

THE LAW ON PREVENTION OF MONEY LAUNDERING

/Unofficial translation/

I. GENERAL PROVISIONS

The Prevention of Money Laundering

Article 1

(1) This Law stipulates: measures and actions in banking, money and other economic business undertaken for the purpose of detecting and preventing money laundering and prevention of terrorist financing, reporting institutions for the implementation measures and actions that are obliged to comply with this Law, activities and operations of the Anti Money Laundering Department in detecting suspicious transactions that conceal illegally derived money and assets or rights for which there is a suspicion that are illegally acquired within country or in foreign countries (hereinafter referred to as: money laundering), and regulates other items of importance for developing the money laundering preventive system.

(2) Measures and actions for detection and prevention of money laundering are undertaken during investments, acceptance, exchange or disposal of money, or legal agreements that are used to acquire or use assets and other forms of ownership of money, rights and other properties that can be used for money laundering (hereinafter referred to as: transactions).

Reporting institutions

Article 2

The legal persons and authorized persons within those entities, as well as physical persons required to implement measures and actions to detect and prevent money laundering (hereinafter: reporting institutions) in the context of this Law are:

banks and residential saving banks,

savings and loan cooperatives,

investment funds and companies for the management of investment funds,

pension funds and companies for the management of pension funds,

Financial Agency and Croatian Post Office,

Croatian Privatization Fund,

insurance companies,

stock market and other legal persons authorized to perform financial transactions with securities,
authorized exchange offices,
pawnshops,
organizers of lottery games, casino games, betting games and slot machine games.

(2) Reporting institutions stated in paragraph 1 that have subsidiaries in foreign countries or have majority ownership of financial institution or control financial institutions in foreign countries that do not implement standards for prevention of money laundering, are obliged to implement measures for preventing money laundering stipulated by this Law if they do not oppose with the laws and other regulations of these countries.

(3) Reporting institutions in the context of this Law are as well all other legal persons, traders and individuals, business persons and physical persons conducting business that involved in receipt and remittance of funds, purchase and sale of loans and debts, fund management for third parties, issuing debit and credit cards, transactions with the a.m. cards, leasing, organization of travel tours, organizers for auctions performance, real estates, art objects, antiques and other items of significant value, and dealers with precious metals and gems.

The Anti Money Laundering Department

Article 3

(1) The task of the Anti Money Laundering Department (hereinafter: the AMLD) is to gather, analyze, classify and keep data received from all the reporting institutions, to disseminate the information to relevant state bodies and together with them to undertake measures for the prevention of money laundering.

(2) The AMLD is established within the Ministry of Finance.

(3) The internal structure of the AMLD is determined by the Government of the Republic of Croatia - by decree.

(4) The AMLD, and the Ministry of Interior cooperate in the implementation of the measures for the detection and prevention of money laundering.

(5) The Ministry of Finance submits to the Government of the Republic of Croatia report of the AMLD at least once a year.

II. MEASURES UNDERTAKEN BY THE REPORTING INSTITUTIONS TO DETECT MONEY LAUNDERING

Client Identification

Article 4

- (1) The reporting institutions identify the client on opening of all bank accounts or during establishing other kinds of more permanent cooperation with client.
- (2) The reporting institutions identify the customer at each transaction conducted with cash, foreign currency, securities, precious metals and gems, if the said transactions amounts to 105,000 Kuna or more.
- (3) The reporting institutions identify the customer at linked transactions as per Paragraph 2 of the Article, when those linked transactions amount to 105,000 Kuna or more.
- (4) Insurance companies identify the customers in all life insurances if the annual premium exceeds 40,000 Kuna.
- (5) In addition to the identification of the customer as per Paragraphs 1, 2 and 3 of this Article, the identity of the customer shall be verified at all other cash or non-cash transactions if there is a suspicion of money laundering.
- (6) Withdrawal of money from debit, checks and saving accounts of the physical persons is not considered as a transaction as per Paragraph 2 of the Article.

Customer Identification Procedure

Article 5

- (1) The reporting institutions verify the identity of the physical person requesting a transaction by checking the identity documents (personal I.D. card, passport or other relevant identification card), for the first and last name, the address of residence or home, the personal identity number or date of birth, as well as type, number and issuing entity of the document.
- (2) If the reporting institutions conducts transaction for a legal person, it shall verify the identity of the person who is requesting the transaction on behalf of the legal person, as per Paragraph 1 of this Article, and also the name (title), address and registry number of the legal person requesting the transaction.
- (3) At the time of the opening of an account or establishing other forms of permanent business cooperation, the reporting institutions shall ask the client for the statement on beneficial owner of the legal person and the list of members of the Board of Management in the manner provided by this Law and related by-laws based on this Law , and for the purpose of verifying the beneficial owner's identity.
- (4) Reporting institutions verify identity of a foreign citizen by looking into his/her passport or other public I.D. documents.

(5) Concerning transaction as per paragraphs 2,3,4, and 5 of Article 4 of this Law the reporting institutions shall request from the customer a statement whether the said transaction is requested on his own behalf or as an authorized person.

(6) The reporting institutions shall request from the customer a power of attorney if the transaction is conducted on behalf of a third party.

Gathering information on transaction

Article 6

(1) The reporting institutions shall in the cases stated in Article 8, Paragraph 1 of this Law gather information on transaction.

(2) The information on transaction that shall be gathered as per paragraph 1 of this Article are:

information on ordering client and person to whom the transaction is designed: corporate name, corporate address and registry number for legal persons as to the first and last name, the address and personal identity number or date of birth for physical persons.

the purpose of the transaction,

date and time of the transaction,

amount of the transaction,

manner of the transaction,

currency by which the said transaction is conducted.

Refusal of transaction

Article 7

(1) The reporting institutions will refuse to execute the transaction:

as per paragraphs 2,3,4 and 5 of Article 4 of this Law if there is no possibility to identify the client,

as per paragraph 1 of Article 8 if the reporting institutions do not gather information stated in Article 5 and 6 of this Law, and

if the customer, in capacity of authorized person, does not render a power of attorney as listed in paragraph 5 of Article 5 of this Law.

Reporting to the AMLD

Article 8

(1) The reporting institutions shall identify the customer and forward to the AMLD the information listed in Article 5 and 6 of this Law, within three days after the transaction has been executed, for all transactions referred to in paragraphs 2 and 3 of Article 4 of this Law if the value of transaction is 200.000,00 Kuna or more and for the transactions listed in paragraphs 4 and 5 of Article 4 of this Law in a manner that is anticipated by this Law and by-law regulations.

(2) The reporting institutions shall inform the AMLD on transactions they refuse to perform, in accordance with Article 7 of this Law. In such cases, the information gathered on said transaction shall be also sent to AMLD.

(3) The reporting institutions shall, as per Paragraph 1 of this Article, inform the AMLD via telephone, fax or other appropriate means of communication, on transactions where there is a suspicion of money laundering as per paragraph 5 of Article 4 of this Law before they perform the transactions and specify the deadline within which they are to execute the said transactions. If this information is sent in writing, the written statement shall be sent within three days. The reporting institutions and the AMLD shall record every information that was not sent in writing.

(4) If it is not possible, because of the nature of the transaction listed in paragraph 3, to inform the AMLD before the transaction is conducted, the reporting institutions shall do so no later than 24 hours after the said transaction was performed.

Transfer of Cash and Checks Over the State Borders

Article 9

The Customs Service of the Republic of Croatia shall inform the AMLD on the legal transfer or attempt of illegal transfer across state borders of cash or checks in domestic or foreign currency amounting to 40,000 Kuna or more, no later than three days upon receiving the information on such transfer or an attempt of illegal transfer.

The notification as per Paragraph 1. of this Article shall contain data about the person who is transferring or is attempting to transfer illegally cash or checks across the state borders for his own behalf or for a third party, the place and time of the border crossing and all information about the use of the cash or checks.

Lawyers, lawyer company, notaries, auditor company, certified auditors, chartered accountants or tax advisors

Article 9 a

(1) A lawyer, lawyer company and a notary are obliged in designed manner to inform the AMLD whilst conducting their business perform financial transaction or other transaction with assets, if there is a suspicion of money laundering.

(2) When lawyer and lawyer company represents the client in judicial proceeding or administrative procedure, they are not obliged to act in accordance with regulations as per paragraph 1 of this Article.

(3) An audit company, certified auditor and legal or physical persons conducting accountancy services or tax advisory services are obliged to inform the AMLD in designed manner whilst performing their business establish the suspicion of money laundering in certain transactions.

(4) Regardless the provisions of the above paragraphs of this Article, a lawyer, lawyer company, notary, audit company, a certified auditor and legal and physical persons conducting accountancy services or tax advisory services, shall inform the AMLD in designed manner the all cases when they are being asked by their clients for an advice connected with money laundering.

III. OPERATIONS AND ACTIONS OF THE AMLD CONCERNING THE TRANSACTIONS REPORTING

Receipt of the report

Article 10

(1) The AMLD confirms to the reporting institutions the receipt of the report as per Article 8 of this Law immediately, or at least within 24 hours.

(2) When certain information from the report has to be verified, the AMLD can request the reporting institutions by telephone, fax, or other means of communication, to postpone said transaction but no more than 72 hours.

(3) After submitting the request for the reporting institutions to postpone the transaction, the AMLD shall immediately inform about the Croatian Public Prosecutors Office.

Requesting Information in Case of a Suspicion of Money Laundering

Article 11

If there is a suspicion on money laundering, the AMLD can request from reporting institutions additional information on the transaction and on clients not included by Article 8, Paragraph 1 of this Law, and determines the deadline for sending such information.

The reporting institutions has the right to submit an objection regarding the request as per Paragraph 1 of this Article to the Minister of Finance or to a person authorized by the said minister, within three days.

The Minister of Finance or the person authorized by the said minister must decide on the objection per Paragraph 2 of this Article within three days.

Bodies of state government and local government, as well as other legal persons that have state authority are required to send to the AMLD all information necessary for the detection of money laundering.

Submission to Relevant State Authorities

Article 12

If the AMLD, during its activities, determines grounds for suspicion that an offence or criminal activity or an infringement has been committed, it is obliged to notify the proper state authorities.

Submission of Information on Criminal Proceedings

Article 13

The Courts are required to send to the AMLD all information about the initiation of an investigation, the indictment and the legally binding sentence for the criminal offence concealing of illegally acquired proceeds, as well as on other criminal activities connected with money laundering.

International Cooperation

Article 14

The AMLD may submit the information received pertinent to this Law to relevant foreign bodies and organizations, as well as to international organizations responsible for preventing money laundering, if so requested by the said organizations and under the rule of reciprocity.

IV. SAFEKEEPING AND PROTECTION OF INFORMATION

Confidentiality of the Gathered Information

Article 15

(1) All information gathered in accordance to this Law is considered confidential and secret, and can be used only for the purposes stipulated by this Law.

(2) Informing the AMLD and other proper state authorities in accordance with this Law will not be considered a violation of banking or other secrets.

(3) The AMLD and its employees may use the information gathered on the basis of this Law only for the detection and prevention of money laundering or a criminal act related to money laundering.

Reporting Institutions Record Keeping

Article 16

(1) The reporting institutions shall keep records gathered in accordance with this Law for at least five years after the said transaction was made, or five years after the last of related transactions was made, unless Law specifies otherwise.

(2) Customer identification records, as per Article 4, Paragraph 1 of this Law, shall be kept for five years after the completion of business relationship, unless the Law specifies otherwise.

Confidentiality of Procedures and Information

Article 17

(1) The AMLD and the reporting institutions can not notify the customer about gathered records about procedures initiated in accordance with this Law.

(2) The information from Paragraph 1 of this Article AMLD can provide only upon a court order.

(3) The AMLD may give information to the client that information pertains to, at the request of that customer, ten years after receiving.

(4) The AMLD shall keep received information for ten years.

(5) After the deadline from Paragraph 4 of this Article has expired, records are stored and can be used only upon the request of a court or the relevant client.

(6) Records shall be destroyed one year after the day when they were stored as per Paragraph 5 of this Article.

V. SANCTIONS

Violation of Regulations on Gathering of Records and Reporting to the AMLD

Article 18

A pecuniary penalty from 10,000 to 100,000 kuna will be imposed on the reporting institution as per Article 2 of this Law if the said entity:

1. do not verify the identity of a client as per Articles 4 and 5 of this Law,
2. do not gather information on a transaction as per Article 6 of this Law,
3. do not provide a power of attorney as per Article 7 of this Law,

4. do not inform the AMLD about a transaction within the deadlines and in accordance with this Law, or do not report as per Article 8 and Article 11, Paragraph 1 of this Law,

A pecuniary penalty from 5,000 to 30,000 kuna will be imposed on the compliance officer within the reporting institution that commits the infringement as per Paragraph 1 of this Law.

If the infringement as per Paragraph 1 of this Article is committed in relation with transaction amounting 1,000,000 kuna or more, a pecuniary penalty ranging from 50,000 to 300,000 kuna, will be imposed on the reporting institution, while the pecuniary penalty ranging from 10,000 to 50,000 kuna will be imposed on the compliance officer within the reporting institution that commits the offense.

Conducting the transaction opposite the AMLD order

Article 19

A pecuniary penalty ranging from 10,000 to 100,000 kuna will be imposed on the reporting institution that conducts transaction adversely the order given by AMLD (Article 10. Paragraph 2.)

A pecuniary penalty ranging from 5,000 to 30,000 kuna will be imposed on the compliance officer within reporting institution that commits the infringement as per Paragraph 1 of this Article.

If the infringement as per paragraph 1 of this Article is committed in relation with transaction amounting 1,000,000 kuna or more, a pecuniary penalty ranging from 50,000 to 300,000 kuna will be imposed on the reporting institution, while a pecuniary penalty ranging from 10,000 to 50,000 kuna will be imposed on the compliance officer within the reporting institution .

Violation of Regulation on Manner of Record keeping and the Use of the Gathered Information

Article 20

A pecuniary penalty ranging from 10,000 to 100,000 kuna will be imposed on the reporting institution who does not keep records in the designed manner (Article 8, Paragraph 5), and does not keep records as per Article 16 of this Law.

Pecuniary penalty ranging from 5,000 to 30,000 kuna will be imposed on the compliance officer within the reporting institution who commits the infringement as per Paragraph 1 of this Article.

Authorization for Conducting Administrative Proceedings

Article 21

The proceedings for infringements as prescribed by this Law are conducted by the Ministry of finance in accordance with the regulations, which refer to infringements proceedings

The Supervision on Reporting Institutions in Implementation of the Law

Article 21 a

(1) The supervision on reporting institutions listed in Article 2 of this Law that shall comply to this Law is conducted by Croatian National Bank, Croatian Securities Commission, Pension Funds and Pension Insurance Control Agency, Directorate for the Supervision of Insurance Companies:

Croatian National Bank performs supervision of reporting institutions listed in subparagraph 1 of paragraph 1 of Article 2 of this Law,

Croatian Securities Commission performs supervision of reporting institution listed in subparagraph 3 and 8 of paragraph 1 of Article 2 of this Law,

Pension Funds and pension Insurance Control Agency performs supervision of reporting institution listed in subparagraph 4 of paragraph 1 of Article 2 of this Law,

Directorate for the Supervision of Insurance Companies performs supervision of reporting institution in subparagraph 7 of paragraph 1 of Article 2 of this Law.

(2) Supervisory bodies of the Ministry of Finance and the AMLD will perform the supervision on all the reporting institutions within the scope of their authorities.

VI. TRANSITIONAL AND FINAL PROVISIONS

Subordinate provisional legislation - Regulations

Article 22.

The Minister of Finance is obliged to issue the regulations for implementation of this Law governing:

the manner of identifying the clients listed in Article 5 of this Law,

the manner of determination of identity number listed in Articles 5 and 6 of this Law,

the manners and the deadlines of informing the AMLD on transactions listed in Article 8 of this Law,

the manner of keeping gathered records listed in Articles 4, 5, 6 and 8 of this Law,

terms under which the reporting institution for certain clients are not obliged to inform the AMLD on cash transactions listed in paragraph 1 of Article 8 of this Law, and

the manners and the deadlines of informing the AMLD on transactions listed in Article 9a of this Law.

Time of entering this Law into force

Article 23

(1) Regulations referred to in Article 9 of this Law shall be set out by the Minister of finance within 60 days of its entering into force.

(2) Till entering into force of the regulations referred to in paragraph 1 of this Article, provisions provided on the basis of The Prevention of Money Laundering Law remain in force.

Article 24

This Law shall enter into force on the eight day following its publication in the official gazette "Narodne novine" and shall enter into force on 1st January 2004.