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## **Legal Department**



# **LAW ON THE PREVENTION FROM MONEY LAUNDERING IN THE FEDERATION OF BOSNIA AND HERZEGOVINA**

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# **LAW ON THE PREVENTION FROM MONEY LAUNDERING IN THE FEDERATION OF BOSNIA AND HERZEGOVINA**

## **I - GENERAL PROVISIONS**

### **Article 1**

This Law shall prescribe the measures and actions in banking, money and other types of transactions needed to be undertaken in order to discover and prevent money laundering in the FBH.

### **1. Money Laundering and Taking Measures**

#### **Article 2**

For the purpose of this Law, money laundering shall be understood to mean:

- 1) Conversion or transfer of property originating from criminal actions, or participation in criminal activities aimed at disguising or covering up illegal sources of this property, or assisting a person involved in activities arranged so to avoid legal consequence of the above criminal actions.
- 2) Disguising or covering-up the true nature of property, source of location, allocation, movement, property ownership or connection to it when comprehended that this property originates from a criminal activity.
- 3) Accumulation, possession or usage of property if in time of receipt comprehended that this property originates from a criminal action.
- 4) Involvement and association aimed at performing or attempt to perform, or assistance, facilitation and advising in the performance of any activity referred to in Items 1, 2, 3 and 6 of this Article.
- 5) Cognition, intention or objective needed as an element in the performance of activities under Item 1, 2, 3, 4 and Item 6 of this Article, which may be derived from objective facts and conditions referring to these activities.
- 6) Disguising illegally obtained property or capital gained in process of transformation of ownership (privatization of public or state capital).

#### **Article 3**

Property, for the purpose of this Law, shall be understood to mean movable and immovable goods, rights, money (domestic and foreign currency), securities and other means of payment, as well as legally valid documents based on which the ownership right and other rights are established.

#### **Article 4**

Actions needed for discovery and prevention from money laundering, for the purpose of this Law, shall be undertaken if following transactions take place:

- 1) money investment,
- 2) taking on, exchange, allocation and distribution of money,
- 3) business contracts aimed at obtaining the property,
- 4) other types of handling money and other property that may serve money laundering purpose.

Transactions, for the purpose of this Law, shall be understood to mean actions and conducts stipulated under Item 1 through 4, Paragraph 1 of this Article.

## **2. Persons Obligated to Carry Out the Measures**

### **Article 5**

- 1) Legal persons and responsible persons in a legal party, as well as natural entities obligated to take the measures and actions aimed at discovery and prevention from money laundering in accordance with this Law (hereinafter: persons under obligation) shall be understood to mean:
  - banks and saving banks and savings and loan cooperatives;
  - investment funds and societies, as well as other financial institutions;
  - authorized agencies for money transfers (the Bureau for Payment Operations - ZPP, the post office, etc.);
  - privatization agencies;
  - insurance companies;
  - stock exchange and other financial institutions authorized for dealing with securities;
  - money exchange offices;
  - pawnbroker's shops
  - casinos, slot machine clubs, organizers of raffle games, occasional gift/money lottery, lotto and other games of chance.
- 2) For the purpose of this Law, persons under obligation shall be understood to mean also the other legal persons, traders and individuals, craftsmen and natural persons if carrying out an activity related to transactions referring to receipt of money deposits, selling and purchase of debits and credits, management over property of a third party, issuance of credit cards, transactions with credit cards, leasing, travel agencies, trade of real estate, works of art, antiques and other highly valued commodities, as well as tasks of processing the precious metals, precious stones and trade of them.

## **II - MEASURES, ACTIONS AND CONDUCTS UNDERTAKEN BY PERSONS UNDER OBLIGATION WITH PURPOSE OF DISCOVERING THE MONEY LAUNDERING**

### **1. Identification of a Party**

#### **Article 6**

Persons under obligations shall identify the party on the occasion of opening all kinds of bank accounts and other forms of establishing the partnership with the party.

Persons under obligations shall identify the party in event of all transactions carried out with cash, foreign currency, securities, precious metals and stones, wherein the value of transaction is amounted to KM 50,000.00 or above.

Persons under obligations shall identify the party also in event of related transactions wherein a joint amount exceeds the value under Paragraph 2 of this Article.

In addition to identification in cases referred to in Paragraph 2 and 3 of this Article, the party also must be identified in events of all other cash or non-cash transactions if money laundering suspected.

#### **Article 7**

Identification of the party shall not be required when carrying out:

- 1) Transactions between banks, saving banks and savings and loan cooperatives, insurance companies and

- agencies for money transfers;
- 2) Transactions between banks and money change offices related to purchase of foreign cash and cheques, or taking foreign cheques over in order to cash them;
  - 3) Transactions between banks related to transfer of cash or cheques, or transfer of cheques over the borders of Bosnia and Herzegovina if a domestic bank has been permitted by the competent financial institution for such a transfer;
  - 4) Transactions in banks, saving banks and savings and loan cooperatives or agencies for money transfers and when transactions refer to cash drawings by cheques from the drawing account of domestic legal and natural persons, and when a cheque originates from sale of goods and services to foreign legal persons or foreign sole entrepreneurs or craftsmen;
  - 5) Transactions in banks, saving banks and savings and loan cooperatives or agencies for money transfers and when transactions refer to cash withdrawals from the current account using cheques aimed at depositing on a savings deposit of this party, or purposed at deposit in favor of this party, or with purpose of purchase of foreign currency in relation with a concurrent deposit on a foreign exchange account or foreign currency savings books of this party;
  - 6) Transactions of cash withdrawal from current accounts and drawing accounts of citizens, as well as savings from books and accounts of citizens.

### **Article 8**

The person under obligation shall identify a natural person who requested transaction inspecting the identification documents of the latter (identification card, passport or another public document).

If a person under obligation carries out the transaction on behalf of a legal person, the former shall identify persons who claimed the transaction on behalf of the legal person pursuant to Paragraph 1 of this Article, and the name, residence and personal identification number of the legal person who claims the transaction.

When identifying a foreigner, a person under obligation shall obtain personal data from the former's passport or other public documents.

In course of transactions referred to in Article 4, Paragraph 2, 3 and 4 of this Law, the person under obligation must request a statement from the party clarifying whether the latter claims the transactions on own behalf or in function of a proxy.

The person under obligation must request the authorization from the party if the latter requests a transaction in function of a proxy.

In course of transactions referred to in Article 4, Paragraph 2, 3 and 4 of this Law, the identity of the party shall be established in accordance with Article 6, Paragraph 3 of this Law.

## **III - ORGANISATION OF ACTIVITIES AIMED AT PREVENTION FROM MONEY LAUNDERING AND PROCEDURE RELATED TO INFORMATION ABOUT TRANSACTION**

### **Article 9**

Administrative and technical tasks aimed at prevention from money laundering will be conducted within the Federation Ministry of Finance (hereinafter: the Ministry), in the structure of the Financial Police.

#### **1. Collecting the Information About Transactions**

### **Article 10**

A person under obligation must, in cases referred to in Article 6, Paragraph 2, 3, and 4 of this Law, collect the

data on a transaction. The data on transaction to be collected pursuant to Paragraph 1 of this article shall be understood to mean:

- the name, seat and personal identification number of the legal person, as well as the name, address and unique personal identification number of a citizen - a natural person the transaction has been referred to,
- the purpose of the transaction,
- the date and place of the transaction,
- the amount subject to transaction,
- the method of and currency used in execution of the transaction.

The party, in event of transactions referred to in Article 6, Paragraph 2, 3, and 4 of this Law, shall individually fill in the statement and provide the person under obligation with all the data which the latter is obliged to inform the Financial Police about, in accordance with this Law.

If a transaction is run based on a contract, then in the course of each individual transaction the following items must be recorded: the amount subject to the transaction as well as the method of execution.

When depositing into 24 hour safe-deposit box, the identification of responsible persons under obligation shall be conducted.

### **Article 11**

If the person under obligation distrusts the accuracy of data, a written statement may be requested from the party.

The person under obligation shall reject a transaction referred to in Article 6, Paragraph 2, 3 and 4 of this Law if incapable to establish the data referred to in Article 8 and 10 of this Law, or a person in the function of proxy failed to render a valid authorization.

## **2. Informing the Financial Police and Submission of Data When Money Laundering Suspected**

### **Article 12**

Persons under obligation must keep the Financial Police informed about all transactions referred to in Article 6, Paragraph 2, 3, 4 of this Law, in the manner and deadlines foreseen in this Law and the regulations founded therein, by submitting the data referred to in Article 8 and 10 of this Law.

Persons under obligation must keep the Financial Police also informed about transactions that they rejected to execute in accordance with Article 11 of this Law. In such a case they must submit attached to notification all the data collected pertaining to those transactions.

Persons under obligation must inform by telephone, fax or in some other appropriate way the Financial Police pursuant to Paragraph 1 of this Article, before they execute transactions, and also indicate the time meant for the execution of transactions. If the notification is not to be submitted in writing, they shall do it at latest within three days from the day of the execution of the transaction. If no notification has been submitted in writing, a person under obligation and the Financial Police must take down comments upon the notification not being submitted in writing.

If impossible, due to the nature of a transaction, to inform the Financial Police about a transaction before its execution, persons under obligation must do so at latest within three days after the execution of the transaction. The method of and the deadlines for informing as well as keeping record of data collected as referred to in Article 6, 8 and 9 of this Law shall be prescribed by the Federation Minister of Finance.

### **Article 13**

The Customs Administration of the Federation of Bosnia and Herzegovina shall be obliged to send a notification to the Financial Police, at latest within three days from the moment of discovery of a transfer or an attempt of an illegal transfer of cash or cheques in local or foreign currency amounted to KM 10,000.00 or above across the border of Bosnia and Herzegovina.

The notification referred to in Paragraph 1 of this Article must contain the data about a person who, on his/her own behalf or someone else's, transfers or intends illegally to transfer cash or cheques across the border of Bosnia and Herzegovina, the place and the time of border crossing and the information on the purpose of cash or cheques.

### **Article 14**

The Financial Police shall confirm the receipt of the notification referred to in Article 12 of this Law immediately or within 24 hours at latest.

The Financial Police may by telephone, fax or in some other way command the person under obligation to temporarily cease the execution of transaction, over 48 hours at most, in case of verification of the information from the notification, or if the Financial Police finds there is a justified suspicion of money laundering.

### **Article 15**

Upon a suspicion of money laundering the Financial Police may request from the person under obligation more information on the transaction and the parties than covered by Article 12, Paragraph 1 of this Law, which are available to the person under obligation, and determine the deadline for their submission.

Persons under obligation shall be obliged to submit the data, information and documentation referred to in Paragraph 1 of this Article to the Financial Police with no delay, at latest within 15 days from the receipt of the request.

Due to the volume of documentation or for other justified reasons, the Financial Police may extend the period referred to in Paragraph 2 of this Article or conduct checking on the spot of the documentation found with persons under obligation.

### **Article 16**

If the Financial Police, within the period referred to in Article 14, Paragraph 2 of this Law, finds no reason for a suspicion of money laundering, it shall inform thereof persons under obligation who may immediately execute the transaction.

If the Financial Police, within the period referred to in Article 14, Paragraph 2 of this Law, has taken no measures, persons under obligation may execute the transaction.

## **3. Keeping the Competent Cantonal Bodies Informed**

### **Article 17**

If the Financial Police, while carrying out jobs from within its competence, finds evidence on a justified suspicion of a misdemeanor, an economic offense or a criminal act it shall inform thereof, through the Ministry, the competent prosecutor's office cantonal Ministry of Internal Affairs and competent courts in the canton.

The bodies referred to in Paragraph 1 of this Article shall be obliged to inform the Financial Police about measures undertaken upon the latter's information and realize the cooperation with the Ministry.

#### **4. Submission of Evidence On Misdemeanor, Economic Offense and Criminal Proceedings**

##### **Article 18**

Competent prosecutions and courts in the Federation of Bosnia and Herzegovina shall, if required by the Ministry or its legal representative, inform the Financial Police about initiating investigations and results of criminal proceedings on criminal acts related to money laundering and disguising illegally obtained money.

#### **IV - KEEPING AND PROTECTION OF INFORMATION**

##### **Article 19**

All data collected on the basis of this Law shall be confidential and secret and may be used only for the purposes prescribed hereunder.

##### **Article 20**

Persons under obligation must keep the data collected on the basis of the Law and documentation based on which a transaction took place, at least for five years from the execution of transaction or from the time of the last transaction in a series of transactions forming an entity, unless otherwise provided by the Law

The data on the party contracted in a permanent business pursuant to Article 6, Paragraph 1 of this Law must be kept at least for five years following the termination of the business contract, unless otherwise provided by the law.

##### **Article 21**

The Financial Police and person under obligation shall not inform the party about the data pertaining to him/her collected nor about the procedure under this Law.

The Financial Police shall release the data referred to in Paragraph 1 of this Article through the Ministry or the legal representative of the Ministry only upon requests of the bodies and the institutions referred to in Article 17 of this Law.

The Financial Police shall keep the data collected for 10 years.

Following the expiry of the period referred to in Paragraph 3 of this Article, the data shall be stored and may be utilized only upon request of the bodies and the institutions referred to in Article 17 of this Law or the person pertaining to.

The data shall be destroyed upon the expiry of a year from the date of their having been stored pursuant to Paragraph 4 of this Article.

#### **V - ECONOMIC OFFENSES**

##### **1. Penal Provisions**

##### **Article 22**

A fine of KM 10,000.00 to 70,000.00 shall be imposed on the person under obligation referred to in Article 5 of

this Law for an economic offense if he:

- does not collect the data on transactions in accordance with Article 8 of this Law,
- does not obtain the authorization pursuant to Article 9 of this Law,
- does not inform the Financial Police about a transaction and submit the data referred to in Article 12 of this Law or does not submit the data referred to in Article 17, Paragraph 1 of this Law, within the deadlines and in the way foreseen under this Law and regulations founded hereupon.

A fine of KM 1,000.00 to 5,000.00 shall be imposed on a responsible person in legal party who committed an economic offense referred to in Paragraph 1 of this Article.

If the economic offense referred to in Paragraph 1 of this Article was committed concerning a transaction valued at KM 300,000.00 or above, the person under obligation shall be, proportionally to the degree of unfulfilled responsibility or committed offense, imposed to a maximum fine amounted to twenty times the value of unfulfilled responsibility, the damage caused or the value of stock or other things, whereas a responsible person in legal party who committed an economic offense shall be imposed to a fine of KM 1,000.00 to 5,000.00.

### **Article 23**

A person under obligation who conducted transactions contravening the order by the Financial Police (Article 14, Paragraph 2) shall be imposed to a fine of KM 10,000.00 to 70,000.00 for the commission of an economic offense.

A fine of KM 1,000.00 to 5,000.00 shall be imposed on a responsible person in legal party who committed the economic offense referred to in Paragraph 1 of this Article.

If the economic offense referred to in Paragraph 1 of this Article was committed concerning a transaction valued at KM 300,000.00 or above, the person under obligation shall be, proportionally to the degree of unfulfilled responsibility, the damage caused or the value of stock of other things, imposed to a maximum fine amounted to twenty times the value of unfulfilled responsibility, whereas a responsible person in legal party who committed an economic offense shall be imposed to a fine of KM 1,000.00 to 5,000.00.

### **Article 24**

A fine of KM 10,000.00 to 70,000.00 for an economic offense shall be imposed on the person under obligation referred to in Article 5 of this Law who accumulates, possesses or uses a property of illegal nature.

A fine of KM 1,000.00 to 5,000.00 shall be imposed on a responsible person in legal party who committed the economic offense referred to in Paragraph 1 of this Article.

The responsible person in legal party referred to in the preceding Paragraph who has been found guilty by a final decision for a criminal action with characteristics of this economic offense shall not be penalized for an economic offense.

### **Article 25**

A person under obligation - a legal person who committed a transaction with property illegally accumulated, contravening the provisions of this Law, shall be penalized for an economic offense with a fine of KM 10,000.00 to 70,000.00.

A person under obligation - a natural person if committed a transaction referred to in Paragraph 1 of this article shall be imposed to a fine of KM 1,000.00 to 5,000.00.



### **Article 26**

A fine of KM 1,000.00 to 5,000.00 for misdemeanor shall be imposed on a person under obligation referred to in Article 5 of this Law if s/he fails to identify the party in accordance with Article 6 of this Law.

A fine of KM 10,00 to 300,00 shall be imposed on a responsible person in legal party who committed misdemeanor referred to in Paragraph 1 of this Article.

### **Article 27**

A person under obligation who does not keep record of data in a prescribed manner (Article 20, Paragraph 1) and does not store the data and documentation pursuant to referred to in Article 21 of this Law shall be imposed to a fine of KM 1,000.00 to 5,000.00 for the misdemeanor.

A fine of KM 300,00 to 1,000.00 shall be imposed on a responsible person in legal party who committed misdemeanor referred to in Paragraph 1 of this Article.

### **Article 28**

A proceeding for offenses foreseen under this Law shall be conducted by the Financial Police under the Law on Petty Offenses Violating Federation laws (Official Gazette of the Federation BiH, No.9/96).

## **2. Supervision**

### **Article 29**

Supervision over the implementation of this Law, shall be carried out by the Ministry and the Agency for Banking in the Federation of Bosnia and Herzegovina, each within the frame of the respective competence.

## **VI - TRANSITIONAL AND FINAL PROVISIONS**

### **Article 30**

The Federation Minister of Finance shall pass the regulations referred to in Article 12, Paragraph 5 of this Law within 30 days from the day of entry into force of this Law.

### **Article 31**

This Law shall enter into force on the eighth day from the date of publishing in the Official Gazette of the Federation BiH.

Chair of the House of People  
Parliament of FBH  
Niko Lozancic

Chair of the House of Representatives  
Parliament of FBH  
Enver Kreso