be an obliged person.
- (5)** The control pursuant to this Act shall not be governed by the general regulation on control in state administration.⁵⁶

Article 31

Notification duty of the authority performing supervision, control, state supervision or state oversight

The authority performing supervision, control, state supervision or state oversight of the activity of obliged persons shall notify the financial intelligence unit without undue delay of any suspicion of violation of this Act or an unusual business operation if it detects the suspicion of violation of this Act or the unusual business operation when carrying out the activities under its competence.

SECTION SIX

ADMINISTRATIVE DELINQUENCIES AND MEASURES

Article 32

Delinquencies

- (1) A delinquency pursuant to this Act shall be committed by everybody who violates the obligation of secrecy pursuant to Article 18.
- (2) A penalty amounting up to EUR 3,319 can be imposed for the delinquency pursuant to paragraph 1.
- (3) The delinquency pursuant to paragraph 1 shall be discussed by the financial intelligence unit.
- (4) Delinquencies and discussing them shall be governed by the general regulation on delinquencies.)⁵⁷

Article 33

Other administrative delinquencies

- (1) The financial intelligence unit may impose a penalty up to EUR 1,000,000 upon a legal entity and a natural person - entrepreneur if they fail to fulfil or violate some of the duties laid down by this Act in Article 10 (1) to (4) and (6), Article 12, Article 14 to 17, Article 19 (2) to (4), Article 21, Article 24 (1) and (2) unless otherwise laid down in paragraph 2.
- (2) The financial intelligence unit may impose a penalty up to EUR 5,000,000 upon a bank or financial institution if they fail to fulfil or violate some of the duties laid down in paragraph 1.
- (3) The financial intelligence unit may impose a penalty up to EUR 200,000 upon a legal entity and a natural person - entrepreneur if they fail to fulfil or violate some of the duties laid down by this Act if such duty is not mentioned in paragraph 1 or paragraph 2.
- (4) In determining the amount of the penalty, the financial intelligence unit shall take into account the seriousness, length of duration of unlawful conduct and its consequences, if they can be determined, the level of cooperation provided by the obliged person during the control, the size and nature of the business activity of the obliged person, and the repeated failure to fulfil or violation of the duties laid down by or on the basis of this Act.
- (5) The penalty pursuant to paragraphs 1 to 3 can be imposed within three years from the day, on which the financial intelligence unit detected the violation of the duty, no later than within five years from the day, on which the violation of the duty occurred. The violation of the duty shall be considered detected on the day of preparation of a written notice of the control findings.
- (6) The financial intelligence unit may also impose the duty to refrain from unlawful conduct or to eliminate the defects found.
- (7) The administrative delinquencies proceedings shall be governed by the general regulation on administrative proceedings.)⁵⁸

Article 33a

- (1) In addition to the penalty for administrative delinquencies listed in Article 33 (1) and (2), the financial intelligence unit may also impose upon the legal entity and natural person - entrepreneur the sanction of publishing the legally valid decision on imposing the sanction for an administrative delinquency taking into account the nature and seriousness as well as the circumstances of the administrative delinquency committed.
- (2) The sanction of publishing the legally valid decision on imposing the sanction for an administrative delinquency consists in publishing the operative part of the legally valid decision on imposing the sanction for an administrative delinquency at the website

of the financial intelligence unit for a period of five years.

(3) The sanction of publishing the legally valid decision on imposing the sanction for an administrative delinquency cannot be imposed if

- a)** this would endanger the stability of the financial market or
- b)** its imposition would be apparently inadequate to the nature and seriousness of the administrative delinquency committed.

(4) The operative part of the published legally valid decision on imposing the sanction for an administrative delinquency must not contain the data allowing the identification of other person than the obliged person.

Article 34

Suggestion of withdrawal of the authorisation for business activity or other independent gainful activity

If the financial intelligence unit finds out that the obliged person fails to fulfil or violates the duties laid down by this Act for more than 12 consecutive months or repeatedly, it shall submit a suggestion to the authority entitled to make decision on the withdrawal of the authorisation for business activity or other independent gainful activity pursuant to a special regulation;⁴⁵ this authority shall be obliged to inform the financial intelligence unit in writing on the way of suggestion execution within 30 days from the delivery of the suggestion.

SECTION SEVEN

LIABILITY FOR DAMAGE

Article 35

(1) Neither the obliged person nor its employee or the person acting for the obliged person based on other contractual relationship shall be liable for damage incurred by reporting or delaying an unusual business operation if they act bona fide. If there is any doubt, the obliged person, its employee or the person acting for the obliged person based on other contractual relationship shall be considered to have acted bona fide in reporting or delaying an unusual business operation.

(2) The State shall be liable for damage. Compensation for damage shall be provided by the Ministry of Interior of the Slovak Republic representing the State.

(3) The title to compensation for the damage incurred by reporting or delaying an unusual business operation shall be negotiated preliminarily in advance based on a written request of the aggrieved party for a preliminary negotiation of the title (hereinafter the "request") with the Ministry of Interior of the Slovak Republic.

(4) If the Ministry of Interior of the Slovak Republic fails to satisfy the title to compensation for the damage or a part of it within three months from the receipt of the request, the aggrieved party may seek the satisfaction of the title or its unsatisfied part before court.

(5) At the request of the Ministry of Interior of the Slovak Republic, everyone shall be obliged, without undue delay, to notify in writing the facts relevant for the preliminary negotiation of the title and for the judicial proceedings in the matter of compensation for damage.

(6) During the preliminary negotiation of the title pursuant to paragraph 3, the limitation of time for damage compensation shall be interrupted from the day of lodging the request to the completion of the negotiation, however, maximum for three months.

(7) The legal relations concerning the compensation for the damage incurred by reporting or delaying an unusual business operation shall be governed by the general regulation on damage compensation⁵⁹ unless otherwise laid down by this Act.

(8) The provisions of paragraphs 1 to 7 shall also apply accordingly to the national administrator.

Article 35a

Derogations from the duty to provide data accompanying transfers of funds

The duties pursuant to a special regulation⁶⁰ shall not apply to the transfers of funds used for payment for the delivery of goods or provision of services if

- a) the transfer is carried out in the territory of the Slovak Republic,
- b) the provider of payment services of the payee is able to trace, through the unique transaction code identifier, the transfer of funds from the natural person or legal entity having a contract with the payee on the delivery of goods or provision of service, and
- c) the amount of the transfer of funds does not exceed EUR 1,000.

SECTION EIGHT

TRANSITIONAL AND FINAL PROVISIONS

Article 36

Transitional provisions

- (1) The obliged person shall also carry out due diligence pursuant to Article 10 and enhanced due diligence pursuant to Article 12 in relation to the existing customers depending on the risk of money laundering or terrorist financing by 31 December 2009.
- (2) The programme of activity against money laundering adopted by the obliged person before 1 September 2008 shall be considered the programme of obliged person's activity pursuant to this Act till 31 December 2008.
- (3) The obliged persons shall work out the programme of obliged person's activity pursuant to Article 20 by 31 December 2008.
- (4) The trust shall work out a written list of beneficial owners no later than by 28 February 2009.
- (5) Banks and financial institutions shall be obliged to introduce the electronic systems pursuant to Article 24 (4) no later than by 31 August 2009.
- (6) The provisions of the legal regulation effective till 31 August 2008 shall apply to imposing penalties for administrative delinquencies laid down by the legal regulation effective till 31 August 2008, which occurred before 1 September 2008.

Article 36a

Transitional provisions to amendment effective from 15 March 2018

- (1) The Ministry of Interior of the Slovak Republic shall be obliged to ensure the fulfilment of the duty pursuant to Article 8 (6) no later than from 1 March 2019.
- (2) The programme of obliged person's activity pursuant to Article 20 in the wording effective from 15 March 2018 shall be worked out by obliged persons by 15 May 2018.
- (3) The proceedings commenced and unfinished with legal validity before 15 March 2018 shall be finished according to the regulations effective till 14 March 2018. The legal effects of the acts occurred in the proceedings before 15 March 2018 shall remain preserved.
- (4) The control of an obliged person commenced and unfinished before 15 March 2018 shall be finished according to the regulations effective till 14 March 2018. The legal effects of the acts occurred in the control before 15 March 2018 shall remain preserved.

Article 37

This Act transposes the legally binding acts of the European Union specified in Annex No. 1.

Article 38

Repealing provision

Act No. 367/2000 Coll. on protection against money laundering and on the amendment to certain acts as amended by Act No. 566/2001 Coll., Act No. 445/2002 Coll., Act No. 171/2005 Coll., and Act No. 340/2005 Coll. is repealed.

PART II

Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Force as amended by Act of the National Council of the Slovak Republic No. 251/1994 Coll., Act of the National Council of the Slovak Republic No. 233/1995 Coll., Act of the National Council of the Slovak Republic No. 315/1996 Coll., Act No. 353/1997 Coll., Act No. 12/1998 Coll., Act No. 73/1998 Coll., Act No. 256/1998 Coll., Act No. 116/2000 Coll., Act No. 323/2000 Coll., Act No. 367/2000 Coll., Act No. 490/2001 Coll., Act No. 48/2002 Coll., Act No. 182/2002 Coll., Act No. 422/2002 Coll., Act No. 155/2003 Coll., Act No. 166/2003 Coll., Act No. 458/2003 Coll., Act No. 537/2004 Coll., Act No. 69/2005 Coll., Act No. 534/2005 Coll., Act No. 558/2005 Coll., Act No. 255/2006 Coll., Act No. 25/2007 Coll., Act No. 247/2007 Coll., Act No. 342/2007 Coll., and Act No. 86/2008 Coll. shall be amended as follows:

1. In Article 2 (1) (c), the conjunction "and" shall be replaced by comma and the words "money laundering)¹" shall be replaced by the words "money laundering and terrorist financing)¹".

The footnote to reference 1 shall read:

"**1)** Act No. 297/2008 Coll. on protection against money laundering and terrorist financing and on the amendment to certain acts."

2. In the title of Article 29a, the conjunction "and" shall be replaced by comma and at the end, the following words shall be added: "and terrorist financing".

3. In Article 29a, paragraph 5 shall read as follows:

"**(5)** A special unit of financial police fulfils tasks in preventing and detecting money laundering and terrorist financing pursuant to a special regulation.¹⁾".

4. In Article 36, the words "and terrorist financing" shall be added after the words "criminal activity".

5. In Article 72a, the words "and terrorist financing" shall be added after the words "money laundering".

PART III

Act No. 483/2001 Coll. on banks and on the amendment to certain acts as amended by Act No. 430/2002 Coll., Act No. 510/2002 Coll., Act No. 165/2003 Coll., Act No. 603/2003 Coll., Act No. 215/2004 Coll., Act No. 554/2004 Coll., Act No. 747/2004 Coll., Act No. 69/2005 Coll., Act No. 340/2005 Coll., Act No. 341/2005 Coll., Act No. 214/2006 Coll., Act No. 644/2006 Coll., Act No. 209/2007 Coll., and Act No. 659/2007 Coll. shall be amended as follows:

In Article 89 (4), the amount of "EUR 2,500" shall be replaced by the amount of "EUR 2,000".

PART IV

Act No. 429/2002 Coll. on stock exchange as amended by Act No. 594/2003 Coll., Act No. 43/2004 Coll., Act No. 635/2004 Coll., Act No. 747/2004 Coll., Act No. 209/2007 Coll., and Act No. 8/2008 Coll. shall be amended as follows:

1. In Article 14 (1), at the end, the following words shall be added: "and against terrorist financing".

2. Reference 21 and the footnote to reference 21 shall be omitted.

PART V

Act No. 586/2003 Coll. on advocacy and on the amendment to Act No. 455/1991 Coll. on trade licensing (Trade Licensing Act) as amended, as amended, as amended by Act No. 8/2005 Coll., Act No. 327/2005 Coll., and Act No. 331/2007 Coll. shall be amended as follows:

In Article 23 (1), at the end, the following words shall be added: ",unless otherwise laid down by a special regulation in the area of preventing and detecting money laundering and terrorist financing^{13a)}".

The footnote to reference 13a shall read:

"13a) Act No. 297/2008 Coll. on protection against money laundering and terrorist financing and on the amendment to certain acts."

PART VI

Act No. 581/2004 Coll. on health insurance companies, healthcare supervision and on the amendment to certain acts as amended by Act No. 719/2004 Coll., Act No. 353/2005 Coll., Act No. 538/2005 Coll., Act No. 660/2005 Coll., Act No. 25/2006 Coll., Act No. 282/2006 Coll., Act No. 522/2006 Coll., Act No. 12/2007 Coll., Act No. 215/2007 Coll., Act No. 309/2007 Coll., Act No. 358/2007 Coll., Act No. 330/2007 Coll., Act No. 530/2007 Coll., and Act No. 594/2007 Coll. shall be amended as follows:

1. In Article 3 (2) (b), at the end, the following words shall be added: "and against terrorist financing".
2. Reference 5 and the footnote to reference 5 shall be omitted.

PART VII

Act No. 8/2005 Coll. on trustees and on the amendment to certain acts as amended by Act No. 330/2007 Coll. shall be amended as follows:

In Article 5, paragraph 3 including the footnote to reference 5 shall be omitted.

PART VIII

This Act shall come into effect on 1 September 2008.

Ivan Gašparovič m.p. Pavol Paška m.p. Robert Fico m.p.

Annex No. 1 to Act No. 297/2008 Coll.

LIST OF TRANSPOSED LEGALLY BINDING ACTS OF THE EUROPEAN UNION

1. Directive [2005/60/EC](#) of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25. 11. 2005, p. 15)
2. Commission Directive [2006/70/EC](#) of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (OJ L 214, 4. 8. 2006, p. 29)
3. Directive [2009/110/EC](#) of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10. 10. 2009).
4. 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).
5. 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, 5. 6. 2015). Annex No. 2 to Act No. 297/2008 Coll.

NON-EXHAUSTIVE LIST OF FACTORS OF POTENTIALLY HIGHER RISK WITH ENHANCED CUSTOMER DUE DILIGENCE

1) Customer risk factors:

- a) the business relationship is conducted in unusual circumstances,
- b) customers that are resident in geographical areas of higher risk as set out in Point (3),
- c) legal entities or persons without legal personality that are personal asset-holding vehicles,
- d) companies that have nominee shareholders or shares in bearer form,
- e) customers that are cash-intensive or
- f) the ownership structure of the customer appears unusual or excessively complex given the nature of the company's business.

2) Product, service, transaction or delivery channel risk factors:

- a) using private banking services,
- b) products or transactions that might favour anonymity,
- c) non-face-to-face business relationships or transactions, without certain safeguards, such as electronic signatures,
- d) payment received from unknown or unassociated third parties,
- e) new products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products.

3) Geographic risk factors:

- a) countries identified by the European Commission as high-risk countries, and countries identified by credible sources as not having effective anti-money laundering/countering the financing of terrorism systems,
- b) countries identified by credible sources as having significant levels of corruption or other criminal activity,
- c) countries subject to sanctions, embargos or similar measures issued by, for example, the European Union or the United Nations or
- d) countries providing funding or support for terrorist activities, or that have identified terrorist organisations operating within their country.

Footnotes

- 1) International convention for the suppression of the financing of terrorism (Notice No. 593/2002 Coll.).
- 1a) Act No. 289/2016 Coll. on the performance of international sanctions and on the amendment to Act No. 566/2001 Coll. on securities and investment services and on the amendment to certain acts (Securities Act) as amended.
- 2) Article 2 (1) of Act No. 483/2001 Coll. on banks and on the amendment to certain acts.
- 4) Article 99 (1) of Act No. 566/2001 Coll. on securities and investment services and on the amendment to certain acts (Securities Act) as amended.
- 5) Article 2 (1) of Act No. 429/2002 Coll. on Stock Exchange as amended.
- 6) Article 3 (1) of Act No. 92/2008 Coll. on commodity exchange and on the amendment to Act of the National Council of the Slovak Republic No. 145/1995 Coll. on administrative fees as amended.

- 7) Article 27 (1) and Article 70 of Act No. 203/2011 Coll. on collective investment as amended.
- 8) Article 54 (1) and Article 73o (6) of Act No. 566/2001 Coll. as amended.
- 9) Article 6 to 10 of Act No. 186/2009 Coll. on financial intermediation and financial consulting and on the amendment to certain acts.
- 10) Article 4 (5) of Act No. 203/2011 Coll. as amended.
- 11) Article 2 of Act No. 39/2015 Coll. on insurance and on the amendment to certain acts.
- 13) Act No. 43/2004 Coll. on old-age pension savings and on the amendment to certain acts as amended.
- 14) Act No. 650/2004 Coll. on complementary pension savings and on the amendment to certain acts as amended.
- 15) Article 2 (k) of Act of the National Council of the Slovak Republic No. 202/1995 Coll. Foreign Exchange Act and the act amending Act of the Slovak National Council No. 372/1990 Coll. on delinquencies as amended, as amended.
- 17) Act No. 455/1991 Coll. on trade licensing (Trade Licensing Act) as amended.
- 18) Act No. 527/2002 Coll. on voluntary auctions and on the amendment to Act of the Slovak National Council No. 323/1992 Coll. on notaries and notarial activity (Notarial Rules) as amended.
- 19) Article 39 of Act No. 222/2004 Coll. on value added tax as amended.
- 19a) Article 63 of Act No. 492/2009 Coll. on payment services and on the amendment to certain acts.
- 19b) Article 75 of Act No. 492/2009 Coll.
- 19c) Article 81 (1) of Act No. 492/2009 Coll. as amended by Act No. 394/2011 Coll.
- 20) Act No. 80/1997 Coll. on the Export-Import Bank of the Slovak Republic as amended.
- 21) Article 2 (a) of Act No. 171/2005 Coll. on gambling games and on the amendment to certain acts.
- 22) Article 7 of Act No. 324/2011 Coll. on postal services and on the amendment to certain acts.
- 23) Article 2 of Act of the National Council of the Slovak Republic No. 233/1995 Coll. on court distrainers and distraint procedures (Distraint Rules) and on the amendment to certain acts as amended.
- 24) Act No. 8/2005 Coll. on trustees and on the amendment to certain acts as amended by Act No. 330/2007 Coll.
- 25) Act No. 423/2015 Coll. on statutory audit and on the amendment to Act No. 431/2002 Coll. on accounting as amended, as amended by Act No. 91/2016 Coll.
- 26) Act of the Slovak National Council No. 78/1992 Coll. on tax advisors and Slovak Chamber of Tax Advisors as amended.
- 27) Act No. 586/2003 Coll. on advocacy and on the amendment to Act No. 455/1991 Coll. on trade licensing (Trade Licensing Act) as amended, as amended.
- 28) Act of the Slovak National Council No. 323/1992 Coll. on notaries and notarial activity (Notarial Rules) as amended.
- 29) E.g. Article 18 (2) (a) of the Civil Code, Act No. 116/1985 Coll. on conditions of the activity of organisations with an international elements in the Czechoslovak Socialist Republic as amended, Act No. 83/1990 Coll. on association of citizens as amended.
- 30) Article 18 (2) (b) of the Civil Code, Act No. 147/1997 Coll. on non-investment funds and on the amendment to Act of the National Council of the Slovak Republic No. 207/1996 Coll., Act No. 213/1997 Coll. on non-profit organisations providing services of general economic interest as amended by Act No. 35/2002 Coll., Act No. 34/2002 Coll. on foundations and on the amendment to the Civil Code as amended.
- 32a) Article 2 (b) of Act No. 129/2010 Coll. on consumer credits and other credits and loans for consumers and on the amendment to certain acts as amended by Act No. 35/2015 Coll.
- 34) Act No. 483/2001 Coll. as amended.

- 35)** Article 3 (12) of Regulation (EU) No. [310/2014](#) 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 L 257, 28. 8. 2014).
- 35a)** Article 21 (1) (a) of Act No. 305/2013 Coll. on the electronic form of governance conducted by public authorities and on the amendment to certain acts (Act on e-Government) as amended.
- 36)** Article 48 of Act of the Slovak National Council No. 323/1992 Coll., Article 89 (2) of Act No. 483/2001 Coll.
- 36a)** Article 3 (p) and Article 19 (6) of Act No. 305/2013 Coll. as amended.
- 37)** Act No. 566/2001 Coll. as amended.
- 38)** Act No. 34/2002 Coll. as amended.
- 39)** Act No. 213/1997 Coll. as amended by Act No. 35/2002 Coll.
- 40)** Act No. 147/1997 Coll.
- 41)** Penal Code.
- 41a)** Article 3 (1) of Act No. 523/2004 Coll. on budgetary rules of general government and on the amendment to certain acts.
- 41b)** Act No. 315/2016 Coll. on the register of public sector partners and on the amendment to certain acts.
- 41c)** Act No. 272/2015 Coll. on the register of legal entities, entrepreneurs, and public authorities and on the amendment to certain acts as amended by Act No. 52/2018 Coll.
- 42)** Article 2 of Act No. 43/2004 Coll. as amended.
- 43)** Act No. 492/2009 Coll. as amended.
- 43a)** Commission Delegated Regulation (EU) [2016/1675](#) of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies (OJ L 254, 20. 9. 2016).
- 44)** Article 11 (1) of Act No. 171/2005 Coll. as amended.
- 45)** E.g. Act No. 455/1991 Coll. as amended.
- 46)** Article 49b of Act No. 483/2001 Coll. as amended.
- 47)** Article 4 (2) (a) and Article 10 (3) (f) of Act No. 122/2013 Coll. on personal data protection and on the amendment to certain acts.
- 47a)** E.g. the Commercial Code, Act of the Slovak National Council No. 323/1992 Coll. as amended, Act of the National Council of the Slovak Republic No. 10/1996 Coll. on control in the state administration as amended, Act No. 483/2001 Coll. as amended, Act No. 566/2001 Coll. as amended, Act No. 429/2002 Coll. as amended, Act No. 586/2003 Coll. as amended, Act No. 594/2003 Coll. as amended, Act No. 382/2004 Coll. on experts, interpreters, and translators and on the amendment to certain acts as amended, Act No. 92/2008 Coll. as amended, Act No. 479/2009 Coll. on governmental bodies collecting taxes and duties and on the amendment to certain acts as amended, Act No. 563/2009 Coll. on tax administration (Tax Procedure Code) and on the amendment to certain acts as amended, Act No. 324/2011 Coll. on postal services and on the amendment to certain acts as amended, Act No. 39/2015 Coll. as amended.
- 48)** Article 4 (3) (a) and Article 10 (3) (f) of Act No. 122/2013 Coll.
- 49)** Article 13 (2) first sentence, Article 15 (6) first sentence of Act No. 122/2013 Coll.
- 50)** Act of the National Council of the Slovak Republic No. 270/1995 Coll. on the official language of the Slovak Republic as amended.
- 51)** Act of the National Council of the Slovak Republic No. 566/1992 Coll. on the National Bank of Slovakia as amended.
- 51a)** Article 3 (22) of Commission Regulation (EU) No. [389/2013](#) 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 122/1, 3. 5. 2013).

Article 17 (1) of Act No. 414/2012 Coll. on trading emission quotas and on the amendment to certain acts as amended by Act No. 399/2014 Coll.

52) Article 2 of Act of the National Council of the Slovak Republic No. 171/1993 Coll.

53) E.g. Act No. 455/1991 Coll. as amended, Act of the National Council of the Slovak Republic No. 566/1993 Coll. as amended, Act No. 483/2001 Coll.

53a) Act No. 315/2016 Coll. on the register of public sector partners and on the amendment to certain acts.

53b) E.g. Article 2 of Act No. 171/1993 Coll. on the Police Force as amended.

53c) E.g. Article 4 of Act No. 394/2012 Coll. on the limitation of cash payments, Article I. 4 to 6 of 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, 5. 6. 2015), Act No. 289/2016 Coll. on the performance of international sanctions and on the amendment to Act No. 566/2001 Coll. on securities and investment services and on the amendment to certain acts (Securities Act) as amended.

54) Article 1 (3) (a) of Act No. 747/2004 Coll. on financial market supervision and on the amendment to certain acts as amended, Article 2 (n) of Act of the National Council of the Slovak Republic No. 202/1995 Coll.

55) 10 (2) (b) of Act No. 171/2005 Coll.

56) Act of the National Council of the Slovak Republic No. 10/1996 Coll. on control in state administration as amended.

57) Act of the Slovak National Council No. 372/1990 Coll. on delinquencies as amended.

58) Act No. 71/1967 Coll. on administrative proceedings (Administrative Procedure Code) as amended.

59) Article 415 to 459 of the Civil Code.

60) Regulation (EU) [2015/847](#).