

## Act CXXXVI of 2007

### on the Prevention and Combating of Money Laundering and Terrorist Financing

The objective of this Act is to effectively enforce the provisions on combating money laundering and terrorist financing with a view to preventing the laundering of money and other financial means derived from the commitment of criminal acts through the financial system, the capital markets and other areas exposed to potential money laundering operations, as well as to help combat the flow of funds and other financial means used in financing terrorism.

In order to achieve the above objectives the Parliament has adopted the following Act:

#### *Scope of the Act*

#### **Section 1**

(1) With the exceptions set out in Subsections (3)-(5) this Act shall apply to persons who, in the territory of the Republic of Hungary are:

- a)* engaged in providing financial services or in activities auxiliary to financial services;
- b)* engaged in providing investment services or in activities auxiliary to investment services;
- c)* engaged in providing insurance services, insurance intermediary services or employer pension services;
- d)* engaged in providing commodity exchange services;
- e)* engaged in providing postal financial intermediation services, postal money remittance services, accepting and delivering domestic and international postal money orders;
- f)* engaged in providing real estate agency or brokering and any related services;
- g)* engaged in providing auditing activities;
- h)* engaged in providing accountancy (bookkeeping), tax consulting services whether or not certified, or tax advisory activities under agency or service contract;
- i)* operating a casino or electronic casino;
- j)* engaged in trading with precious metals or articles made of precious metals;
- k)* engaged in trading in goods involving the acceptance of cash payments in the amount of three million six hundred thousand forints or more;
- l)* operating as a voluntary mutual insurance fund;
- m)* acting as lawyers or notaries public.

(2) This Act shall apply to:

- a)* customers of service providers;
- b)* executive officers, employees of service providers and their contributing family members.

(3) Service providers engaged in trading in goods may not, within the scope of these activities, accept any cash payment in the amount of three million six hundred thousand forints or more, unless they undertake to discharge the obligations conferred upon service providers by this Act in accordance with Subsection (4) of Section 33.

(4) This Act shall not apply to:

- a)* the agents described in Subparagraph *b)* of Point 12 of Chapter I of Schedule No. 2 to Act CXII of 1996 on Credit Institutions and Financial Enterprises (hereinafter referred to as

the ‘CIFE Act’), and to the dependant agents described in Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities (hereinafter referred to as the ‘IFCD Act’);

*b)* the dependant insurance intermediaries described in Subsection (4) of Section 33 of Act LX of 2003 on Insurance Institutions and Insurance Business (hereinafter referred to as the ‘Insurance Act’);

*c)* the independent insurance intermediaries described in Subsection (4) of Section 33 of the Insurance Act as regards their activities relating to the field of non-life insurance under Part A of Schedule No. 1 to the Insurance Act;

*d)* the insurance companies, if authorized to pursue only the activities relating to the field of non-life insurance under Part A of Schedule No. 1 to The Insurance Act, and the insurance companies authorized to engage in activities in the field of non-life insurance under Part A of Schedule No. 1 to the Insurance Act and at the same time in activities in the field of life assurance under Schedule No. 2 to the Insurance Act, as regards their activities relating to the field of non-life insurance.

(5) This Act shall not apply to the activity defined in Paragraph *a)* of Subsection (1), if carried out by the Central Bank of Hungary (hereinafter referred to as ‘MNB’), with the exception of providing money transmission services under the provisions of Sections 2 and 22.

## **Section 2**

Section 22 shall apply to the service providers, who:

*a)* are engaged in the activities referred to in Paragraphs *a)-b)* and *e)* of Subsection (1) of Section 1 of this Act; and

*b)* provide money transmission services within the territory of the Republic of Hungary under Point 7 of Article 2 of Regulation (EC) No. 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (hereinafter referred to as the ‘Regulation’).

## ***Interpretative provisions***

## **Section 3**

For the purposes of this Act:

*a)* ‘*tax adviser, tax consultant, certified tax consultant*’ shall mean any person, who has the qualifications described under specific other legislation, is authorized to engage in such activities, and is registered in the registry of tax advisers, tax consultants and certified tax consultants described under specific other legislation;

*b)* ‘*identification*’ shall mean the recording in writing of the data specified in Subsections (2)-(3) of Section 7, and in Subsections (2)-(3) of Section 8;

*c)* ‘*European Union*’ shall mean the European Union and the European Economic Area;

*d)* ‘*Member State of the European Union*’ shall mean any Member State of the European Union and other States who are parties to the Agreement on the European Economic Area;

*e)* ‘*shell bank*’ shall mean a service provider engaged in the activity defined in Paragraph *a)* of Subsection (1) of Section 1, incorporated in a jurisdiction in which it has no physical presence, and to which supervision on a consolidated basis shall not apply;

f) *'network'* shall mean the larger structure to which the service providers engaged in the activity defined in Paragraphs g)-h) and m) of Subsection (1) of Section 1 belong and which shares common ownership, management and compliance control;

g) *'third country'* shall mean any state that is not member of the European Union;

h) *'real estate agency or brokering'* shall mean the business of mediation of the transfer or lease of real estate properties, including the preparation of transaction orders, real estate appraisal, real estate investment and real estate development;

i) *'trading in goods'* shall mean the sale of goods by way of business to buyers, traders or processors;

j) *'accounting services'* shall mean the activities defined in Subsections (1)-(2) of Section 150 of Act C of 2000 on Accounting;

k) *'correspondent banking services'* shall mean the keeping of an account by a credit institution for an other credit institution for the purpose of performing orders of financial transaction services or of performing financial or investment services;

l) *'authority operating as the financial intelligence unit'* shall mean the department of the customs authority appointed under specific other legislation and functioning as the national financial intelligence unit;

m) *'official certificate suitable for the proof of identity'* shall mean the personal identity card, passport, or driver's license in a card format;

n) *'verification of identity (verification)'* shall mean the procedure to verify the identity of the customer, the proxy, the authorized signatory and the representative, in accordance with the provisions of Subsections (4)-(6) of Section 7, and to verify the identity of the beneficial owner in accordance with the provisions of Subsection (5) of Section 8;

o) *'service provider'* shall mean the person or organization engaged in the activity referred to in Subsection (1) of Section 1;

p) *'executive officer of a service provider'* shall mean any natural person, who is entitled to represent a service provider whether being a legal person or an organization not having a legal personality, to exercise the power of taking decisions on behalf of this service provider, and to exercise the controlling power within this service provider;

q) *'individual transaction orders linked in effect'* shall mean:

qa) the transactions for which the customer places an order within a period of one year under the same legal title, for the same subject matter;

qb) in the case of service providers engaged in currency exchange activities, transactions for which the customer places an order within a period of one week;

qc) as regards the service providers engaged in the activity referred to Paragraph k) of Subsection (1) of Section 1, instalment payments and payment orders performed on the basis of instalment purchase;

r) *'beneficial owner'* shall mean:

ra) the natural person, who owns or controls at least twenty-five per cent of the shares or voting rights in a legal person or in an organisation not having a legal personality, if that legal person or organisation not having a legal personality is not a registered company on the regulated market to which publication requirements consistent with Community legislation or equivalent international requirements apply;

rb) the natural person, who has a dominant influence in a legal person or an organisation not having a legal personality as determined in Subsection (2) of Section 685/B of Act IV of 1959 on the Civil Code (hereinafter referred to as the 'Civil Code');

rc) the natural person, on whose behalf a transaction order is executed; and

rd) in the case of foundations, the natural person:

1. who is the beneficiary of at least twenty-five per cent of the property of the foundation, if the future beneficiaries have already been determined;

2. in whose main interest the foundation is established or operates, if the beneficiaries have yet to be determined; or
3. who is a member of the managing organisation of the foundation, or who has a dominant influence over at least twenty-five per cent of the property of the foundation, or who acts on behalf of the foundation;

s) '*customer*' shall mean any person signing a written contract with the service provider for the use of services within the meaning of the activities described in Subsection (1) of Section 1, or who places a transaction order for the service provider;

t) '*customer due diligence procedures*' shall mean, in the cases referred to in Section 6, the carrying out of the customer due diligence measures specified under sections 7-10;

u) '*transaction order*' shall mean the occasional contractual relationship based on a written agreement between a customer and a service provider pertaining to the services of the service provider falling within its professional activities;

v) '*business relationship*' shall mean:

va) a long-term contractual relationship based on a written agreement between a customer and a service provider pertaining to the services of the service provider within the meaning of the activities described in Subsection (1) of Section 1;

vb) the activities of a notary public concerning the procedure specified under Subsection (2) of Section 36; or

vc) as regards the service provider engaged in the activity referred to in Paragraph i) of Subsection (1) of Section 1, the long-term contractual relationship created when first entering the casino or electronic casino.

#### Section 4

(1) For the purposes of this Act, 'politically exposed persons' shall mean natural persons residing in another Member State or in a third country who are or have been entrusted with prominent public functions within one year before the carrying out of customer due diligence measures, and immediate family members, or persons known to be close associates, of such persons.

(2) For the purposes of Subsection (1), 'natural persons entrusted with prominent public functions' shall include the following:

a) heads of the State, heads of the government, ministers, deputy ministers, secretaries of state;

b) members of parliaments;

c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal;

d) heads of courts of auditors, members of courts auditors, or of the boards of central banks;

e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces, with the ranks of chief officer or general officer;

f) members of the administrative, management or supervisory bodies of State-owned enterprises of majority control.

(3) For the purposes of Subsection (1), close relative shall have the meaning set out in Paragraph b) of Section 685 of the Civil Code, including domestic partners.

(4) For the purposes of Subsection (1), persons known to be close associates of politically exposed persons shall include the following:

a) any natural person who is known to have joint beneficial ownership of a legal person or an organization not having a legal personality, or any other close business relations, with a person referred to in Subsection (2);

b) any natural person who has sole beneficial ownership of a legal person or an organization not having a legal personality which is known to have been established for the benefit of the person referred to in Subsection (2).

## Section 5

For the purposes of this Act, ‘supervisory body’ shall mean:

a) with respect to the service providers engaged in the activities referred to in Paragraphs a)-e) and l) of Subsection (1) of Section 1, with the exception set out in Paragraph b), the Hungarian Financial Supervisory Authority (hereinafter referred to as ‘the Authority’);

b) with respect to the service providers engaged in cash processing operations of activities auxiliary to financial services referred to in Paragraph a) of Subsection (1) of Section 1, the MNB;

c) with respect to the service providers engaged in the activities referred to in Paragraph i) of Subsection (1) of Section 1, the state tax authority;

d) with respect to the service providers engaged in the activity referred to in Paragraph g) of Subsection (1) of Section 1, the Chamber of Hungarian Auditors;

e) with respect to the service providers engaged in the activity referred to in Paragraph m) of Subsection (1) of Section 1, in accordance with the special provisions set out in this Act pertaining to independent lawyers and law offices (hereinafter referred to as ‘lawyers’) and notaries public:

ea) the competent regional bar association in which the lawyer in question is registered (hereinafter referred to as ‘regional bar association’);

eb) the competent regional chamber in which the notary public in question is registered (hereinafter referred to as ‘regional chamber’);

f) with respect to the service providers engaged in the activities referred to in Paragraphs j) and k) of Subsection (1) of Section 1, the trade licensing authority;

g) with respect to the service providers engaged in the activities referred to in Paragraphs f) and h) of Subsection (1) of Section 1, the authority operating as the national financial intelligence unit.

## *The obligation of carrying out customer due diligence procedures*

## Section 6

(1) Service providers are required to apply customer due diligence procedures:

a) when establishing a business relationship;

b) with the exception set out in Section 17, when executing transaction orders amounting to three million six hundred thousand forints or more;

c) when there is any information, fact or circumstance giving rise to suspicion of money laundering or terrorist financing, where the due diligence measures referred to in Paragraphs a)-b) have not been carried out yet;

d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

(2) The obligation of carrying out the due diligence procedures specified in Paragraph *b)* of Subsection (1) shall also apply to individual transaction orders linked in effect, if their combined value reaches three million six hundred thousand forints or more. In this case, due diligence procedures shall be carried out at the time of acceptance of the transaction order the execution of which brings the combined value of the linked transactions to the threshold of three million six hundred thousand forints.

### *Customer due diligence measures*

#### **Section 7**

(1) In the cases referred to in Subsection (1) of Section 6, service providers are required to identify the customer, the proxy, the authorised signatory and the representative, and to verify their identity.

(2) In the course of identification, service providers are required to record at least the following particulars of customers:

*a)* in connection with natural persons:

*aa)* surname and forename (birth name);

*ab)* address;

*ac)* nationality;

*ad)* type and number of identification document;

*ae)* in respect of foreign nationals, the place of abode in Hungary;

*b)* in connection with legal persons or organizations not having a legal personality:

*ba)* full name and abbreviated name;

*bb)* address of registered office or, in case of foreign-registered enterprises, the address of their branch office in Hungary;

*bc)* in the case of legal persons registered by the court of registration, the company registration number; in the case of other legal persons, the number of the resolution of their foundation (registration, incorporation) or their registration number.

(3) In addition to what is contained in Subsection (2), in the course of identification, service providers may record the following particulars of customers where it is deemed necessary for the identification of the customer, the business relationship or the transaction order, in the cases specified according to the internal rules referred to in Section 33, based on the nature of the business relationship or on the type and value of the transaction order and on the customer's circumstances in the interest of preventing and combating money laundering and terrorist financing:

*a)* in connection with natural persons:

*aa)* place and date of birth;

*ab)* mother's name;

*b)* in connection with legal persons or organizations not having a legal personality:

*ba)* principal activity;

*bb)* name and position of authorised representatives;

*bc)* identification data of agent for service of process.

(4) For the purposes of verification of identity, service providers are required to require the following documents to be presented:

*a)* in connection with natural persons:

*aa)* for Hungarian nationals, an official certificate suitable for the proof of identity and an official certificate for the proof of address;

*ab)* for foreign nationals, a passport or personal identity card, if it embodies an authorization to reside in Hungary, or a document evidencing the right of residence or a valid residence permit;

*ac)* for natural persons below the age of 14, an official certificate for the proof of personal identification number and an official certificate for the proof of address, or a passport and an official certificate for the proof of address;

*b)* for legal persons or organizations not having a legal personality, in addition to the documents of the persons described in Paragraph *a)* who are authorized to act in their names and on their behalf, a document issued within thirty days to date, to verify:

*ba)* if a domestic economic operator, that it has been registered by the court of registration or that the application for registration has been submitted; if a private entrepreneur, that he has a private entrepreneur's license, or that the private entrepreneur has submitted an application to the competent regional notary for a private entrepreneur's license;

*bb)* in case of domestic legal persons whose existence is subject to registration by an authority or the court, the fact that the registration has taken place;

*bc)* in case of foreign-registered legal persons or organizations not having a legal personality, the fact that the person or body has been registered under the law of the country in which it is established;

*c)* prior the submitting of an application for company registration to the court of registration, or an application for registration by an authority or the court to the competent authority or court, the articles of incorporation (articles of association, charter document) of legal persons and organizations not having a legal personality.

(5) In the application of Paragraph *c)* of Subsection (4), the legal person or organization not having a legal personality is required to produce documentary evidence of having been registered by the court of registration, or the competent authority or court, within thirty days after the fact, and the service provider is required to enter the company registration number or registration number into its records.

(6) For the purposes of verification of identity, service providers are required to check the validity of identification documents presented on the basis of Subsection (4).

## **Section 8**

(1) In the cases referred to in Subsection (1) of Section 6, the customer is required to provide a written statement to the service provider as to whether he is acting in his own name or in the name or on behalf of the beneficial owner.

(2) If the customer's written statement indicates that he is acting in the name or on behalf of the beneficial owner, the written statement shall contain the particulars of the beneficial owner specified in Subparagraphs *aa)*-*ac)* of Paragraph *a)* of Subsection (2) of Section 7.

(3) In addition to what is contained in Subsection (2), the service provider may request the customer to supply the particulars of the beneficial owner specified in Subparagraphs *ad)*-*ae)* of Paragraph *a)* of Subsection (2) and Paragraph *a)* of Subsection (3) of Section 7, where it is deemed necessary for the identification of the customer, the business relationship or the transaction order, in the cases specified according to the internal rules referred to in Section 33, based on the nature of the business relationship or on the type and value of the transaction

order and on the customer's circumstances in the interest of preventing and combating money laundering and terrorist financing.

(4) Where there is any doubt concerning the identity of the beneficial owner, the service provider shall request the customer to make a (repeated) written statement concerning the beneficial owner.

(5) Where there is any doubt concerning the identity of the beneficial owner, the service provider is required to take the necessary measures in order to check the beneficial owner's identification data in registers available according to the legal provisions for this purpose or in registers which are openly accessible to the public.

## **Section 9**

(1) In the cases referred to in Subsection (1) of Section 6, the service provider is required to record the following information pertaining to the business relationship and the transaction order:

- a)* regarding business relationships, the type, subject matter and the term of the contract;
- b)* regarding transaction orders, the subject matter and the value of the transaction.

(2) In addition to what is contained in Subsection (1), the service provider may also record the particulars of performance (place, time, mode), where it is deemed necessary for the identification of the customer, the business relationship or the transaction order, in the cases specified according to the internal rules referred to in Section 33, based on the nature of the business relationship or on the type and value of the transaction order and on the customer's circumstances in the interest of preventing and combating money laundering and terrorist financing.

## **Section 10**

(1) In line with the legal provisions applicable to their activities, service providers are required to conduct ongoing monitoring of the business relationship including the analysis of the transaction orders executed during the existence of that business relationship in order to establish whether a given transaction order is consistent with the information available to the service provider on the customer in accordance with the relevant provisions.

(2) Service providers are required to ensure that the data and information as well as documents held in connection with business relationships are kept up-to-date.

(3) During the existence of the business relationship, the customer is required to notify the service provider any change in the data and information supplied in the course of customer due diligence or any change concerning the beneficial owner within five working days of the day when taking cognizance of such changes.

(4) In order to perform the obligation set out in Subsection (3), service providers are required to draw the attention of their customers concerning their obligation to report any and all changes in their particulars.

(5) Where there is no assignment made, either debiting or crediting, to an account maintained by a service provider engaged in the activities referred to in Paragraphs *a)-b)*, *d)* and *l)*



of Subsection (1) of Section 1, apart from transaction orders that take several years to mature, the service provider shall request the customer in writing, within 30 days or in the next account statement, to report the changes in his particulars that may have occurred during the aforementioned period.

## **Section 11**

(1) With the exception of Subsections (2)-(5) and (8), service providers are required to carry out the verification of the identity of the customer and the beneficial owner before establishing a business relationship or executing a transaction order.

(2) Service providers may carry out the verification of the identity of the customer and the beneficial owner during the establishment of a business relationship, if it is necessary in order to avoid the interruption of normal conduct of business and where there is little risk of money laundering and terrorist financing occurring. In such cases the verification of identity shall be completed before the first transaction order is executed.

(3) The service providers engaged in the activity referred to in Paragraph *c)* of Subsection (1) of Section 1, in connection with insurance policies within the field of life assurance under Schedule No. 2. to the Insurance Act, may carry out the verification of the identity of the beneficiary under the policy and any other person entitled to receive services of the insurer / insurance provider even after the establishment of the business relation, if they were not known at the time of signature of the contract. In that case, verification of identity shall take place at or before the time of payout or at or before the time the entitled person enforce his / her rights originating from the contract (policy).

(4) The service providers engaged in the activity referred to in Paragraph *a)* of Subsection (1) of Section 1 and entitled to open bank accounts, may open a bank account provided they ensure that transactions are not executed by the customer, the proxy, the authorised signatory or the representative until the completion of the verification of the identity of the customer and the beneficial owner.

(5) The service providers engaged in the activity referred to in Paragraph *l)* of Subsection (1) of Section 1, may open a personal account governed under Act XCVI of 1993 on Voluntary Mutual Insurance Funds (hereinafter referred to as the ‘VMIF Act’), provided they ensure that the customer and the beneficiary will not get any service until the completion of verification of the identity of the customer and the beneficial owner.

(6) Where the service provider is unable to carry out the customer due diligence measures specified in Sections 7-9, it may not carry out a transaction through a bank account, establish a business relationship or execute a transaction order, or it is required to terminate the business relationship with the customer in question.

(7) If the customer is a legal person or an organization not having a legal personality, following completion of the due diligence procedures on the person acting in its name and on its behalf, due diligence procedures shall also be carried out concerning the legal person or the organization not having a legal personality.

(8) The customer due diligence measures specified under Sections 7-9 shall not be repeated if:

- a) the service provider has already completed the customer due diligence procedures specified under Sections 7-9 relating to the customer, the proxy, the authorised signatory and the representative in connection with previous transactions;
- b) the service provider has already carried out the verification of the identity of the customer, the proxy, the authorized signatory and the representative in connection with current transactions in accordance with Subsections (4)-(7) of Section 7; and
- c) no changes have taken place in the particulars listed under Subsection (2) of Section 7 and Subsection (2) of Section 8.

### ***Simplified customer due diligence procedures***

#### **Section 12**

(1) In the cases referred to in Paragraphs *a)*, *b)* and *d)* of Subsection (1) of Section 6, service providers are required to carry out the customer due diligence measures specified in Section 10 where the customer is:

- a) a service provider engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1 within the territory of the European Union, or a service provider that is engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1 and that has its registered office in a third country which imposes requirements equivalent to those laid down in this Act and supervised for compliance with those requirements;
- b) a listed company whose securities are admitted to trading on a regulated market in one or more Member States, or a listed company from a third country that is subject to disclosure requirements consistent with Community legislation;
- c) a supervisory body mentioned under Section 5;
- d) a central government body or a local authority specified in Section 1 of Act LVII of 2006 on Central Administration Authorities, and on the Legal Status of Members of the Government and State Secretaries, other than those mentioned in Paragraph *c)*;
- e) an institution of the European Community (the European Parliament, the Council, the Commission, the Court, the Court of Auditors), the European Economic and Social Committee, the Committee of the Regions, the European Central Bank or the European Investment Bank.

(2) Where a third country meets the conditions laid down in Paragraphs *a)-b)* of Subsection (1), the service provider shall inform the competent supervisory body mentioned under Section 5, which is to forward that information to the minister in charge of the money, capital and insurance markets (hereinafter referred to as ‘minister’) without delay.

(3) The minister informs the Commission and the member states of cases where he considers that a third country meets the conditions laid down in Paragraphs *a)-b)* of Subsection (1).

#### **Section 13**

(1) In the cases referred to in Paragraphs *a)*, *b)* and *d)* of Subsection (1) of Section 6, service providers are required to carry out only the customer due diligence measures specified in Section 10 in respect of:

- a) insurance policies within the field of life assurance under Schedule No. 2 to the Insurance Act, where the annual premium is no more than two hundred and sixty thousand forints or the single premium is no more than six hundred and fifty thousand forints;

*b)* insurance policies for pension schemes if there is no surrender clause and the funds payable to the insured person cannot be used as collateral for any credit or loan arrangement.

(2) Where a party entering into a contract with an insurance company purchases life insurance under the same policy to the benefit of more than one person (group insurance), the insurance company in this case is required to apply customer due diligence measures only in respect of the contracting party.

(3) The insurance company is not required to identify the customer, if an independent insurance intermediary, in the framework of its insurance intermediating activity, has previously already identified that customer.

### ***Enhanced customer due diligence procedures***

#### **Section 14**

(1) Service providers are required to record all data and particulars specified in Subsections (2)-(3) of Section 7, where the customer has not been physically present for identification purposes or for the verification of his identity.

(2) For the purposes of verification of the identity of the customer, the customer is required to submit to the service provider certified copies of the documents specified in Subsection (4) of Section 7 containing the data specified in Subsections (2)-(3) of Section 7.

(3) Certified copies of the documents referred to in Subsection (2) shall only be accepted for the identification and verification of the identity of the customer, if:

*a)* it was prepared by a Hungarian consulate officer or a notary public, and certified accordingly; or

*b)* the Hungarian consulate officer or the notary public has provided an endorsement for the copy to verify that the copy is identical to the original presented; or

*c)* the copy was prepared by an authority of the country where it was issued, if such authority is empowered to make certified copies and, unless otherwise provided for by an international agreement, the competent Hungarian consulate officer has provided a confirmatory certification of the signature and seal of the said authority.

#### **Section 15**

(1) Service providers engaged in the activity referred to in Paragraph *a)* of Subsection (1) of Section 1 are required, before establishing correspondent banking relationships with service providers having their registered offices in a third country, to:

*a)* prepare a comprehensive assessment on the service provider having its registered office in the third country, for the purposes of assessing and evaluating its system of means applied against money laundering and terrorist financing;

*b)* ascertain the fact that the service provider having its registered office in the third country has carried out the verification of the identity of the customer having a direct access to the correspondence account, and performs ongoing monitoring on the direct access to the correspondence account; and

*c)* ascertain the fact that the service provider having its registered office in the third country is able to provide the relevant customer due diligence data on request.

(2) Establishing a correspondent banking relationship with a service provider having its registered office in a third country, can take place only after the approval of the executive officer specified in the organisational and operational rules of the service provider engaged in the activity referred to in Paragraph *a*) of Subsection (1) of Section 1.

(3) Service providers engaged in the activity referred to in Paragraph *a*) of Subsection (1) of Section 1 are prohibited to establish or maintain a correspondent banking relationship with a shell bank or with a service provider that maintains a correspondent banking relationship with a shell bank.

### **Section 16**

(1) Customers residing abroad are required to make a written statement for the service provider declaring whether they are classified as politically exposed persons according to the law of their country. If a customer residing abroad is classified as a politically exposed person, the aforementioned statement shall also indicate the paragraph of Subsection (2) of Section 4 on the basis of which he/she is classified as a politically exposed person.

(2) Where there is any doubt concerning the veracity of the abovementioned statement, the service provider is required to take the necessary measures in the interest of checking the statement submitted under Subsection (1) in registers available according to the legal provisions for this purpose or in registers that are openly accessible to the public.

(3) In case of a foreign politically exposed person, the establishment of the business relationship or the execution of a transaction order may take place only after the approval of the executive officer specified in the organisational and operational rules of the service provider.

### **Section 17**

(1) In cases of exchanging money in the amount of five hundred thousand forints or above, service providers providing the currency exchange service are required to carry out the identification procedure with respect to all of the data listed under Subsections (2)-(3) of Section 7 and to verify the customer's identity, furthermore they are required to carry out the customer due diligence measures specified under Sections 8-9.

(2) The transaction receipt shall indicate the data listed in Subparagraphs *aa)-ab)* and *ad)* of Paragraph *a*) and Subparagraphs *ba)-bc)* of Paragraph *b*) of Subsection (2) of Section 7, and, in case of foreign natural persons, the Hungarian place of abode, as well.

(3) The obligation of carrying out the customer due diligence measures specified in Subsection (1) shall also apply to individual transaction orders linked in effect, if their combined value reaches five hundred thousand forints. In this case due diligence measures shall be carried out at the time of acceptance of the transaction order the execution of which brings the combined value of the linked transactions to the threshold of five hundred thousand forints.

### ***Customer due diligence measures carried out by other service providers***

### **Section 18**

(1) Service providers are entitled to accept the outcome of the customer due diligence procedures laid down in Sections 7-9, if the customer due diligence measures were carried out by a service provider that is engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1 within the territory of the Republic of Hungary, with the exception of service providers carrying on money transmission and currency exchange activities.

(2) Service providers are entitled to accept the outcome of customer due diligence procedures laid down in Sections 7-9, if the customer due diligence measures were carried out by a service provider that is engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1, with the exception of service providers carrying on money transmission and currency exchange activities:

- a)* within an other member state of the European Union; or
- b)* within a third country that meets the requirements laid down in Subsection (6) and Section 19.

(3) Service providers engaged in the activities referred to in Paragraphs *g)-h)* and *m)* of Subsection (1) of Section 1 are entitled to accept the outcome of customer due diligence procedures laid down in Sections 7-9, if the customer due diligence measures were carried out by a service provider that is engaged in the activities referred to in Paragraphs *g)-h)* and *m)* of Subsection (1) of Section 1 within the territory of the Republic of Hungary.

(4) Service providers engaged in the activities referred to in Paragraphs *g)-h)* and *m)* of Subsection (1) of Section 1 are entitled to accept the outcome of customer due diligence procedures laid down in Sections 7-9, if the customer due diligence measures were carried out by a service provider that is engaged in the activities referred to in Paragraphs *g)-h)* and *m)* of Subsection (1) of Section 1:

- a)* within the territory an other member state of the European Union; or
- b)* within a third country that meets the requirements laid down in Subsection (6) and Section 19.

(5) The outcome of customer due diligence procedures specified in Subsections (2) and (4) may be accepted even if the documents or data on which these requirements have been based are different to those determined in this Act.

(6) If the customer due diligence procedures were carried out by a service provider that is engaged in the activities referred to in Paragraphs *a)-h)*, *l)* and *m)* of Subsection (1) of Section 1, with the exception of service providers carrying on money transmission and currency exchange activities, the outcome of customer due diligence procedures may be accepted according to Subsections (2) and (4), if the service provider:

- a)* is included in the mandatory professional register; and
- b)* applies customer due diligence procedures and record keeping requirements as laid down or equivalent to those laid down in this Act and its supervision is executed in accordance with the requirements laid down or equivalent to those laid down in this Act, or its registered office is in a third country, which applies equivalent requirements to those laid down in this Act.

(7) Service providers are required to inform the supervisory body mentioned under Section 5 if a third country meets the conditions laid down in Paragraph *b)* of Subsection (6). The supervisory body shall forward that information to the minister without delay.

(8) The minister shall inform the Commission and the Member States of cases where a third country meets the conditions laid down in Paragraph *b*) of Subsection (6).

### **Section 19**

(1) In the cases referred to in Subsections (1)-(4) of Section 18, service providers shall be authorized to make available to other service providers data and information obtained for the purposes of carrying out due diligence procedures laid down in Sections 7-9 subject to the prior consent of the customer affected.

(2) In the cases referred to in Subsections (1)-(4) of Section 18, the service provider that has carried out the customer due diligence measures shall be authorized to make available, at the written request of the service provider accepting the outcome of customer due diligence procedures, data and information obtained for the purposes of identification and verification of identity of the customer and the beneficial owner, and copies of other relevant documentation on the identity of the customer or the beneficial owner to other service providers subject to the prior consent of the customer affected.

### **Section 20**

In the cases specified in Subsections (1)-(4) of Section 18, as regards compliance with the requirements set out in Section 7-9, the responsibility is to be borne by the service provider accepting the outcome of the customer due diligence procedures carried out by an other service provider.

### **Section 21**

Sections 18-20 shall not apply to outsourcing agency relationships where, on the basis of a contractual arrangement, the outsourcing service provider or agent is to be regarded as part of the service provider.

## ***Information on the payer accompanying the transfers of funds***

### **Section 22**

(1) The Authority and the authority operating as the financial intelligence unit shall function as the “authorities responsible for combating money laundering or terrorist financing” as described in Article 14 of the Regulation.

(2) For the purposes specified in Article 14 of the Regulation, upon the request of the authorities referred to in Subsection (1) acting within their competence, service providers are required to hand over to them the information on the payer as specified in Article 4 of the Regulation.

(3) The Authority shall function as the "authority responsible for application" as described in Paragraph (2) of Article 15 of the Regulation, and as the "competent authority" as described in Paragraph (3) thereof, while, in respect of the MNB, the authority operating as the financial intelligence unit shall have the same functions.

(4) As carrying on supervision the Authority shall act in accordance with the provisions of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (hereinafter referred to as the 'APS Act'), respecting the derogations set out in Act CXXXV of 2007 on the Hungarian Financial Supervisory Authority (hereinafter referred to as the 'HFSA Act'), furthermore, the authority operating as the financial intelligence unit shall act in accordance with the APS Act.

(5) In the event of any infringement of the provisions of the Regulation or non-compliance with the obligations set out in the Regulation, the Authority, consistent with the weight of the infringement, shall take the measures specified under Paragraphs *b)-e)* of Subsection (1) of Section 35 and may also take the measures specified below:

*a)* call upon the service provider to introduce the necessary measures to comply with the provisions of the Regulation, and to eliminate the revealed deficiencies;

*b)* prohibit the service provider from engaging in money transmission services before the infringement is terminated.

(6) The fine referred to in Paragraph *e)* of Subsection (1) of Section 35 may be imposed upon any service provider which fails to meet the obligations of the Regulation and of the resolution of the Authority, or meets them with delay or deficiency.

(7) In the event of any infringement of the provisions of the Regulation or non-compliance with the obligations set out in the Regulation, the authority operating as the financial intelligence unit, consistent with the weight of the infringement, shall apply the measures specified under Paragraphs *c)-d)* of Subsection (1) of Section 35 and may call upon the service provider to introduce the necessary measures to comply with the provisions of the Regulation, and to eliminate the revealed deficiencies.

(8) In cases set out in Paragraph (4) of Article 3 and in Paragraph (4) of Article 5 of the Regulation, when calculating the amount of the transferred money in euro, the official exchange rate published by MNB on the day when the order for the money transmission was received shall apply; in cases of currencies that are not included in the MNB Bulletin for the conversion of currencies the exchange rate translated into euro and included in the publication of MNB valid on the day when the order for the money transmission was accepted has to be applied.

(9) The "national identification number" referred to in Paragraph (2) of Article 4 of the Regulation shall be construed as the numbers specified in Subparagraph *ad)* of Paragraph *a)* and Subparagraph *bc)* of Paragraph *b)* of Subsection (2) of Section 7.

(10) Service providers are not required to apply the provisions of the Regulation with respect to money transmissions within the Republic of Hungary that are in compliance with the conditions set to in Paragraph (6) of Article 3 of the Regulation.

### ***Reporting obligation***

#### **Section 23**

(1) In the event of noticing any information, fact or circumstance indicating money laundering or terrorist financing, the person(s) defined in Paragraph *b)* of Subsection (2) of Section 1

shall, without delay, submit a report to the person referred to in Subsection (2) of this Section. The report shall contain:

- a)* the information and data the service provider has recorded pursuant to Sections 7-9; and
- b)* a brief description of the information, fact or circumstance indicating money laundering or terrorist financing.

(2) Service providers are required to designate, depending on the structure of the organization, one or more persons (hereinafter referred to as ‘designated person’), who shall forward without delay the report received on the basis of Subsection (1) from the person referred to in Paragraph *b)* of Subsection (2) of Section 1 to the authority operating as the financial intelligence unit. Service providers are required to notify the authority operating as the financial intelligence unit concerning the name and the position of the designated person, and any subsequent changes therein, within five working days of the date of designation or the effective date of the change.

(3) Service providers shall forward the report to the authority operating as the financial intelligence unit in the form of a secure electronic message, on the receipt of which the authority operating as the financial intelligence unit shall, without delay, send a confirmation to the service provider forwarding the report in a form of a secure electronic message.

(4) The service provider may not execute the transaction order until the report is submitted as set out in Paragraph (2).

(5) The service provider shall submit the report as determined in Subsection (2) after executing the transaction order, if the execution of the transaction order cannot be prevented according to Subsection (4), or the filing of the report before the execution of the transaction order is likely to jeopardize efforts to trace the beneficial owner.

(6) In the event of emerging any information, fact or circumstance indicating money laundering or terrorist financing, the authority operating as the financial intelligence unit, acting either under its own initiative or in order to fulfil the requests made by an authority operating as a foreign financial intelligence unit, shall have powers to make a request to service providers for data and information that are considered bank secret, securities secret, insurance secret, fund employer pension secret and, with respect to service providers engaged in the activities referred to Paragraph *e)* of Subsection (1) of Section 1, business secret, the release of which the service providers may not deny.

(7) In the event of emerging any information, fact or circumstance indicating money laundering or terrorist financing the authority operating as the financial intelligence unit, acting either under its own initiative or in order to fulfil the requests made by an authority operating as a foreign financial intelligence unit, shall have powers to make a request to the tax authority or the customs authority for data and information that are considered tax secrets or customs secrets, the release of which the tax authority or the customs authority may not deny.

(8) Pursuant to Subsections (6)-(7), the authority operating as the financial intelligence unit may release data or information to an authority operating as a foreign financial intelligence unit, if the latter is able to guarantee equivalent or better legal protection of such data and information than the protection afforded under Hungarian law.



(9) The person referred to in Paragraph *b*) of Subsection (2) of Section 1 and the designated person (hereinafter jointly referred to as ‘reporting persons’), in the case of good faith, shall not be held liable if the report ultimately proves to be unsubstantiated.

(10) The authority operating as the financial intelligence unit shall publish information about the efficiency of the reports and its proposal to improve efficiency on its official website semi-annually.

## Section 24

(1) The service provider shall suspend the execution of a transaction order, if any information, fact or circumstance indicating money laundering or terrorist financing in connection with the transaction order is emerged and the service provider considers the immediate action of the authority operating as the financial intelligence unit to be necessary for checking the data, fact or circumstance indicating money laundering or terrorist financing. In this case the service provider is required to submit a report without delay to the authority operating as the financial intelligence unit in order to investigate the cogency of the report.

(2) In case the authority operating as the financial intelligence unit notifies, in a form of a secure electronic message, the service provider any information, fact or circumstance indicating money laundering or terrorist financing in connection with a transaction order, this notification shall be considered as the immediate action of the authority operating as the financial intelligence unit for checking the data is necessary, unless, simultaneously with the notification, otherwise instructed by the financial intelligence unit.

(3) The service provider shall submit the report to the authority operating as the financial intelligence unit in the form of a secured electronic message, on the receipt of which the authority operating as the financial intelligence unit shall send a confirmation to the service provider filing the report without delay in a form of a secured electronic message.

(4) The authority operating as the financial intelligence unit shall examine the report:  
*a*) in the case of domestic transaction orders within one working day after the report is submitted;  
*b*) in the case of foreign transaction orders within two working days after the report is submitted.

(5) The authority operating as the financial intelligence unit shall inform the reporting service provider in writing:  
*a*) on the actions taken in accordance with the Act on Criminal Procedures; or  
*b*) on the fact that no action was taken pursuant to the Act on Criminal Procedures.  
in the course of the examination launched under Subsection (4).

(6) The service provider shall execute the suspended transaction order, if the authority operating as the financial intelligence unit notifies it according to Paragraph *b*) of Subsection (5), or after the expiry of the time limits specified in Subsection (4) in the absence of a notification from the authority operating as the financial intelligence unit.

(7) The service provider and the authority operating as the financial intelligence unit acting in accordance with Subsection (2), in the case of good faith, shall not be held liable for the

suspension of the transaction order, if this latter can be performed on the basis of what is contained in Subsection (6).

### **Section 25**

If the supervisory body mentioned under Section 5 obtains any information, fact or circumstance during its regulatory supervision that is to be reported according to Subsection (1) of Section 23, it shall inform the authority operating as the financial intelligence unit without delay.

### **Section 26**

(1) The authority operating as the financial intelligence unit shall be authorized to use the information obtained under this Act only for the purposes of prevention and combating money laundering and terrorist financing, and for the purposes of the investigation of acts of terrorism [Section 261 of Act IV of 1978 on the Criminal Code (hereinafter referred to as the ‘Criminal Code’)], unauthorized financial activities (Section 298/D of the Criminal Code), money laundering (Sections 303-303/A of the Criminal Code), failure to comply with the reporting obligation related to money laundering (Section 303/B of the Criminal Code), tax fraud (Section 310 of the Criminal Code), embezzlement (Section 317 of the Criminal Code), fraud (Section 318 of the Criminal Code) and misappropriation of funds (Section 319 of the Criminal Code), and to disseminate such information to other investigating authorities, the public prosecutor, the national security service or an authority operating as a foreign financial intelligence unit.

(2) The authority operating as the financial intelligence unit is required to keep records on the information disseminated according to Subsection (1). The aforesaid data transfer records shall be retained for a period of five years from the time of dissemination.

(3) The data transfer records shall contain:

- a) the personal identification data of the natural person affected, or the information necessary for the identification of the legal person or an organization not having a legal personality;
- b) the data processor’s registration number;
- c) the date and time of disclosure of information;
- d) the purpose and legal grounds of dissemination, and the information supplied;
- e) the name of the person or party requesting the data.

### ***Prohibition of disclosure***

### **Section 27**

(1) The reporting persons and the authority operating as the financial intelligence unit shall not provide information to the customer concerned or to other third persons on the fact that information has been transmitted in accordance with Section 23, on the contents of such information, on the fact that the transaction order has been suspended under Section 24, on the name of the reporting persons, or on whether a money laundering or terrorist financing investigation is being or may be carried out on the customer, and is required to ensure that the filing of the report, the contents thereof, and the identity of the reporting persons remain confidential.

(2) The prohibition laid down in Subsection (1) shall not prevent provision of information to the supervisory body mentioned under Section 5, including the investigating authority conducting the criminal procedure.

(3) In connection with supervision on a consolidated basis conducted under the CIFE Act, the CMA, and the Insurance Act, or on supplementary supervision of a financial conglomerate, the prohibition laid down in Subsection (1) shall not prevent disclosure of information between undertakings from Member States, or from third countries, which impose requirements upon such undertakings equivalent with those laid down in this Act, and are supervised for compliance those requirements.

(4) The prohibition laid down in Subsection (1) shall not prevent disclosure of information between service providers engaged in the activities referred to in Paragraphs *g)-h)* and *m)* of Subsection (1) of Section 1 from Member States, or from third countries which impose requirements equivalent to those laid down in this Act, if the persons concerned perform their professional activities within the same legal person or a network.

(5) Regarding service providers engaged in the activities referred to in Paragraphs *a)-e)*, *g)-h)*, *l)* and *m)* of Subsection (1) of Section 1, the prohibition laid down in Subsection (1) shall not prevent disclosure of information between the two or more service providers involved, provided that:

- a)* the information refer to the same customer and the same transaction order;
- b)* of the two or more service providers involved, at least one is engaged in activities defined by this Act, while the other service providers are resident in a Member State, or in a third country which imposes requirements equivalent to those laid down in this Act;
- c)* the service providers involved are engaged in the same activity referred to Subsection (1) of Section 1; and
- d)* the service providers involved are subject to obligations as regards professional secrecy and personal data protection equivalent to those laid down in this Act.

(6) Where a third country meets the conditions laid down in Subsection (3)-(5) above, the service providers engaged in the activities referred to in Paragraphs *a)-e)*, *g)-h)*, *l)* and *m)* of Subsection (1) of Section 1 shall inform the supervisory body mentioned under Paragraphs *a)-b)*, *d)-e)*, *g)* of Section 5. The supervisory body mentioned under Paragraphs *a)-b)*, *d)-e)*, *g)* of Section 5 shall forward that information to the minister without delay.

(7) The minister shall inform the Commission and the Member States of the cases referred to in Subsection (6).

### ***Record keeping and statistics***

#### **Section 28**

(1) Service providers are required to keep on file the data and documents they have obtained in the process of discharging their obligation prescribed under Sections 7-10 and Section 17, or the copies of such documents, the records of compliance with reporting obligations and data transmitting requirements specified in Section 23, and the documents certifying the suspension of the execution of transaction orders by virtue of Section 24, or the copies of such

documents, for a period of eight years from the time of recording or the time of reporting (suspension). The time limit for keeping the data or documents, or their copies, obtained under Paragraph *a*) of Subsection (1) of Section 6 shall commence upon the time of termination of the business relationship.

(2) The service providers engaged in activities referred to in Paragraphs *a-e*), *l*) and *m*) of Subsection (1) of Section 1 are required to keep records of all executed cash transaction orders in the amount of three million six hundred thousand forints or more (whether in forints or any other currency) in the register mentioned in Subsection (1) for a period of eight years.

## Section 29

(1) The authority operating as the financial intelligence unit is required to maintain statistics by virtue of which the effectiveness of the system for the combating of money laundering and terrorist financing can be controlled.

(2) The statistics specified in Subsection (1) shall cover:

*a*) the number of suspicious transaction reports made and the number of cases where information was provided under Section 23;

*b*) the number of transaction orders suspended under Section 24;

*c*) the number of cases for the freezing of assets in connection with terrorist financing under the Act on the Enforcement of the Economic and Financial Restrictive Measures Adopted by the European Union and the number of cases for the freezing of assets by court order, and the forint value of the funds and economic resources frozen by court order;

*d*) the number of suspicious transaction reports made under Section 23 upon which the authority operating as the financial intelligence unit took any action, and the number of cases investigated and prosecuted;

*e*) the number of cases investigated for suspicion of money laundering (Sections 303-303/A of the Criminal Code) and acts of terrorism (Section 261 of the Criminal Code), and the number of suspects;

*f*) in the criminal proceedings referred to in Paragraph *e*):

*fa*) the number of cases and the number of persons prosecuted;

*fb*) the number of court verdicts and the number of persons convicted, the number of cases where any property has been frozen, seized or confiscated, the value of property seized or confiscated, and how much property has been frozen, seized or confiscated.

(3) The General Prosecutor's Office shall supply information to the authority operating as the financial intelligence unit relating to Subparagraph *fa*) of Paragraph *f*) of Subsection (2), the number of final court verdicts concerning the freezing of assets under Paragraph *c*) of Subsection (2), the forint value of the funds and economic resources frozen by court order along with the information under Subparagraph *fb*) of Paragraph *f*) by 1 July of each calendar year as pertaining to the previous calendar year.

(4) Records of the data referred to in Paragraphs *a-d*) of Subsection (2) shall be broken down according to profession.

(5) The national financial intelligence unit shall post the aforesaid statistics on its official website annually.

## *Measures in the case of branches and subsidiaries located in third countries*

### **Section 30**

(1) The service providers engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1 are required to apply in their branches and subsidiaries located in third countries measures at least equivalent to those laid down under Sections 6-11, Section 28 and this Section.

(2) The service providers engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1 shall keep their branches and subsidiaries located in third countries informed concerning their internal control and information system (Section 31), and the contents of their internal rules (Section 33).

(3) Where the legislation of the third country does not permit application of such equivalent measures as referred to in Subsection (1), the service providers engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1 shall so inform the supervisory body specified in Paragraphs *a)-b)* of Section 5, which shall forward that information to the minister without delay.

(4) The minister shall inform the Commission and the other Member States of cases where the legislation of the third country does not permit application of the measures required under Subsection (1).

(5) Where the legislation of the third country does not permit application of the measures required under Subsection (1), the service providers engaged in the activities referred to in Paragraphs *a)-e)* and *l)* of Subsection (1) of Section 1 are required to prepare a comprehensive assessment on their branches and subsidiaries located in third countries.

## *Internal control and information systems, special training programs*

### **Section 31**

Service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to establish adequate and appropriate internal control and information systems for the procedures of customer due diligence, reporting and record keeping in order to prevent business relationships and transaction orders through which money laundering or terrorist financing is realized or possible.

### **Section 32**

(1) Service providers are required to ensure that their employees participating in carrying out the activities listed under Subsection (1) of Section 1 are aware of the provisions in force relating to money laundering and terrorist financing, that they are able to recognize business relationships and transaction orders through which money laundering or terrorist financing may be or is realized and to instruct them as to how to proceed in line with this Act in case a data, fact, circumstance is raised that indicates money laundering or terrorist financing.

(2) Service providers are required to ensure that their employees participating in carrying out the activities listed under Subsection (1) of Section 1 are aware of the provisions of the Act on the Enforcement of the Economic and Financial Restrictive Measures Adopted by the European Union, so that they are able to proceed in accordance with the provisions contained therein.

(3) In order to discharge the obligations set out in Subsections (1)-(2), service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to ensure the participation of their relevant employees in special training programs.

### ***Internal rules***

#### **Section 33**

(1) For performing their tasks related to the obligations conferred in this Act, service providers are required to prepare internal rules (hereinafter referred to as ‘internal rules’).

(2) The supervisory body mentioned under Section 5 shall approve the internal rules, if they contain the mandatory contents set out in this Act and in the decree implementing it, and if they are not contrary to any legal provision.

(3) For the purposes of drawing up the internal rules, the supervisory bodies mentioned under Section 5 shall, in collaboration with the authority operating as the financial intelligence unit and in agreement with the minister, provide sample rules as non-binding recommendations.

(4) Service providers engaged in trading in goods may undertake to discharge the obligations set out in this Act by submission of their internal rules to the trade licensing authority. The trade licensing authority, at the same time when it grants approval for the internal rules, shall also register the service provider in question. Only registered service providers engaged in trading in goods shall be authorized to accept cash payments of three million six hundred thousand forints or more.

### ***Supervision, measures***

#### **Section 34**

(1) The supervisory bodies determined in Paragraphs *a)-c), f)* and *g)* of Section 5 shall, in the process of exercising supervisory functions, ensure the compliance of service providers with the provisions of this Act.

(2) With the exceptions set out in this Act the supervisory bodies determined in Paragraphs *b)-c), f)* and *g)* of Section 5 shall carry out their respective supervisory functions in accordance with the APS Act, and the supervisory body mentioned under Paragraph *a)* of Section 5 shall carry out its supervisory functions in accordance with the APS Act and the HFSA Act.

(3) The supervisory body determined in Paragraph *d*) of Section 5 shall carry out its supervisory functions in accordance with Act LXXV of 2007 on the Chamber of Hungarian Auditors, the Activities of Auditors, and on the Public Oversight of Auditors (hereinafter referred to as ‘the Auditors Act’).

(4) The supervisory body determined in Subparagraph *ea*) of Paragraph *e*) of Section 5 shall carry out its supervisory functions in accordance with Act XI of 1998 on Attorneys (hereinafter referred to as the ‘Attorneys Act’), and the supervisory body mentioned under Subparagraph *eb*) of Paragraph *e*) of Section 5 shall carry out its supervisory functions in accordance with Act XLI of 1991 on Notaries Public (hereinafter referred to as ‘NPA’).

### Section 35

(1) In the case of any infringement of the provisions of this Act or non-compliance with the obligations set out in this Act, the supervisory bodies mentioned under Paragraphs *a*)-*c*), *f*) and *g*) of Section 5 shall take the following measures consistent with the weight of the infringement:

*a*) it may call upon the service provider to take the measures necessary for compliance with the provisions of this Act, and to eliminate the deficiencies;

*b*) it may advise the service provider:

*ba*) to ensure the participation of their relevant employees (executive officers) carrying out the activities listed under Subsection (1) of Section 1 in special training programs, or to hire employees (executive officers) with the appropriate professional skills required for those activities;

*bb*) to recondition the internal rules according to specific criteria within a prescribed deadline;

*c*) it may issue a warning to the service provider;

*d*) it may order the service provider to cease the unlawful conduct;

*e*) in addition to or independent of the measures listed in Paragraphs *a*)-*d*), it may impose a fine of minimum two hundred thousand and maximum five million forints upon the service providers engaged in the activities referred to in Paragraphs *a*)-*e*) and *l*) of Subsection (1) of Section 1, and a fine of minimum one hundred thousand and maximum one million forints upon the service providers engaged in the activities referred to in Paragraphs *f*), *h*)-*i*), *j*) and *k*) of Subsection (1) of Section 1.

(2) The supervisory body mentioned under Paragraph *b*) of Section 5 may initiate at the supervisory body mentioned under Paragraph *a*) of Section 5 to impose a fine for any infringement of the relevant provisions of this Act upon a service provider engaged in money processing operations from among the activities auxiliary to financial services with respect to Paragraph *a*) of Subsection (1) of Section 1.

(3) The proceeds from fines imposed by the supervisory bodies mentioned under Paragraphs *c*), *f*) and *g*) of Section 5 must be used exclusively for the following purposes:

*a*) training of experts;

*b*) promoting the preparation and publication of studies on the supervisory activities mentioned under in Paragraphs *c*), *f*) and *g*) of Section 5;

*c*) providing information for customers of service providers;

*d*) additional training of the staff of the authority operating as the financial intelligence unit in the special knowledge required in connection with this Act.

(4) The measures defined under Subsection (1) shall be imposed upon a service provider where a director of the service provider, if a legal person or a business association not having a legal personality, has committed the infringement for the benefit of that service provider.

(5) The measures defined under Subsection (1) shall be imposed upon a service provider where an employee of the service provider, if a legal person or a business association not having a legal personality, has committed the infringement for the benefit of that service provider, and it could have been prevented by the appropriate supervision or control that is required of the director of the service provider.

### ***Special provisions relating to attorneys and notaries public***

#### **Section 36**

(1) The obligation of customer due diligence and reporting prescribed in this Act shall apply to attorneys, with the exception set out in Subsection (3), if they hold any money or valuables in custody or if they provide legal services in connection with the preparation and execution of the following transactions in accordance with Subsection (1) of Section 5 of the Attorneys Act:

- a) buying or selling any participation (share) in a business association or other economic operator;
- b) buying or selling real estate;
- c) founding, operating or dissolving a business association or other economic operator.

(2) The customer due diligence and reporting obligations prescribed in this Act shall apply to notaries public, with the exception set out in Subsection (4), if he provides safe custody services or if he provides public notary services in connection with the preparation and execution of the following transactions in accordance with the NPA:

- a) buying or selling any participation (share) in a business association or other economic operator;
- b) buying or selling real estate;
- c) founding, operating or dissolving a business association or other economic operator.

(3) The obligations determined in this Act shall not apply to attorneys, if:

- a) the data, fact or circumstance indicating money laundering or financing of terrorism become known in connection with providing the defence in criminal proceedings or legal representation before a court, other than the court of registration, during any stage of such defence or representation or at any time thereafter;
- b) the data, fact or circumstance indicating money laundering or financing of terrorism was become known in connection with the defence or legal representation referred to in Paragraph a) or while providing legal advice relating to the questions for the opening of a proceeding.

(4) The obligation determined in this Act shall not apply to notaries public if:

- a) the data, fact or circumstance indicating money laundering or financing of terrorism become known while providing legal advice relating to the questions for the opening of a proceeding;
- b) the notary public conducts a non-litigious proceeding.

#### **Section 37**



(1) Attorneys and notaries public shall submit the report prescribed in Section 23 with the regional bar association or regional chamber of notaries public, respectively. The employees of attorneys and notaries public (including assistant attorneys) shall submit the report with the attorney or notary public who exercises employer's rights. The attorneys or notaries public exercising employer's rights shall forward the report without delay to the regional bar association or regional chamber of notaries public, respectively. Employees of law firms shall report to the person designated by the members' meeting, who shall forward the report without delay to the bar association with which the law firm is registered.

(2) The presidents of regional bar associations and regional chambers of notaries public shall designate a person to be responsible for forwarding without delay the reports received from the persons referred to in Paragraph *b*) of Subsection (1) of Section 2 to the authority operating as the financial intelligence unit. The regional bar associations and regional chambers of notaries public are required to notify without delay the authority operating as the financial intelligence unit about the designated person and also when the designated person is replaced.

(3) With regard to law firms, the members' meeting may decide whether the obligations prescribed in Subsection (1) of Section 23 and in Sections 31-32 are to be fulfilled by the law firm or by the members.

### **Section 38**

(1) In respect of discharging the responsibilities prescribed in this Act, the Hungarian Bar Association shall draw up uniform internal rules for individual lawyers and single-member law firms that shall be treated as the internal rules of individual lawyers and single-member law firms in conformity with Section 33. The aforesaid uniform internal rules shall be approved by the minister responsible for justice.

(2) In respect of discharging the responsibilities prescribed in this Act, the law firms not mentioned in Subsection (1) are required to draw up internal rules, and to present them for approval to the competent regional bar association. The Hungarian Bar Association shall draw up standard rules in compliance with Subsection (3) of Section 33, and it shall be approved by the minister responsible for justice.

(3) In respect of discharging the responsibilities prescribed in this Act, the Hungarian Chamber of Notaries Public shall draw up guidelines for notaries public that shall be treated as the internal rules of notaries public.

(4) Fulfilment of the reporting obligation by attorneys and notaries public shall not constitute a violation of the confidentiality requirements prescribed in specific other legislation.

(5) In the application of this Act, notaries public shall not be subject to the obligation laid down in Subsection (2) of Section 3 of the NPA.

### ***Closing and authorizing provisions***

### **Section 39**

(1) This Act, with the exception of Subsections (2)-(9), shall enter into force on 14 December 2007.

(2) *[no longer in effect]*

(3) Sections 1-38, Section 40, Sections 42-43, Sections 46-51, Sections 54-55, and Section 56 shall enter into force on 15 December 2007.

(4) Subsection (10) shall enter into force on 16 December 2007.

(5) Subsection (12) and Section 52 shall enter into force on 2 January 2008.

(6) Subsection (13) shall enter into force on 3 January 2008.

(7) Subsections (1)-(2) of Section 44 shall enter into force on 15 December 2008.

(8) Subsection (3) of Section 44 shall enter into force on 1 January 2009.

(9) Subsection (11) shall enter into force on 2 January 2009.

(10) *[no longer in effect]*

(11) *[no longer in effect]*

(12) *[no longer in effect]*

(13) *[no longer in effect]*

#### **Section 40**

*[no longer in effect]*

#### **Section 41**

*[no longer in effect]*

#### **Section 42**

By way of derogation from Subsection (6) of Section 11, the service provider is required to refuse the execution of a transaction order after 1 January 2009, if:

*a)* it has established a business relationship with the customer prior to this Act entering into force;

*b)* the customer failed to appear at the service provider personally or by way of a representative for the purpose of carrying out customer due diligence procedures; and

*c)* regarding the customer, the outcome of the customer due diligence procedures specified under Sections 7-10 is not fully available.

#### **Section 43**

(1) The minister is hereby authorized to publish - by way of a decree - the list of third countries which impose requirements equivalent to those laid down in this Act, and to publish - by way of a decree - the list of third countries whose nationals are not permitted to benefit from the simplified customer due diligence procedures by virtue of the Commission decisions adopted according to Paragraph (4) of Article 40 of Directive 2005/60/EC.

(2) The minister is hereby authorized to lay down in a decree the mandatory content of internal rules.

#### **Section 44**

*[no longer in effect]*

#### **Section 45**

(1) Following the entry of this Act into force, the supervisory body mentioned under Section 5 shall make available the model rules within forty-five days after the time of this Act entering into force.

(2) Service providers already existing at the time of this Act entering into force are required to amend their internal rules within ninety days of the time of this Act entering into force to comply with the provisions of this Act.

(3) In addition to satisfy the requirements set out in specific other legislation that are to be met for obtaining a license permit, the service providers listed under Paragraphs *a)-e)*, *i)* and *l)* of Subsection (1) of Section 1 established after the time of this Act entering into force shall submit also their internal rules for approval to the competent supervisory body mentioned under Section 5 together with the license application.

(4) The service providers commencing the activities referred to in Paragraphs *f)-h)*, *j)* and *m)* of Subsection (1) of Section 1 are required to draw up their internal rules and submit it for approval to the supervisory body determined in Section 5 within ninety days following the commencement of operations.

(5) The Hungarian Bar Association shall draw up internal rules for individual lawyers and single-member law firms, and the Hungarian Chamber of Notaries Public shall draw internal rules for notaries public within ninety days following the time of this Act entering into force.

(6) Service providers engaged in trading in goods, if not listed in the register referred to in Subsection (4) of Section 33, may accept cash payments of three million six hundred thousand forints or more only until 15 March 2008.

#### ***Modified legal provisions***

#### **Section 46**

*[no longer in effect]*

#### **Section 47**

*[no longer in effect]*

**Section 48**

*[no longer in effect]*

**Section 49**

*[no longer in effect]*

**Section 50**

*[no longer in effect]*

**Section 51**

*[no longer in effect]*

**Section 52**

*[no longer in effect]*

**Section 53**

*[no longer in effect]*

**Section 54**

*[no longer in effect]*

**Section 55**

*[no longer in effect]*

***Compliance with the legal provisions of the European Communities***

**Section 56**

(1) This Act serves the purpose of conformity with the following legislation of the Communities:

*a)* 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;

*b)* 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.

(2) This Act contains provisions for the implementation of Regulation (EC) No. 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.