



Emerika Bluma 1, 71000 Sarajevo
Tel. 28 35 00 Fax. 28 35 01

Legal Department



LAW ON PREVENTION OF MONEY LAUNDERING

“Official Gazette” of the Republika Srpska, 52/01

Under Amendment XL, paragraph 2 to the Constitution of Republika Srpska ("Official Gazette of Republika Srpska", no. 28/94), I hereby issue a

DECREE PROMULGATING THE LAW ON PREVENTION FROM MONEY LAUNDERING

I promulgate the Law on Prevention of money laundering that was adopted by the Peoples' Assembly of Republika Srpska at its session held on 27 September 2001.

No. 01-806/01
1 October 2001
Banja Luka

President of the
Republic
Mirko Sarovic

LAW ON PREVENTION OF MONEY LAUNDERING

I – GENERAL PROVISIONS

Article 1

This Law shall prescribe measures and actions that shall be taken in banking, financial and other transactions in order to detect and prevent money laundering.

Money Laundering and Taking Measures

Article 2

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

Disguising or covering up the true nature of property, acquisition, possession or use of property gained as a result of criminal actions, conversion or transfer of property originating from criminal actions or participation in criminal activities, with the view to disguise or cover up the illegal origin of such property, as well as disguising illegally acquired property or capital gained in process of transformation of ownership (privatisation of state owned capital).

Article 3

Property, for the purpose of this Law, shall be understood to mean both movable and immovable assets, claims and money (foreign and national currency), securities and other means of payment, as well as legally valid documents on the basis of which the ownership right and other rights can be established.

Article 4

Actions and measures for detection and prevention of money laundering, for the purpose of this law, shall be taken with regard to following transactions:

- money investment,
- taking on, exchange, allocation and distribution of money,
- business contracts aimed at acquisition of property,
- other forms of handling money and other property that may serve money-laundering purpose.

Persons under obligation to enforce the measures

Article 5

Legal entities and responsible persons within legal entities, as well as natural persons who are under obligation to take measures and actions aimed at detection of and prevention of money laundering in accordance with this law (hereinafter: persons under obligation) are as follows:

- banks and savings banks and savings and loan co-operatives;
- investment funds and companies and other financial institutions;
- organisations authorised to conduct payment transactions/operations:
- directorates for privatisation;
- insurance companies;
- stock markets and other financial institutions authorised for business pertaining to securities;
- exchange offices;
- pawnshops;
- casinos, slot machine clubs, organisers of raffle games, occasional gift/money lottery, lotto and other games of chance.

For the purpose of this Law, persons under obligation shall also be understood to mean other legal entities, 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, PROCEDURES AND ACTIONS TAKEN WITH THE VIEW TO DETECT CASES OF MONEY LAUNDERING

Identification of clients

Article 6

Persons under obligation shall identify clients who are opening any kind of bank account or when establishing any form of business co-operation with clients.

Persons under obligation shall identify clients when carrying out transactions with cash, foreign currency, securities, precious metals and stones, where the value of transaction amounts to KM 30,000.00 or more.

Persons under obligations shall also identify clients in the event of related transactions the total amount of which exceeds the value under paragraph 2 of this Article.

In addition to identification in cases under paragraphs 2 and 3 of this Article, clients should also be identified during all other cash or non-cash transactions if money laundering suspected.

Article 7

Identification of clients shall not be required in cases concerning:

- Transactions between banks, savings banks and savings and loan co-operatives, insurance companies and agencies for money transfers;
- Transactions between banks and exchange offices related to purchase of foreign cash and cheques, or taking foreign cheques over in order to cash them;
- 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 competent financial institutions for such a transfer;

- Transactions in banks, savings banks and savings and loan cooperatives or agencies for money transfers and when transactions concern cash drawings by way of cheques from drawing accounts 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;
- Transactions in banks, savings banks and savings and loan cooperatives or agencies for money transfers and when transactions concern cash withdrawals from current accounts using cheques aimed at depositing on a savings deposit of the same client, or aimed at depositing in favour of this client, or with the view to purchase foreign currency in relation with a concurrent deposit on a foreign exchange account or foreign currency savings books of this client;
- Transactions of cash withdrawal from current accounts and drawing accounts of citizens, as well as savings from books and accounts of citizens.

Article 8

Persons under obligation shall identify natural persons who request transactions by an insight into their personal identification documents (identification card, passport or another public document).

Where persons under obligation carry out transactions on behalf of legal entities, the former shall identify persons who requested transactions on behalf of legal entities pursuant to paragraph 1 of this Article, as well as the name, residence and personal identification number of legal persons claiming transactions.

When identifying foreigners, persons under obligation shall obtain personal data from their passport or other public documents.

In course of transactions under Article 4, paragraphs 2, 3 and 4 of this Law, persons under obligation must request that the respective client state as to whether he/she claimed the transaction on his/her own behalf or in the capacity of representative.

Persons under obligation must request an authorisation from clients requesting a transaction in the capacity of representative.

In course of transactions under Article 4, paragraphs 2, 3 and 4 of this Law, the identity of clients shall be established in accordance with Article 6, paragraph 3 of this Law.

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

Department for Prevention of Money Laundering

Article 9

A Department for prevention of money laundering shall be established within the ministry of Finances.

The task of this Department (hereinafter: Department) shall be to collect, process, exchange and file away information obtained from persons under obligation, to provide information to the competent state bodies and to take measures in order to prevent money laundering, together with the latter.

The internal organisation of the Department shall be regulated by the Government of Republika Srpska by way of a Decree.

The Ministry of finances shall submit a report to the Government of Republika Srpska on the work of the Department at least once a year.

Collecting Information on Transactions

Article 10

Persons under obligation shall, in cases referred to in Article 4, lines 1, 2, 3 and 4 of this Law, collect information on transactions.

Information on transactions to be collected pursuant to paragraph 1 of this Article shall include:

- name, seat and personal identification number of legal persons, as well as name, address and personal identification number of citizens - natural persons carrying out transactions,
- purpose of transactions,
- date and place of transactions,
- amounts subject to transactions,
- method of transactions and currency used therein.

Clients shall personally fill in forms and provide persons under obligation with all relevant information concerning transactions that must be reported to the Department pursuant to lines 2, 3, and 4 of Article 4 of this Law.

Where transactions have been made on the basis of a contract, the record shall be made for each transaction in terms of its amount and the method used.

There shall be an identification of responsible persons under obligation when depositing into 24-hour safe-deposit box.

Article 11

Where persons under obligation distrust the accuracy of information, clients may be requested to submit written statement.

Persons under obligation shall reject transactions referred to in Article 4, lines 2, 3 and 4 of this Law if they fail to establish information referred to in Articles 6 and 8 of this Law, or a person in the capacity of representative has failed to provide valid authorisation.

Keeping informed the Department and its notification of cases where money laundering suspected

Article 12

Persons under obligation shall keep the Department informed of all transactions referred to in Article 4, lines 2 through to 4 of this Law, in the manner and within time limits set out in this Law and in regulations based thereon, in that they shall provide it with information referred to in Articles 6, 8 and 10 of this Law.

Persons under obligation shall also keep the Department informed of transactions that they have rejected to execute in accordance with Article 11, paragraph 2 of this Law. In such a case, their notification must include full information they obtained with regard to those transactions.

Persons under obligation shall notify the Department by telephone, fax or in another suitable way pursuant to paragraph 1 of this Article, before they carry out transactions, and also indicate the intended time for their execution. If they have not provided such notification in writing, they shall do so at the latest within three days from the day of the execution of the transaction. If notification has not been submitted in writing, persons under obligation and the Department must issue a record on the notification that has not been submitted in writing.

Where it is impossible, due to the nature of a transaction, to inform the Department thereof before its execution, persons under obligation must do so at the latest within three days after the execution of the

transaction.

Minister of Finances shall prescribe forms for collection, processing, exchange and filing away of information as well as the method of notification under Article 9 of the Law.

Article 13

The Republic Customs Administration of Republika Srpska shall be obliged to send a notification to the Department, at latest within three days from the moment of acknowledgement of a transfer or an attempt of an illegal transfer of cash or cheques in local or foreign currency amounting to KM 20,000.00 or more across the border of Bosnia and Herzegovina.

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

Article 14

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

The Department may order persons under obligation by telephone, fax or in some other way to suspend the execution of transaction, for 48 hours at longest, in case of the need to verify information from the notification, or if the Department has found that there is a warranted suspicion of money laundering.

Article 15

Where there is a warranted suspicion of money laundering the Department may request from persons under obligation to provide other information on the transaction and the client than covered by Article 12, paragraph 1 of this Law, which are available to the respective person under obligation, and determine a deadline for submission of such information.

Persons under obligation shall be obliged to provide the Department with information and documentation referred to in paragraph 1 of this Article without delay, at latest within 15 days from the receipt of the request.

Due to the extensive volume of documentation or for other warranted reasons, the Department may extend the period referred to in paragraph 2 of this Article or it may examine the documentation directly with persons under obligation.

Article 16

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

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

Notification of Competent Bodies

Article 17

If the Department, while carrying out tasks within its competence, has found that there are reasonable grounds for suspicion of an offence or criminal act, it shall notify the Ministry of Internal Affairs and/or file criminal report to the competent body.

IV - KEEPING AND PROTECTION OF INFORMATION

Article 18

All information collected on the basis of this Law shall be deemed confidential and may be used only for the purposes prescribed under this law.

Article 19

Persons under obligation must keep data collected on the basis of the Law and documents under which a transaction has been made for a minimum five year period following the transaction, or the last of the series of transactions constituting a whole, unless otherwise provided for by the Law.

The information on the party with which permanent business relationship has been established pursuant to Article 6, paragraph 1 of this laws should be kept for a minimum five year period following the cessation of the business relationship, unless otherwise provided for by the Law.

Article 20

The Department and persons under obligation shall not be obliged to notify persons on information that were collected and that pertain to such persons or of any actions taken under the provisions of this Law.

The Department shall keep the information collected for the period of 10 years.
After the expiry of the period under paragraph 2 of this Article, the information shall be filed away and may be used only at the request of the Ministry of Interior, prosecutor's office or courts, or persons to which they pertain.

The information shall be destroyed in accordance with the provisions of the Law on Archive.

V – INTERNATIONAL COOPERATION

Article 21

The Department may communicate information obtained under this law to relevant bodies and organisations that deal with prevention of money laundering at their request on conditions of reciprocity, through the Ministry of Interior – Department for Inter-police Co-operation.

VI - PENALTY PROVISIONS

Article 22

Legal entities – persons under obligation referred to in Article 5 of this Law shall be fined the amount ranging from KM 500,00 to KM 15.000,00 in cases as follows:

- if they have failed to collect information on transactions in accordance with Article 8 of this Law,
- if they have failed to obtain relevant authorisation pursuant to Article 9 of this Law,
- if they have failed to inform the Department about a transaction and to submit the information referred to in Article 12 of this Law or if they have failed to submit the information under Article 17, paragraph 1 of this Law within time limits and in the manner set out in this Law and pursuant to regulations based on this Law.

Responsible persons within legal entity who have committed the offence under paragraph 1 of this Article shall be fined the amount ranging from KM 500,00 to 1.500,00.

If the offence under paragraph 1 of this Article has been committed in regard to a transaction the value of

which amounts to KM 300.000,00 or more, persons under obligation shall be fined proportionally at the most ten time the value of the outcome of non-compliance or damage or value of goods concerned, and responsible persons within the legal entity that committed the offence shall be fined the amount ranging from KM 500,00 to 1.500,00.

Article 23

Legal entities – persons under obligation that have carried out a transaction in contravention to the order of the Department (Article 14, Paragraph 2) shall be fined the amount ranging from KM 500.00 to 5,000.00.

Responsible persons within legal entities who have committed the offence under paragraph 1 of this Article shall be fined the amount ranging from KM 300,00 to 1.500,00.

If the offence under paragraph 1 of this Article has been committed in regard to a transaction the value of which amounts to KM 300.000,00 or more, persons under obligation shall be fined proportionally at the most ten time the value of the outcome of non-compliance or damage or value of goods concerned, and responsible persons within the legal entity that committed the offence shall be fined the amount ranging from KM 500,00 to 1.500,00.

Article 24

Legal entities – persons under obligation under Article 5 of this Law who have acquired, possessed or used properties of illegal origin shall be fined the amount ranging from KM 500,00 to 15.000,00.

Responsible persons within legal entities who have committed the offence under paragraph 1 of this Article shall be fined the amount ranging from KM 500,00 to 1.500,00.

Article 25

Persons under obligation – legal entities that have carried out a transaction of property that has been acquired in contravention to the provisions of this Law shall be fined for such offence the amount ranging from KM 500,00 to 15.000,00.

Persons under obligation – natural persons who have committed the offence under paragraph 1 of this Article shall be fined the amount ranging from KM 300,00 to 1.500,00.

Article 26

Legal entities – persons under obligation referred to under Article 5 of this Law who have failed to identify a client in accordance with Article 6 of this Law shall be fined the amount ranging from KM 1.500,00 to 15.000,00.

Responsible persons within legal entities that have committed the offence under paragraph 1 of this Article shall be fined the amount ranging from KM 500,00 to 1.500,00.

Article 27

Persons under obligation – legal entities who have failed to keep records of information in a proper manner (Article 20, paragraph 1) and have not kept information and documentation in accordance with Article 21 of the Law shall be fined for this offence the amount ranging from KM 500,00 to 5.000,00.

Responsible persons within legal entity who have committed the offence under paragraph 1 of this Article shall be fined the amount ranging from KM 500,00 to 1.500,00.

VII – TRANSITIONAL AND FINAL PROVISIONS

Article 28

The Government of Republika Srpska shall pass a Decree under Article 9, paragraph 3 of this Law within 30 days of the date of the entry into force of this Law.

Minister of Finance shall pass regulations under Article 12, paragraph 5 within 30 days of the date of the entry into force of this Law.

Article 29

The Law shall enter into force on 1 March 2002 and it shall be published in the “Official Gazette of Republika Srpska”.

No. 01-1055/01
27 September 2001
Banja Luka

President
National Assembly
Dr. Dragan Kalinic