

## **Act CXXXVI of 2007**

### **on the Prevention and Combating of Money Laundering and Terrorist Financing<sup>1</sup>**

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 criminal activities 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 aforementioned objectives Parliament has adopted the following Act:

#### ***Scope***

##### ***Section 1***

(1) With the exceptions set out in Subsections (3)-(5) - this Act shall apply to persons who are engaged in the territory of Hungary in:<sup>2</sup>

- a) the provision of financial services or in activities auxiliary to financial services;
- b) the provision of investment services, in activities auxiliary to investment services or in providing investment fund management services;
- c) the provision of insurance services, insurance agency or occupational retirement provision;
- d) the provision of commodity exchange services;
- e)<sup>3</sup> the service of accepting and delivering international postal money orders;
- f) the provision of real estate agency or brokering and any related services;
- g) the provision of auditing services;
- h) the provision of accountancy (bookkeeping), tax consulting services whether or not certified, or tax advisory activities under agency or service contract;
- i)<sup>4</sup> the operation of a casino or card room, or in providing distance gambling services;
- j) the trading in precious metals or articles made of precious metals;
- k) the trading in goods, involving a cash payment in the amount of three million six hundred thousand forints or more;
- l) the provision of voluntary mutual insurance fund services;
- m) the provision of legal counsel or notary services;
- n)<sup>5</sup> fiduciary asset management.

(2) This Act shall apply to:

- a) customers of service providers;
- b) directors, managers, and employees of service providers and their participating family members.

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<sup>1</sup> Promulgated on 28 November 2007.

<sup>2</sup> Amended: by subparagraph a) Section 319 of Act CCI of 2011. In force: as of 1. 01. 2012.

<sup>3</sup> Established: by paragraph (1) Section 151 of Act LXXXV of 2009. In force: as of 1. 11. 2009.

<sup>4</sup> Established: by paragraph (1) Section 13 of Act CXXXVI of 2013. In force: as of 19. 07. 2013.

<sup>5</sup> Enacted by Subsection (1) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

(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)<sup>6</sup> the agency activities described in Subsection (1) of Section 6 of Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (hereinafter referred to as “CIFE”);

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

e)<sup>7</sup> non-professional fiduciaries provided for in the Act on Fiduciaries and on the Regulations Governing Their Activities.

(5) This Act shall not apply to the activity defined in Paragraph a) of Subsection (1), if carried out by the Magyar Nemzeti Bank (hereinafter referred to as “MNB”), with the exception of the provision of services relating to the transfer of funds under Section 22 and Section 2.

## *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)<sup>8</sup> provide services relating to the transfer of funds within 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 the transfers of funds (hereinafter referred to as “Regulation”).

## *Interpretative Provisions*

### *Section 3*

For the purposes of this Act:

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<sup>6</sup> Established: by Section 113 of Act CL of 2009. Amended by Paragraph a) of Section 76 of Act CCXXXVI of 2013.

<sup>7</sup> Enacted by Subsection (2) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

<sup>8</sup> Amended: by subparagraph a) Section 319 of Act CCI of 2011. In force: as of 1. 01. 2012.

a)<sup>9</sup> ‘tax adviser, tax consultant, certified tax consultant’ shall mean any person who has the qualifications described under specific other legislation and is authorized to engage in such activities, and who is listed in the register of tax advisers, tax consultants and certified tax consultants in accordance with the provisions of 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 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 or compliance control;

g) ‘third country’ shall mean any country that is not a 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 preliminary services for such transactions, real estate appraisal, real estate investment and real estate development;

i) ‘trading in goods’ shall mean the supply of goods by way of business to buyers, traders in goods and manufacturers;

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 an arrangement under which one credit institution maintains an account for another credit institution to provide money transfers, payments and other financial and investment services.

l)<sup>10</sup> ‘national financial intelligence unit’ shall mean a department of the Nemzeti Adó- és Vámhivatal (*National Tax and Customs Authority*) delegated under the relevant legislation;

m) ‘official document suitable for identification purposes’ shall mean a personal identification document (identity card), passport, or driver’s license card;

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

o) ‘service provider’ shall mean the person or body engaged in the activity referred to in Subsection (1) of Section 1;

p) ‘director of a service provider’ shall mean any natural person acting for the benefit of the legal person or business association lacking the legal status of a legal person based on a power of representation, an authority to take decisions on behalf of or an authority to exercise control within the legal person or business association lacking the legal status of a legal person;

q) ‘series of related transactions’ shall mean:

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

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<sup>9</sup> Established: by paragraph (3) Section 44 of same Act. In force: as of 1. 1. 2009. Amended: by Section 237 of Act LXXXI of 2008. In force: as of 01. 01. 2009.

<sup>10</sup> Established: by paragraph (1) Section 1 of Act LII of 2013. In force: as of 1. 07. 2013.

qb) in connection with currency exchange services, the transactions conducted on behalf of a customer within a period of one week;

qc) as regards the service providers engaged in the activity referred to in Paragraph k) of Subsection (1) of Section 1, installment payments and payment orders based on deferred payment facilities;

r)<sup>11</sup> 'beneficial owner' shall mean:

ra)<sup>12</sup> the natural person who owns or controls at least twenty-five per cent of the shares or voting rights in a legal person or an unincorporated business association directly or - by way of the means defined in Subsection (4) of Section 8:2 of Act V of 2013 on the Civil Code (hereinafter referred to as "Civil Code") - indirectly, if that legal person or unincorporated business association is not listed on a regulated market and is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards,

rb)<sup>13</sup> the natural person who has a dominant influence in a legal person or unincorporated business association as defined in Subsection (2) of Section 8:2 of the Civil Code,

rc) the natural person on whose behalf a transaction is carried out,

rd) in the case of foundations:

1. where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of twenty-five per cent or more of the property of the foundation,

2. where the individuals that benefit from the foundation have yet to be determined, the class of natural persons in whose main interest the foundation is set up or operates, or

3. the natural person(s) who exercises control in the management of the foundation or exercises control over twenty-five per cent of the property of a foundation, or who is authorized to represent the foundation, and

re) in the absence of the natural person referred to in Subparagraphs ra)-rb), the executive officer of the legal person or unincorporated business association;

s)<sup>14</sup> 'customer' shall mean:

sa) any person entering into a business relationship with the service provider for the services provided within the meaning of the activities described in Subsection (1) of Section 1, or who places an order with the service provider to carry out a transaction, and

sb) as regards the service provider pursuing the activities described in Paragraph f) of Subsection (1) of Section 1, any person requesting an offer for the purchase or sale of a real estate property;

t)<sup>15</sup> 'customer due diligence' shall mean:

ta) the implementation of the customer due diligence measures specified under Sections 7-10 in the case referred to in Section 6,

tb) the registration of a player under Subsections (1) and (2) of Section 29/H of Act XXXIV of 1991 on Gambling Operations;

u) 'transaction order' shall mean a temporary 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)<sup>16</sup> 'business relationship' shall mean:

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<sup>11</sup> Established: by paragraph (2) Section 1 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>12</sup> Amended by Paragraph a) of Section 164 of Act CCLII of 2013.

<sup>13</sup> Amended by Paragraph b) of Section 164 of Act CCLII of 2013.

<sup>14</sup> Established: by paragraph (3) Section 1 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>15</sup> Established: by paragraph (2) Section 13 of Act CXXVI of 2013. In force: as of 19. 07. 2013.

<sup>16</sup> Established: by paragraph (4) Section 1 of Act LII of 2013. In force: as of 1. 07. 2013.

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 Paragraphs *a)-e)*, *g)-h)* and *j)-m)* of Subsection (1) of Section 1,

vb) the activities of a notary public concerning the procedure defined under Subsection (2) of Section 36,

vc)<sup>17</sup> as regards the service providers 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 card room, or as regards distance gambling operators, the registration of a player,

vd) as regards the service provider pursuing the activities described in Paragraph *f)* of Subsection (1) of Section 1, a relationship between a customer and a service provider pertaining to the services of the service provider falling within its professional activities;

w)<sup>18</sup> ‘money laundering’ shall mean either of the conducts defined in Sections 303-303/A of Act IV of 1978 on the Criminal Code in force until 30 June 2013 (hereinafter referred to as “Act IV/1978”), and in Sections 399-400 of Act C of 2012 on the Criminal Code (hereinafter referred to as “Criminal Code”);

x)<sup>19</sup> ‘terrorist financing’ shall mean the provision or collection of funds with the intention that they should be used in order to carry out any of the offences within the meaning of Subsections (1) and (2) of Section 261 of Act IV/1978, or either of the conduct defined in Section 318 of the Criminal Code;

y)<sup>20</sup> ‘foreign financial intelligence unit’ shall mean the authority of a foreign State with similar or identical functions as the national financial intelligence unit with particular regard to the requirements of the Financial Action Task Force (FATF) and the Egmont Group.

#### *Section 4*

(1) For the purposes of this Act, ‘politically exposed persons’ means 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 implementation of customer due diligence measures, and immediate family members, or persons known to be close associates, of such persons.

(2)<sup>21</sup> For the purposes of Subsection (1), ‘natural persons who are or have been entrusted with prominent public functions’ shall include the following:

*a)* heads of State, heads of government, ministers and assistant ministers;

*b)*<sup>22</sup> members of parliaments and spokesmen for the nationality;

*c)* members of the Constitutional Court or of other high-level judicial bodies whose decisions are not subject to further appeal;

*d)* the head of the court of auditors, members of courts of auditors or of the supreme decision-making body of the central bank;

*e)* ambassadors, *chargés d’affaires* and high-ranking officers in the armed forces, including members in the rank or position of generals;

*f)* members of the administrative, management or supervisory bodies of companies under majority state ownership.

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<sup>17</sup> Established: by paragraph (3) Section 13 of Act CXXVI of 2013. In force: as of 19. 07. 2013.

<sup>18</sup> Enacted: by paragraph (5) Section 1 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>19</sup> Enacted: by paragraph (5) Section 1 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>20</sup> Enacted: by paragraph (5) Section 1 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>21</sup> Established: by Section 2 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>22</sup> Amended by paragraph (22) Section 158 of Act XXXVI of 2012.

(3)<sup>23</sup> For the purposes of Subsection (1), close relative shall have the same meaning as defined in 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 business association lacking the legal status of a legal person, 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 business association lacking the legal status of a legal person which is known to have been set up for the benefit de facto of the person referred to in Subsection (2).

## *Section 5*

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

a)<sup>24</sup> the Magyar Nemzeti Bank (*National Bank of Hungary*) (hereinafter referred to as “Authority”), acting within its function as supervisory authority of the financial intermediary system with respect to the service providers engaged in the activities referred to in Paragraphs a)-e) and l) of Subsection (1) of Section 1;

b)<sup>25</sup>

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

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

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 branch of the Association in which the notary public in question is registered (hereinafter referred to as “regional branch”);

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 authority of trade and commerce;

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 national financial intelligence unit;

h)<sup>26</sup> the office provided for in the Act on Fiduciaries and on the Regulations Governing Their Activities (hereinafter referred to as “Office”) with respect to the service providers engaged in the activities referred to in Paragraph n) of Subsection (1) of Section 1.

## *Customer Due Diligence*

### *Section 6*

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<sup>23</sup> Amended by Paragraph c) of Section 164 of Act CCLII of 2013.

<sup>24</sup> Established: by Section 101 of Act CXLIII of 2013. In force: as of 1. 10. 2013.

<sup>25</sup> Repealed: by Section 105 of Act CXLIII of 2013. No longer in force: as of 1. 10. 2013.

<sup>26</sup> Enacted by Subsection (3) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

- (1) Service providers shall apply customer due diligence measures in the following cases:
- a) when establishing a business relationship;
  - b)<sup>27</sup> with the exception set out in Sections 11/A and 17, when carrying out occasional transactions 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 taking the due diligence measures specified in Paragraph b) of Subsection (1) shall also apply to any series of related transactions with a combined value of three million six hundred thousand forints or more. In this case, due diligence measures shall be carried out in connection with the transaction that brings the total value of the transactions to the threshold of three million six hundred thousand forints.

## *Customer Due Diligence Measures*

### *Section 7*

(1) In connection with what is contained in Subsection (1) of Section 6, service providers shall apply due diligence measures for identifying the customer, the customer's agent, proxy or other authorized representative and verifying their identity.

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

- a) in connection with natural persons:
  - aa) surname and forename (birth name);
  - ab) address;
  - ac) nationality;
  - ad) number and type of identification document;
  - ae) in respect of foreign nationals, the place of abode in Hungary;
- b) in connection with legal persons and business associations lacking the legal status of a legal person:
  - ba) full name and abbreviated name;
  - bb) address of corporate headquarters and, for foreign-registered companies, the address of the Hungarian branch office;
  - bc) the registered number of legal persons listed in the companies register, or the number of the resolution adopted on the foundation (registration, admission into the register) of other legal persons, or their registration number.

(3)<sup>28</sup> In addition to what is contained in Subsection (2), in the identification procedure service providers may record the following particulars of customers where it is deemed necessary for the identification of the customer, the business relationship and the transaction order, based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances relying on the outcome of the procedure fixed in the internal policy

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<sup>27</sup> Established: by Section 3 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>28</sup> Established: by paragraph (1) Section 4 of Act LII of 2013. In force: as of 1. 07. 2013.

referred to in Section 33, with a view to the prevention and combating of money laundering and terrorist financing:

a) in connection with natural persons:

aa) date and place of birth,

ab) mother's name;

b) in connection with legal persons and unincorporated business associations:

ba) the principal activity,

bb) name and position of authorized representatives,

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

(4) For the purposes of identification and verification procedures, service providers must require the following documents to be presented:

a) in connection with natural persons:

aa) personal identification document (official identity card) and official address card of Hungarian citizens;

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

ac)<sup>29</sup>

b) for legal persons and business associations lacking the legal status of a legal person, in addition to the documents of the persons described in Paragraph a) who are authorized to act in its name and on its behalf, a document issued within thirty days to date, to verify:

ba)<sup>30</sup> if a resident economic operator, that it has been registered by the competent court of registry, or that the application for registration has been submitted; if a private entrepreneur, that the private entrepreneur's license or the certificate of registration has been issued;

bb) for other resident legal persons whose existence is subject to registration by an authority or the court, the document of registration;

bc) for non-resident legal persons and business associations lacking the legal status of a legal person, the document proving that the person or body has been registered under the law of the country in which it is established;

c) the articles of incorporation (articles of association, charter document) of legal persons and business associations lacking the legal status of a legal person that have not yet been registered by the registrar of companies, court or appropriate authority.

(5) In the application of Paragraph c) of Subsection (4), the legal person or business association lacking the legal status of a legal person shall produce documentary evidence of having been registered by the registrar of companies, court or appropriate authority, within thirty days after the fact, and the service provider must enter the registered number or registration number into its records.

(6) For the purposes of identification and verification procedures, service providers must check the validity of the identification documents mentioned under Subsection (4).

(7)<sup>31</sup> For the purposes of identification and verification procedures, in the case of agents service providers must check the validity of the power of attorney, and in the case of other authorized representatives the legal title of representation and the representative's entitlement.

(8)<sup>32</sup> In the cases provided for in Subsection (1) of Section 6, in the interest of the identification procedure and for the purpose of verification of identity, service providers shall be entitled - in

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<sup>29</sup> Repealed: by Section 390 of Act LVI of 2009. No longer in force: as of 1. 10. 2009.

<sup>30</sup> Established: by Section 140 of Act CLIX of 2010. In force: as of 1. 01. 2011.

<sup>31</sup> Enacted: by paragraph (2) Section 4 of Act LII of 2013. In force: as of 1. 07. 2013.



addition to taking the measures defined in Subsections (2)-(7) - to verify personal identification information from publicly-accessible records or on the basis of registers the operator of which is required by law to supply information - where this is deemed necessary for the identification of the customer, the business relationship and the transaction order, based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances relying on the outcome of the procedure fixed in the internal policy referred to in Section 33, with a view to the prevention and combating of money laundering and terrorist financing.

### *Section 8<sup>33</sup>*

(1) In the case provided for in Subsection (1) of Section 6, the customer - if a natural person - is required to provide a written statement subject to the formal requirements set out by the service provider as to whether he is acting in his own name or in the name and on behalf of the beneficial owner.

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

(3) In connection with Subsection (1) of Section 6, the customer's authorized representative - if a legal person or an unincorporated business association - shall identify in writing the beneficial owner of the legal person or unincorporated business association and shall disclose the beneficial owner's particulars specified in Subparagraphs *aa)-ac)* of Paragraph *a)* of Subsection (2) of Section 7.

(4) In addition to what is contained in Subsections (2)-(3), 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 this is deemed necessary for the identification of the customer, the business relationship and the transaction order, based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances relying on the outcome of the procedure fixed in the internal policy referred to in Section 33, with a view to the prevention and combating of money laundering and terrorist financing.

(5) In addition to what is contained in Subsections (2)-(4), in the identification procedure service providers may request the customer to declare whether its beneficial owner is a politically exposed person where this is deemed necessary for the identification of the customer, the business relationship and the transaction order, in the cases specified according to the internal policy referred to in Section 33 based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances, with a view to the prevention and combating of money laundering and terrorist financing. If the beneficial owner is considered politically exposed, the aforesaid statement must also indicate the category of politically exposed persons applicable according to Subsection (2) of Section 4.

(6) Where there is any doubt concerning the identity of the beneficial owner, the service provider shall request the customer to reconfirm the identity of the beneficial owner by means of a written statement.

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<sup>32</sup> Enacted: by paragraph (2) Section 4 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>33</sup> Established: by Section 5 of Act LII of 2013. In force: as of 1. 07. 2013.

(7) Where there is any doubt concerning the identity of the beneficial owner, the service provider must take measures to check the beneficial owner's identification data in publicly-accessible records and registers or on the basis of other similar registers the operators of which are required by law to supply information to the service provider.

### *Section 8/A.*<sup>34</sup>

(1) The customer's statement referred to in Section 8 may be omitted if the service provider records the data specified in Subsections (1)-(5) of Section 8 based on the documents presented as provided for in Subsection (4) of Section 7, and also on the basis of publicly-accessible records and registers, and other similar registers the operators of which are required by law to supply information to the service provider.

(2) In the case provided for in Subsection (1) the service provider shall indicate that the data specified in Subsections (1)-(5) of Section 8 had been recorded in the absence of the customer's statement referred to in Section 8.

### *Section 9*

(1) In connection with Subsection (1) of Section 6, the service provider shall record the following information pertaining to the business relationship and the transaction order:

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

(2)<sup>35</sup> In addition to what is contained in Subsection (1), the service provider may also record the particulars of the transfer (place, time, mode) where this is deemed necessary for the identification of the customer, the business relationship and the transaction order, in the cases specified according to the internal policy referred to in Section 33 based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances, with a view to the prevention and combating of money laundering and terrorist financing, and may request the disclosure of information as to the source of funds.

(3)<sup>36</sup> Service providers may render the establishment of a business relationship and the execution of a transaction order subject to approval by the management body defined in their organizational and operational regulations where this is deemed necessary for the identification of the customer, the business relationship and the transaction order, based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances relying on the outcome of the procedure fixed in the internal policy referred to in Section 33, with a view to the prevention and combating of money laundering and terrorist financing.

### *Section 10*

(1) In due observation of the relevant legal regulations, service providers shall conduct ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with

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<sup>34</sup> Enacted: by Section 5 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>35</sup> Established: by Section 6 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>36</sup> Enacted: by Section 6 of Act LII of 2013. In force: as of 1. 07. 2013.

the information the service provider has in its possession on the customer in accordance with the relevant regulations.

(1a)<sup>37</sup> Service providers may conduct ongoing monitoring of the business relationship under Subsection (1) in the strengthened procedure provided for in the internal policy referred to in Section 33 where this is deemed necessary based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances relying on the outcome of the procedure fixed in the internal policy referred to in Section 33, with a view to the prevention and combating of money laundering and terrorist financing.

(1b)<sup>38</sup> Service providers shall pay special attention to all complex and unusual patterns of transactions where this is deemed necessary based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances relying on the outcome of the procedure fixed in the internal policy referred to in Section 33, with a view to the prevention and combating of money laundering and terrorist financing.

(2) Service providers shall ensure that documents, data or information held in connection with business relationships are kept up-to-date.

(3) During the life of the business relationship, the customer is required to notify the service provider concerning any change in the data and information supplied for the purposes of due diligence measures or those concerning the beneficial owner within five working days of the day when such information is received.

(4) In connection with the obligation set out in Subsection (3), the service provider shall advise its customers concerning their obligation to report any and all changes in their particulars.

(5) Where there is no movement of any kind in 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 over a period of two calendar years, apart from arrangements that take several years to mature, the service provider shall request the customer in writing - within thirty 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) Save where Subsections (2)-(5) and (8) apply, service providers are required to ensure that the verification of the identity of the customer and the beneficial owner takes place before the establishment of a business relationship or the carrying-out of the transaction.

(2) Service providers may be allowed to carry out the verification of the identity of the customer and the beneficial owner during the establishment of a business relationship if this is necessary not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing occurring. In such situations these procedures for the verification of the identity of the customer shall be completed before the first transaction is carried out.

(3) The service providers engaged in the activity referred to in Paragraph c) of Subsection (1) of Section 1 may be allowed, in connection with insurance policies within the field of life assurance under Schedule No. 2 to the Insurance Act, to carry out the verification of the identity of the beneficiary under the policy and any other person entitled to receive services from the insurer after the business relationship has been established, 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

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<sup>37</sup> Enacted: by Section 7 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>38</sup> Enacted: by Section 7 of Act LII of 2013. In force: as of 1. 07. 2013.

of payout or at or before the time the beneficiary intends to exercise rights vested under the policy.

(4)<sup>39</sup> The service providers engaged in the activity referred to in Paragraph a) of Subsection (1) of Section 1 and entitled to set up a payment account may open a payment account provided that there are adequate safeguards in place to ensure that transactions are not carried out by the customer, the customer's agent, proxy or other authorized representative until the completion of the verification of the identity of the customer and the beneficial owner.

(5)<sup>40</sup> 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 "VMIFA"), provided that there are adequate safeguards in place to ensure that no services are provided to the customer or the beneficiary until the completion of the verification of the identity of the customer and the beneficial owner. The service providers engaged in the pursuit of occupational retirement provision according to Paragraph c) of Subsection (1) of Section 1 may open a personal account governed under Act CXVII of 2007 on Occupational Retirement Pension and Institutions for Occupational Retirement Provision (hereinafter referred to as "OPA"), provided that there are adequate safeguards in place to ensure that no services are provided to the client or the beneficiary until the completion of the verification of the identity of the client and the beneficial owner.

(6)<sup>41</sup> Where the service provider is unable to comply with the customer due diligence measures specified in Sections 7-9, it may not carry out a transaction through a payment account, establish a business relationship or carry out the transaction, or shall terminate the business relationship with the customer in question.

(7) If the customer is a legal person or a business association lacking the legal status of a legal person, following completion of the customer due diligence procedures concerning a person acting in its name and on its behalf, due diligence procedures shall also be carried out concerning the legal person or a business association lacking the legal status of a legal person in question.

(8) The customer due diligence measures specified under Sections 7-9 shall not apply where:

a) the service provider has already completed the customer due diligence procedures specified under Sections 7-9 relating to the customer, the customer's agent, proxy or other authorized representative in connection with previous transactions;

b) the service provider has already carried out the verification of the identity of the customer, the customer's agent, proxy or other authorized 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.

### *Section 11/A.*<sup>42</sup>

(1) In order to discharge the obligation referred to in Subsection (2) of Section 6, service providers shall record the data specified in Subsection (2) of Section 7 and in Paragraph b) of Subsection (1) of Section 9 in executing transactions in an amount of three hundred thousand forints or more.

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<sup>39</sup> Amended: by paragraph (3) Section 151 of Act LXXXV of 2009. In force: as of 1. 11. 2009.

<sup>40</sup> Established: by Section 166 of Act CXCVIII of 2011. In force: as of 1. 01. 2012.

<sup>41</sup> Amended: by paragraph (3) Section 151 of Act LXXXV of 2009. In force: as of 1. 11. 2009.

<sup>42</sup> Enacted: by Section 8 of Act LII of 2013. In force: as of 1. 07. 2013.

(2)<sup>43</sup> Service providers pursuing the activities described in Paragraph *a*) of Subsection (1) of Section 1 - with the exception of money remittance transactions initiated and carried out in Hungary in an amount below three hundred thousand forints - shall record the data specified in Subsection (2) of Section 7 and in Paragraph *b*) of Subsection (1) of Section 9 in carrying out money transmission or remittance transactions and cash deposits paid directly to payment account - without the involvement of any intermediary -, as well as service providers pursuing the activities described in Paragraph *c*) of Subsection (1) of Section 1 in the case of activities in the field of life assurance under Schedule No. 2 to the Insurance Act - with the exception of net risk life assurance policies that contain no savings elements - in receiving cash deposits made above and beyond the premium that was otherwise due as contracted.

## *Simplified Customer Due Diligence*

### *Section 12*

(1)<sup>44</sup> 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 Subsection (1) of Section 10, and - where this is deemed necessary for the identification of the customer, the business relationship and the transaction order with a view to the prevention and combating of money laundering and terrorist financing - may record the data specified in Subsection (2) of Section 7 and may request the documents specified in Subsection (4) of Section 7 to be presented, where the customer:

*a*) is a service provider engaged in carrying out the activities referred to in Paragraphs *a*)-*e*) and *l*) of Subsection (1) of Section 1 in 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 is situated in a third country which imposes requirements equivalent to those laid down in this Act and supervised for compliance with those requirements;

*b*) is 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*) is a supervisory body mentioned under Section 5;

*d*) is a municipal government, a budgetary agency of a municipal government, or a central government body other than those covered in Paragraph *c*);

*e*) is the European Parliament, the Council of the European Union, the European Commission, the Court of Justice of the European Union, the European Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Central Bank, the European Investment Bank, or a body or other institution of the European Union.

(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 shall inform the Commission and the other Member States of cases where he considers that a third country meets the conditions laid down in Paragraphs *a*)-*b*) of Subsection (1).

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<sup>43</sup> Established: by Section 102 of Act CXLIII of 2013. In force: as of 1. 10. 2013.

<sup>44</sup> Established: by Section 9 of Act LII of 2013. In force: as of 1. 07. 2013.

## *Section 13*

(1)<sup>45</sup> 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 Subsection (1) of Section 10, and - where this is deemed necessary for the identification of the customer, the business relationship and the transaction order with a view to the prevention and combating of money laundering and terrorist financing - may record the data specified in Subsection (2) of Section 7 and may request the documents specified in Subsection (4) of Section 7 to be presented, 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;

*c*)<sup>46</sup> the electronic money specified in Subsection (1) of Section 6 to the CIFE, if the amount limit the issuer of electronic money made available to the holder of the electronic money:

1. if it is not possible to recharge the electronic money, is no more than sixty-five thousand forints;

2. if it is possible to recharge the electronic money, a limit of sixty-five thousand forints is imposed on the total amount transacted in a calendar year, except when an amount of two hundred and sixty thousand forints or more is redeemed by the issuer of electronic money in that same calendar year upon the electronic money holder's request.

(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 only required to apply customer due diligence measures for identifying the contracting party only.

(3) An insurance company shall not be required to apply customer due diligence measures for identifying a customer whose identity has already been established by an independent insurance intermediary for the same purpose.

## ***Enhanced Customer Due Diligence***

### *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 be accepted for the verification of the identity of the customer if:

*a*) it was prepared by the officer of a Hungarian consular post or by a notary public, and certified accordingly; or

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<sup>45</sup> Established: by Section 10 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>46</sup> Amended by Paragraph b) of Section 76 of Act CCXXXVI of 2013.

b) the officer of a Hungarian consular post 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.

(4)<sup>47</sup> For the opening of a client account and a securities account provided for in Point 130 and Point 46 of Subsection (1) of Section 5 of Act CXX of 2001 on the Capital Market, respectively, and for the opening of a safe custody account, for the verification of identity the customer shall have the option to submit the documents specified in Subsection (4) of Section 7, as well as the statement provided for in Section 8 by way of electronic means - such as in particular by way of email scanned in - or by way of fax, when there is no information, fact or circumstance giving rise to suspicion of money laundering or terrorist financing. In that case, for the purpose of opening the account the customer may likewise supply evidence by way of electronic means or by way of fax of having a payment account, from which or to which payments will be made to or from the client account (hereinafter referred to as “verified payment account”). A verified payment account must be maintained by a service provider specified in Subsection (1) or (2) of Section 18. Before the customer appears in person for the purpose of identification and for the verification of identity, or before the documents specified in Subsections (2) and (3) are submitted, with the exception of the settlement of transactions where the client account, securities account or safe custody account is involved only payments made by simple transfer and only in respect of client accounts opened in accordance with this Subsection may be carried out, where deposits shall be accepted only from the customer’s verified payment account and payments shall be made only to the customer’s verified payment account.

(5)<sup>48</sup> The service provider where the client account, securities account and safe custody account is opened shall request proof - by way of attaching the customer’s natural identification data - from the service provider where the verified payment account is opened that the procedure for identifying the customer has been completed in connection with the verified payment account, and that the data and information supplied by the customer relating to the client account, securities account and safe custody account are true and correct. The requested service provider shall comply with the request within eight days. If the customer has no payment account at the requested service provider, the service provider in question shall delete the data received with the data request from the service provider where the client account, securities account and safe custody account is opened.

## *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 respondent institutions from third countries, to:

a) assess, evaluate and analyze the respondent third-country service provider’s anti-money laundering and anti-terrorist financing controls;

b) be satisfied that the respondent third-country service provider has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the

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<sup>47</sup> Enacted: by Section 11 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>48</sup> Enacted: by Section 11 of Act LII of 2013. In force: as of 1. 07. 2013.

correspondent and that it is able to monitor access to the said accounts of the correspondent on an ongoing basis; and

c) be satisfied that the respondent third-country service provider is able to provide relevant customer due diligence data to the correspondent institution, upon request.

(2) Service providers engaged in the activity referred to in Paragraph a) of Subsection (1) of Section 1, before establishing any correspondent banking relationships with respondent institutions from third countries, must obtain approval from the management body defined in their organizational and operational regulations.

(3) Service providers engaged in the activity referred to in Paragraph a) of Subsection (1) of Section 1 are prohibited to engage in or continue a correspondent banking relationship with a shell bank or with a service provider that is known to permit its accounts to be used by a shell bank.

### *Section 16*

(1) Customer residing in another Member State or in a third country are required to provide a statement to whether they are considered politically exposed according to the national law of their country. If a customer residing in another Member State or in a third country is considered politically exposed, the aforesaid statement must also indicate the category of politically exposed persons applicable according to Subsection (2) of Section 4.

(1a)<sup>49</sup> If a customer residing in another Member State or in a third country is considered politically exposed, the aforesaid statement must also indicate - in addition to the data specified in Subsection (1) - information as to the source of funds.

(2) Where there is any doubt concerning the veracity of the above-mentioned statement, the service provider must take measures to check the statement submitted under Subsection (1) in records and registers which are publicly available in accordance with legal regulations.

(3) In respect of transactions or business relationships with politically exposed persons residing in another Member State or in a third country, approval from the management body defined in the organizational and operational regulations is required.

### *Section 17*

(1) With regard to any transaction for the exchange of money involving a sum amounting to five hundred thousand forints or more, the service provider providing the exchange service shall be 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, and to carry out the customer due diligence measures specified in Sections 8-9.

(2) The transaction document shall indicate the data specified in Subparagraphs aa)-ab) and ad) of Paragraph a) and in Subparagraphs ba)-bc) of Paragraph b) of Subsection (2) of Section 7, and the Hungarian residence of non-resident natural persons.

(3) The obligation of taking the due diligence measures specified in Subsection (1) also apply to any series of related transactions with a combined value of five hundred thousand forints or more. In this case, due diligence measures shall be carried out in connection with the transaction that brings the total value of the transactions to the threshold of five hundred thousand forints.

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<sup>49</sup> Enacted: by Section 12 of Act LII of 2013. In force: as of 1. 07. 2013.



## *Customer Due Diligence Measures Carried Out by Other Service Providers*

### *Section 18*

(1)<sup>50</sup> Service providers shall be authorized to recognize and accept the outcome of customer due diligence requirements laid down in Sections 7-9, if the customer due diligence measures are 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 in the territory of Hungary, with the exception of currency exchange offices and money transmission or remittance offices.

(2) Service providers shall be authorized to recognize and accept the outcome of customer due diligence requirements laid down in Sections 7-9, if the customer due diligence measures are 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 currency exchange offices and money transmission or remittance offices:

a) in the territory of another Member State of the European Union; or

b) in the territory of a third country that meets the conditions laid down in Subsection (6) of this Section and in Section 19.

(3)<sup>51</sup> Service providers engaged in the activities referred to in Paragraphs g)-h) and m) of Subsection (1) of Section 1 shall be authorized to recognize and accept the outcome of customer due diligence requirements laid down in Sections 7-9, if the customer due diligence measures are 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 in the territory of Hungary.

(4) Service providers engaged in the activities referred to in Paragraphs g)-h) and m) of Subsection (1) of Section 1 shall be authorized to recognize and accept the outcome of customer due diligence requirements laid down in Sections 7-9, if the customer due diligence measures are 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) in the territory of another Member State of the European Union; or

b) in the territory of a third country that meets the conditions laid down in Subsection (6) of Section 19.

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

(6) The outcome of customer due diligence requirements specified in Subsections (2) and (4) may be recognized and accepted, if the customer due diligence measures are carried out by a service provider - with the exception of currency exchange offices and money transmission or remittance offices - that is engaged in the activities referred to in Paragraphs a)-h), l) and m) of Subsection (1) of Section 1 in a third country and that:

a) is subject to mandatory professional registration; and

b) applies customer due diligence requirements and record keeping requirements as laid down or equivalent to those laid down in this Act and its compliance with the requirements of this Act is supervised in accordance with provisions laid down or equivalent to those laid down in this Act, or it is situated in a third country which imposes equivalent requirements to those laid down in this Act.

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<sup>50</sup> Amended: by subparagraph a) Section 319 of Act CCI of 2011. In force: as of 1. 01. 2012.

<sup>51</sup> Amended: by subparagraph a) Section 319 of Act CCI of 2011. In force: as of 1. 01. 2012.

(7) Where a third country meets the conditions laid down in Paragraph b) of Subsection (6), the service provider shall inform the competent supervisory body mentioned under Section 5. A competent supervisory body mentioned under Section 5 shall forward that information to the minister without delay.

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

### *Section 19*

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

(2)<sup>52</sup> In connection with Subsections (1)-(4) of Section 18 and if the conditions under Subsection (6) of Section 18 are satisfied, if the service provider that has carried out the customer due diligence measures and the service provider recognizing and accepting the outcome of customer due diligence requirements have agreed on sharing the outcome of customer due diligence measures, the service provider that has carried out the customer due diligence measures shall forthwith make available - at the written request of the service provider recognizing and accepting the outcome of customer due diligence requirements - data and information obtained for the purposes of verification of the 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 the service provider recognizing and accepting the outcome of customer due diligence requirements subject to the prior consent of the customer affected.

### *Section 20*

In connection with Subsections (1)-(4) of Section 18, as regards compliance with the requirements set out in Sections 7-9, the ultimate responsibility for the customer due diligence procedure remains with the service provider that has accepted the outcome of the customer due diligence procedure.

### *Section 21*

Sections 18-20 shall not apply to outsourcing or 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 Transfers of Funds***

### *Section 22*

(1) In accordance with Article 14 of the Regulation, the Authority and the national financial intelligence unit shall function as the “authorities responsible for combating money laundering or terrorist financing”.

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<sup>52</sup> Established: by Section 13 of Act LII of 2013. In force: as of 1. 07. 2013.

(2) Payment service providers shall respond to inquiries from the authorities referred to in Subsection (1) above acting in their vested official capacity concerning the information on the payer as specified in Article 4 of the Regulation for the purposes specified in Article 14 of the Regulation.

(3) In accordance with Article 15 (2) of the Regulation, the Authority shall function as “the authority responsible for application”, and as the “competent authority” referred to in Article 15 (3) of the Regulation, and the national financial intelligence unit shall have the same functions with respect to the MNB.

(4)<sup>53</sup> The Authority shall carry out the supervisory procedure in due observation of the provisions of the Act on the General Rules of Administrative Proceedings, subject to the exceptions set out in the Act on the National Bank of Hungary (hereinafter referred to as “MNB Act”), furthermore, the national financial intelligence unit shall act in accordance with the APA.

(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 shall take the measures specified under Paragraphs b)-e) of Subsection (1) of Section 35 and the measures specified below, consistent with the weight of the infringement:

a) call upon the service provider to take the measures necessary for compliance with the provisions of the Regulation, and to eliminate the discrepancies;

b) prohibit the service provider from engaging in the provision of transfer of funds 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 for non-compliance with the provisions contained in resolutions adopted under the Regulation or by the Authority, and for partial or late compliance with the said provisions.

(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 national financial intelligence unit shall apply the measures specified under Paragraphs c)-d) of Subsection (1) of Section 35 consistent with the weight of the infringement, and may call upon the service provider to take the measures necessary for compliance with the provisions of the Regulation, and to eliminate the discrepancies.

(8) Where Article 3 (4) and Article 5 (4) of the Regulation apply, the amount transferred shall be translated to euro based on the official exchange rate quoted by the MNB in effect on the day when the transfer order in question is received, or by the exchange rate published in the MNB Bulletin for the conversion of currencies that are not quoted by the MNB to euro in effect on the day when the transfer order in question is received.

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

(10)<sup>54</sup> Service providers are not required to apply the provisions of the Regulation with respect to transfer of funds services carried out inside Hungary that are in compliance with Article 3 (6) of the Regulation.

### ***Reporting Obligations***

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<sup>53</sup> Established: by paragraph (1) Section 131 of Act CLVIII of 2010. In force: as of 1. 01. 2011. Amended: by Section 104 of Act CXLIII of 2013. In force: as of 1. 10. 2013.

<sup>54</sup> Amended: by subparagraph c) Section 319 of Act CCI of 2011. In force: as of 1. 01. 2012.

## *Section 23<sup>55</sup>*

(1) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the directors, managers, and employees of service providers and their participating family members shall, without delay, file a report to the person referred to in Subsection (3) hereof. The report shall contain:

- a) the data and information the service provider has recorded pursuant to Sections 7-9;
- b) a brief description of the information, fact or circumstance suggesting money laundering or terrorist financing; and
- c) documentary evidence, if available, in support of the detailed description of the information, fact or circumstance suggesting money laundering or terrorist financing.

(2) Directors, managers, and employees of service providers and their participating family members shall examine the occurrence of information, fact or circumstance giving rise to suspicion of money laundering or terrorist financing in connection with transactions already carried out and pending transactions, including transaction orders submitted but not yet executed, and also in the case provided for in Subsection (6) of Section 11.

(3) Service providers shall, depending on the structure of the organization, designate one or more persons (hereinafter referred to as “liaison officer”) within five working days following the time of starting up their activities to forward without delay to the national financial intelligence unit the reports received under Subsection (1) from the directors, managers, and employees of service providers and their participating family members. Service providers are required to notify the national financial intelligence unit concerning the appointment of the liaison officer, including the name and the position of such officer, and any subsequent changes therein, within five working days of the date of appointment or the effective date of the change.

(4) The person designated under Subsection (3) shall dispatch the report in the service provider’s name to the national financial intelligence unit in the form of a secure electronic message, and the national financial intelligence unit shall confirm receipt of the report in the form of an electronic message sent to the reporting service provider without delay.

(5) Prior to dispatch of the report referred to in Subsection (4), the service provider may not carry out a transaction.

(6) The person designated under Subsection (3) shall comply with the obligation of reporting referred to in Subsection (4) in the service provider’s name after carrying out the transaction, if the carrying out of the transaction cannot be prevented as under Subsection (5) or the filing of the report before carrying out the transaction is likely to jeopardize efforts to trace the beneficial owner as part of an impending investigation.

(7) If a report is filed in good faith, the directors, managers, and employees of service providers and their participating family members and the liaison officer (hereinafter referred to as “notifier”) shall not be held liable if the report ultimately proves to be unsubstantiated.

(8) The national financial intelligence unit shall post an announcement concerning the success rate related to the reports and any proposals it may have to improve such success rate on its official website semi-annually.

## *Section 24<sup>56</sup>*

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<sup>55</sup> Established: by Section 14 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>56</sup> Established: by Section 15 of Act LII of 2013. In force: as of 1. 07. 2013.

(1) The service provider shall suspend a transaction where it knows, suspects or has reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, and if prompt action by the national financial intelligence unit is deemed appropriate and necessary to examine certain corresponding information, fact or circumstance that may suggest money laundering or terrorist financing. In this case, the service provider shall immediately notify the national financial intelligence unit to investigate the cogency of the report.

(2) The service provider shall dispatch the report defined in Subsection (1) to the national financial intelligence unit in the form of a secure electronic message, and the national financial intelligence unit shall confirm receipt of the report in the form of an electronic message sent to the reporting service provider without delay.

(3) Unless otherwise instructed by the national financial intelligence unit, the service provider shall suspend the execution of the transaction if the national financial intelligence unit sends notice to the service provider in writing concerning any information, fact or circumstance giving rise to suspicion of money laundering or terrorist financing in connection with the transaction order in question.

(4) The national financial intelligence unit shall investigate the information, fact or circumstance giving rise to suspicion of money laundering or terrorist financing:

*a)* in the case of domestic transactions, within two working days of receipt of the report referred to in Subsection (1), or from the date of receipt of the notice referred to in Subsection (2);

*b)* in the case of non-domestic transactions, within four working days of receipt of the report referred to in Subsection (1), or from the date of receipt of the notice referred to in Subsection (2).

(5) The national financial intelligence unit shall have powers to extend the period of the investigation referred to in Subsection (4) by an additional three working days if deemed necessary for the data disclosure defined in Subsection (1) of Section 26.

(6) The national financial intelligence unit shall inform the service provider in writing:

*a)* concerning the extension of the investigation as under Subsection (5);

*b)* if the transaction can be carried out before the investigation of the national financial intelligence unit is completed.

(7) The service provider shall carry out a suspended transaction upon receipt of notice from the national financial intelligence unit in accordance with Paragraph *b)* of Subsection (6), or following the expiry of the time limits specified in Subsections (4) and (5) in the absence of a notice from the national financial intelligence unit.

(8) The service provider and the national financial intelligence unit referred to in Subsection (2) - if acting in good faith - shall not be held liable for the suspension of a transaction if it ultimately proves to be unsubstantiated, and the transaction can be carried out on the basis of what is contained in Subsection (7).

## *Section 25*

If the competent supervisory body mentioned under Section 5 obtains any information, fact or circumstance during its regulatory proceedings that is to be reported according to Subsection (1) of Section 23, it shall notify the national financial intelligence unit without undue delay.

*Section 25/A.*<sup>57</sup>

(1) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have access to service providers' records acting under its own initiative or in order to fulfill a requests made by a foreign financial intelligence unit.

(2) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have access - acting under its own initiative or in order to fulfill a requests made by a foreign financial intelligence unit - to data and information that are considered bank secrets, payment secrets, securities secrets, fund and insurance secrets, occupational retirement pension secrets, and trade secrets held by service providers.

(3) The national financial intelligence unit shall have powers to make a request - acting within its powers conferred under this Act or in order to fulfill the written requests made by a foreign financial intelligence unit - to a service provider for data and the secrets referred to Subsections (1) and (2). The service provider requested shall comply with the request of the national financial intelligence unit, and shall dispatch the data and secrets requested.

(4) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have access - acting under its own initiative or in order to fulfill a requests made by a foreign financial intelligence unit - to the records of central government bodies, the courts and the supervisory body mentioned under Section 5.

(5) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have access - acting under its own initiative or in order to fulfill the requests made by a foreign financial intelligence unit - to tax secrets or customs secrets.

(6) The requested central government body, the court and the supervisory body mentioned under Section 5 shall make available to the national financial intelligence unit the data and secrets referred to Subsections (4) and (5) as requested by the national financial intelligence unit acting within its powers conferred under this Act or in order to fulfill the written requests made by a foreign financial intelligence unit.

(7) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have powers to initiate proceedings falling within the competence of central government bodies or the supervisory body mentioned under Section 5, for which it shall supply the data and information deemed necessary for opening and conducting the proceedings, and for which the body conducting the proceedings is authorized. The requested body shall inform the national financial intelligence unit concerning the outcome of the proceedings.

(8) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have powers to request - acting under its own initiative or in order to fulfill a requests made by a foreign financial intelligence unit in connection with the criminal offense defined in Subsection (1) of Section 26 - information from the investigating authorities, within the framework of its analysis and assessment function delegated under this Act, including information obtained by means of covert

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<sup>57</sup> Enacted: by Section 16 of Act LII of 2013. In force: as of 1. 07. 2013.

investigations. Save where Subsection (10) applies, the investigating authorities may not refuse such requests.

(9) Apart from the data access provided for in Subsection (8), in the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have direct access - acting under its own initiative or in order to fulfill a requests made by a foreign financial intelligence unit in connection with the criminal offense defined in Subsection (1) of Section 26 - to information within the framework of analysis and assessment function delegated under this Act from the records of the investigating arm of the NAV. Direct access shall be provided by the investigating arm of the NAV.

(10) In exceptional cases, the head of the investigating authority may refuse to comply with the data request under Subsection (8), or may refuse to provide direct access under Subsection (9) if such data disclosure or provision of direct access is likely to jeopardize the success of investigations or covert information gathering operations under way, or if disclosure of data would violate an international agreement.

(11) As regards the sharing of data disclosed with any organization mentioned in Subsection (1) of Section 26 and in Subsection (1) of Section 26/A of this Act, the head of the investigating authority shall be entitled:

- a)* to prohibit it;
- b)* to restrict it;
- c)* to render it subject to prior consent.

(12) The national financial intelligence unit may set a time limit of minimum eight and maximum thirty days for compliance with the data requests made under Subsections (1)-(6) and (8). The requested body shall comply with the data request or shall communicate the reason for non-compliance within the prescribed time limit.

(13) During the period of suspension described in Subsections (1)-(2) of Section 24 the national financial intelligence unit may - in justified cases - reduce the time limit referred to in Subsection (12) for compliance with the data requests made under Subsections (1)-(6) and (8).

(14) The national financial intelligence unit may use the data and secrets obtained under Subsections (1)-(9) solely for the purposes defined in Subsection (1) of Section 26 and Subsection (1) of Section 26/A, and only within the framework of its analysis and assessment function specified in Subsection (1) of Section 26/B.

## *Section 26*

(1)<sup>58</sup> The national financial intelligence unit shall be authorized to use the information obtained under this Act, or under Act XLVIII of 2007 on the Implementation of Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community only for the purposes of preventing and combating money laundering and terrorist financing, and for the purposes of the preventing, detecting and investigating the following criminal offenses, and to disclose such information to other investigating units, the public prosecutor, the court, the national security service, the coordination center for combating organized crime delegated for the risk analysis of passenger data or the EUROPOL in accordance with the Act on the International Cooperation of Law Enforcement Authorities, and to the internal affairs division that investigates professional misconduct and

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<sup>58</sup> Established: by paragraph (2) Section 303 of Act CCXXIII of 2012. In force: as of 1. 07. 2013.

criminal acts and the anti-terrorist organization defined by the Act on the Police to the extent required for discharging their respective duties provided for by law:<sup>59</sup>

*a)* tax evasion, excise violation, illegal trafficking of excise goods, smuggling of goods and violation of the financial interest of the European Communities in force until 31 December 2011,

*b)* criminal offenses under Act IV of 1978 on the Criminal Code in force until 30 June 2013, specifically, kidnapping (Act IV/1978, Section 175/A), trafficking in human beings (Act IV/1978, Section 175/B), crimes with illegal pornographic material (Act IV/1978, Section 204), procuring for prostitution or sexual act (Act IV/1978, Section 205), living on earnings of prostitution (Act IV/1978, Section 206), pandering (Act IV/1978, Section 207), illegal immigrant smuggling (Act IV/1978, Section 218), abuse of authority (Act IV/1978, Section 225), harboring a criminal (Act IV/1978, Section 244), corruption (Act IV/1978, Sections 250-255/A), abuse of a function (Act IV/1978, Section 256), bribery in international transactions (Act IV/1978, Sections 258/B, 258/C, 258/D), abuse of a function and indirect bribery in international transactions (Act IV/1978, Section 258/E), acts of terrorism (Act IV/1978, Section 261), violation of international economic sanctions (Act IV/1978, Section 261/A), illegal possession of explosives and destructive devices (Act IV/1978, Section 263), criminal misuse of firearms and ammunition (Act IV/1978, Section 263/A), criminal misuse of military items and services, and dual-use items (Act IV/1978, Section 263/B), participation in a criminal organization (Act IV/1978, Section 263/C), misappropriation of radioactive materials (Act IV/1978, Section 264), criminal misuse of weapons prohibited by international convention (Act IV/1978, Section 264/C), unlawful gambling operations (Act IV/1978, Section 267), misuse of harmful consumer goods (Act IV/1978, Section 279), environmental damage (Act IV/1978, Section 280), damaging the natural environment (Act IV/1978, Section 281), violation of waste management regulations (Act IV/1978, Section 281/A), criminal misuse of narcotic drugs (Act IV/1978, Sections 282, 282/A, 282/B, 282/C, 283), illegal possession of drug precursors (Act IV/1978, Section 283/A), money laundering (Act IV/1978, Sections 303-303/A), failure to comply with the reporting obligation related to money laundering (Act IV/1978, Section 303/B), unauthorized financial activities (Act IV/1978, Section 298/D), budget fraud (Act IV/1978, Section 310), embezzlement (Act IV/1978, Section 317), fraud (Act IV/1978, Section 318), misappropriation of funds (Act IV/1978, Section 319), and all types of economic crimes (Act IV/1978, Chapter XVII) and crime against property (Act IV/1978, Chapter XVIII),

*c)* unlawful drug trafficking (Criminal Code, Sections 176-177), possession of narcotic drugs (Criminal Code, Sections 178-179), inciting substance abuse (Criminal Code, Section 181), aiding in the manufacture or production of narcotic drugs (Criminal Code, Section 182), criminal misuse of drug precursors (Criminal Code, Section 183), criminal misuse of harmful consumer goods (Criminal Code, Section 189), kidnapping (Criminal Code, Section 190), trafficking in human beings (Criminal Code, Section 192), pandering (Criminal Code, Section 200), procuring for prostitution or sexual act (Criminal Code, Section 201), living on earnings of prostitution (Criminal Code, Section 202), child pornography (Criminal Code, Section 204), environmental damage (Criminal Code, Section 241), damaging the natural environment (Criminal Code, Sections 242-243), violation of waste management regulations (Criminal Code, Section 248), misappropriation of radioactive materials (Criminal Code, Section 250), harboring a criminal (Criminal Code, Section 282), corruption (Criminal Code, Section 290), accepting a bribe (Criminal Code, Section 291), bribery of public officials (Criminal Code, Section 293), accepting a bribe in official proceedings (Criminal Code, Section 294), corruption in court or regulatory

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<sup>59</sup> Amended: by Section 16 of Act CXCVIII of 2013. In force: as of 1. 01. 2015.



proceedings (Criminal Code, Section 295), accepting a bribe in court or regulatory proceedings (Criminal Code, Section 296), indirect bribery (Criminal Code, Section 298), abuse of a function (Criminal Code, Section 299), abuse of authority (Criminal Code, Section 305), acts of terrorism (Criminal Code, Sections 314-316), failure to report a terrorist act (Criminal Code, Section 317), terrorist financing (Criminal Code, Section 318), participation in a criminal organization (Criminal Code, Section 321), criminal misuse of explosives or blasting agents (Criminal Code, Section 324), criminal misuse of firearms and ammunition (Criminal Code, Section 325), crimes with weapons prohibited by international convention (Criminal Code, Section 326), violation of international economic sanctions (Criminal Code, Section 327), criminal misuse of military items and services (Criminal Code, Section 329), criminal misuse of dual-use items (Criminal Code, Section 330), illegal immigrant smuggling (Criminal Code, Section 353), unlawful gambling operations (Criminal Code, Section 360), or the criminal offenses under Chapters XXXV-XLII of the Criminal Code.

(2)<sup>60</sup> The national financial intelligence unit may supply data to the body responsible for the implementation of the order for the freezing of assets for carrying out the duties delegated under Act CLXXX of 2007 on Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests, and on the Amendment of Certain Related Acts (hereinafter referred to as “RMA”).

(3)<sup>61</sup> The national financial intelligence unit shall safeguard the data contained in the data transfer records maintained under Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information for a period of twenty years from the time of transmission of data.

(4)<sup>62</sup> The authorities mentioned in Subsection (1) may request data and information from the data processing systems of the national financial intelligence unit to the extent required for discharging their respective duties provided for by law, with the reason indicated.

#### *Section 26/A.*<sup>63</sup>

(1) The national financial intelligence unit shall be entitled to independently exchange information and to cooperate with foreign financial intelligence units, within the framework of which it may disclose information obtained under this Act, or under Act XLVIII of 2007 on the Implementation of Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community only for the purposes of preventing and combating money laundering and terrorist financing to such foreign financial intelligence units.

(2) The national financial intelligence unit shall have authority to enter into a cooperation agreement with a foreign financial intelligence unit where this is deemed necessary to facilitate the process of exchanging information and cooperation under Subsection (1).

#### *Section 26/B.*<sup>64</sup>

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<sup>60</sup> Established: by paragraph (1) Section 17 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>61</sup> Established: by paragraph (1) Section 17 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>62</sup> Enacted: by paragraph (2) Section 17 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>63</sup> Enacted: by paragraph (3) Section 17 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>64</sup> Enacted: by paragraph (3) Section 17 of Act LII of 2013. In force: as of 1. 07. 2013.

(1) The national financial intelligence unit shall - acting within its delegated powers - perform analysis and assessment for the purpose of disclosure of information under Subsection (1) of Section 26 and Subsection (1) of Section 26/A in the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing. In performing its analysis and assessment function, the national financial intelligence unit shall:

a) compare the information obtained under this Act, or under Act XLVIII of 2007 on the Implementation of Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community, the databases for which it has direct access, public information and data made available to the general public, and the data obtained upon request in accordance with Section 25/A, and shall identify and define any connection that may exist between them;

b) monitor financial transactions and processes connected to the data referred to in Paragraph a), and shall examine business relationships and transaction orders;

c) make statements and draw conclusions as regards the disclosure of information for the purpose of preventing and combating money laundering and terrorist financing, and to prevent, prosecute and investigate the criminal offenses referred to in Subsection (1) of Section 26.

(2) The national financial intelligence unit shall explore the characteristics of conducts related to the criminal offense defined in Subsection (1) of Section 26, and shall monitor any new methods employed in such conducts.

(3) The national financial intelligence unit shall disclose the findings of its analysis and assessment on the basis of Subsection (1) of Section 26.

(4) The national financial intelligence unit shall keep statistics on the basis of Subsection (1) of Section 29 pertaining to the prevention and combating money laundering and terrorist financing.

## ***Prohibition of Disclosure***

### *Section 27*

(1)<sup>65</sup> The notifier and the national financial intelligence unit, and the service provider requested under Subsection (3) of Section 25/A, the central government body requested under Subsections (6)-(7) of Section 25/A, the body responsible for the implementation of the order for the freezing of assets, and the supervisory body mentioned under Section 5 shall not disclose to the customer concerned or to other third persons the fact that information has been transmitted in accordance with Section 23, the contents of such information, the fact that the transaction has been suspended under Section 24, the name of the notifier, or whether a money laundering or terrorist financing investigation is being or may be carried out on the customer, and shall ensure that the filing of the report, the contents thereof, and the identity of the person filing the report remain confidential.

(2)<sup>66</sup> The prohibition laid down in Subsection (1) shall not include disclosure to the supervisory body mentioned under Section 5 by the notifier, including the request made to the service provider under Subsection (3) of Section 25/A, to the body under Subsections (6)-(7) of Section 25/A, or the disclosure of information to the authority mentioned in Subsection (1) of Section 26.

(3)<sup>67</sup> The prohibition laid down in Subsection (1) shall not prevent disclosure between institutions from Member States, or from third countries in connection with supervision on a

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<sup>65</sup> Established: by Section 18 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>66</sup> Established: by Section 18 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>67</sup> Amended: by Section 389 of Act LVI of 2009. In force: as of 1. 10. 2009.

consolidated basis conducted under the CIFE, Act CXX of 2001 on the Capital Market and the Insurance Act, or on the supplementary supervision of a financial conglomerate, which impose requirements upon such institutions equivalent to those laid down in this Act, and are supervised for compliance with those requirements.

(4) The prohibition laid down in Subsection (1) shall not prevent disclosure 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, who perform their professional activities within the same legal person or a network.

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

- a) it is related to the same customer and the same transaction;
- b) of the two or more service providers involved, at least one is engaged in activities governed by this Act, while the other service providers are situated 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 in 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 Subsections (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 competent body exercising supervision under Paragraphs a)-b), d)-e), g) of Section 5. The competent body exercising supervision under Paragraphs a)-b), d)-e), g) of Section 5 shall forward that information to the minister without delay.

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

## ***Record Keeping and Statistical Data***

### *Section 28*

(1) Service providers are required to keep on file the data and documents they have obtained in the process of discharging their obligations prescribed under Sections 7-10 and Section 17, or copies of such documents, records of compliance with the notification and disclosure requirements specified in Section 23, and the documents evidencing the the carrying out and suspension of transactions by virtue of Section 24, or copies of such documents, for a period of eight years from the time of entry into the records or the time of notification (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 the activities referred to in Paragraphs a)-e), l) and m) of Subsection (1) of Section 1 shall keep records of all cash transactions worth 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 28/A.<sup>68</sup>

(1) Service providers shall retain the data and documents described in Subsections (1)-(2) of Section 28 upon request by the supervisory body mentioned under Section 5, the national financial intelligence unit, the investigating authority, the public prosecutor's office or the court for the period specified in the request, not exceeding ten years.

(2) The data retention period prescribed in Subsections (1)-(2) of Section 28 may be extended when so requested by an authority only if the data and/or document defined therein is necessary for an ongoing regulatory procedure or for a procedure contemplated to be opened in the future.

(3) After the final conclusion of the regulatory procedure referred to in Subsection (2), or if the procedure contemplated did not materialize, the service provider shall erase the data or document from its records. The authority mentioned in Subsection (1) shall forthwith inform the service provider affected on the final conclusion of the regulatory procedure referred to in Subsection (2), or if the procedure contemplated did not materialize.

(4) The national financial intelligence unit shall retain the data and documents obtained by law for a period of ten years.

## Section 29

(1)<sup>69</sup> The national financial intelligence unit shall ensure - in cooperation with the investigating authorities, the Prosecutor General and the Országos Bírósági Hivatal (*National Office for the Judiciary*) - that it is able to review the effectiveness of its systems to combat money laundering or terrorist financing by maintaining comprehensive statistics on matters relevant to the effectiveness of such systems.

(2)<sup>70</sup> The register specified in Subsection (1) shall contain:

- a) the number of suspicious transaction reports made under Section 23,
- b) the number of transactions suspended under Section 24;
- c) the number of cases for the freezing of assets in connection with terrorist financing under the Act on the Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests 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 which the national financial intelligence unit disclosed under Subsection (1) of Section 26;
- e) the number of criminal proceedings instituted based on the information disclosed under Subsection (1) of Section 26, or investigated for suspicion of money laundering, acts of terrorism under Section 261 of Act IV/1978, or investigated for suspicion of acts of terrorism (Criminal Code, Sections 314-316), failure to report a terrorist act (Criminal Code, Section 317) and terrorist financing (Criminal Code, Section 318), the classifications of criminal offenses, the number of suspects, description and number of the coercive measures used during the investigation, and description of the completion of the investigation;
- f) in the criminal proceedings referred to in Paragraph e):
  - fa) the number of cases and the number of persons prosecuted;

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<sup>68</sup> Enacted: by Section 19 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>69</sup> Established: by Section 20 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>70</sup> Established: by Section 20 of Act LII of 2013. In force: as of 1. 07. 2013.

*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)<sup>71</sup> The investigating authorities and the Prosecutor General shall supply information to the national financial intelligence unit relating, respectively, to Paragraph *e*) of Subsection (2) and 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*) quarterly. The investigating authorities and the Prosecutor General, and likewise the court may perform the data disclosure by way of electronic means as well.

(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 statistical reports on its official website annually.

### ***Measures in Connection with 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 policies (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 competent body exercising supervision under Paragraphs a)-b) of Section 5, and the said competent body 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 take additional measures, such as to assess, evaluate and analyze their branches and subsidiaries located in third countries.

### ***Internal Control and Information Systems, Special Training Programs***

#### ***Section 31***

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<sup>71</sup> Established: by Section 20 of Act LII of 2013. In force: as of 1. 07. 2013.

Service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to establish adequate and appropriate policies and procedures of customer due diligence, reporting, record keeping, internal control and information systems in order to forestall and prevent business relationships, transactions and operations related to money laundering or terrorist financing.

### *Section 32*

(1) Service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to take appropriate measures so that their relevant employees are aware of the provisions in force relating to money laundering and terrorist financing, that they are able to recognize operations, business relationships and transactions which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases when noticing information, facts or circumstances that may suggest money laundering or terrorist financing.

(2) Service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to take appropriate measures so that their relevant employees are aware of the provisions of the Act on the Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests, 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 ongoing training programs.

### *Internal Policies*

#### *Section 33*

(1) Service providers are required to lay down the rules relating to discharging their functions conferred in this Act in internal policies (hereinafter referred to as “by-laws”).

(2) The competent supervisory body mentioned under Section 5 shall grant approval for the by-laws 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 regulation.

(3) The supervisory body mentioned under Section 5 shall provide non-binding recommendations based on standard by-law models - in collaboration with the national financial intelligence unit and in agreement with the minister - for drawing up the by-laws.

(3a)<sup>72</sup> The supervisory body mentioned under Section 5 shall review the standard by-law models referred to in Subsection (3) every two years and make amendments as deemed necessary.

(3b)<sup>73</sup> The supervisory body mentioned under Section 5 shall review the standard by-law models referred to in Subsection (3) in collaboration with the national financial intelligence unit, in agreement with the minister, after any amendment adopted to this Act, and shall make amendments accordingly.

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<sup>72</sup> Enacted: by Section 21 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>73</sup> Enacted: by Section 21 of Act LII of 2013. In force: as of 1. 07. 2013.

(3c)<sup>74</sup> Service providers shall review their internal policies after any amendment adopted to the relevant legislation, after changes made in the standard by-law models made available by the supervisory body mentioned under Section 5 or in their internal procedures, and shall make changes accordingly.

(4) Service providers engaged in trading in goods may undertake to discharge the obligations set out in this Act by submission of the by-laws to the authority of trade and commerce. The authority of trade and commerce shall grant approval for the by-laws and, at the same time, 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)<sup>75</sup> The supervisory bodies mentioned in Paragraphs a)-c) and f)-h) of Section 5 shall, in the process of exercising supervisory functions, monitor the compliance of service providers with the provisions of this Act.

(2)<sup>76</sup> Subject to the exceptions set out in this Act, the supervisory bodies mentioned in Paragraphs c), f)-h) of Section 5 shall carry out their respective supervisory functions in accordance with the Act on the General Rules of Administrative Proceedings, and the supervisory body mentioned under Paragraph a) of Section 5 shall carry out its supervisory functions in accordance with the Act on the General Rules of Administrative Proceedings and the MNB Act.

(3) The supervisory body mentioned under 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 “Auditors Act”).

(4) The supervisory body mentioned under 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 “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<sup>77</sup>*

(1)<sup>78</sup> In the event of any infringement of the provisions of this Act or non-compliance with the obligations set out in this Act, the supervisory bodies mentioned in Paragraphs a)-c) and f)-h) of Section 5 shall have authority to take the following measures consistent with the weight of the infringement:

- a) call upon the service provider to take the measures necessary for compliance with the provisions of this Act, and to eliminate the discrepancies;
- b) advise the service provider:

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<sup>74</sup> Enacted: by Section 21 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>75</sup> Established by Subsection (4) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

<sup>76</sup> Established by Subsection (5) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

<sup>77</sup> Established: by Section 22 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>78</sup> Established by Subsection (6) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

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

*bb*) to draw up the by-laws within the prescribed deadline, or to adapt it according to specific criteria,

*bc*) to conduct an investigation according to the by-laws and to initiate proceedings against the responsible person;

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

*d*) adopt a resolution to declare the fact of infringement, and shall order the cessation of the infringement;

*e*) order the service provider to cease the unlawful conduct;

*f*) in addition to or independent of the measures specified in Paragraphs *a*)-*e*), impose a fine of minimum two hundred thousand and maximum five hundred million forints upon the service providers engaged in the activities under Paragraphs *a*)-*e*) and *l*) of Subsection (1) of Section 1, and a fine of minimum fifty thousand and maximum twenty million forints upon the service providers engaged in the activities under Paragraphs *f*), *h*)-*j*), *k*) and *n*) of Subsection (1) of Section 1.

(2) The measures defined under Subsection (1) shall likewise be imposed upon a service provider where a director of the service provider - if a legal person or an unincorporated business association - has committed the infringement of the provisions of this Act for the benefit of the service provider.

(3) The measures defined under Subsection (1) shall likewise be imposed upon a service provider where an employee of the service provider - if a legal person or an unincorporated business association - has committed the infringement of the provisions of this Act for the benefit of the service provider, and it could have been prevented by the appropriate supervision or control that is required of the director of the service provider.

(4) In taking actions, the supervisory bodies mentioned under Paragraphs *c*), *f*) and *g*) of Section 5 shall take into consideration:

*a*) the gravity of the infringement or negligence;

*b*) the impact of the infringement or negligence has on the service provider or on its customers;

*c*) the level of cooperation of the responsible parties with the supervisory body in question;

*d*) the repeated occurrence and frequency of the infringement.

### *Section 35/A.*<sup>79</sup>

(1) In exercising supervision the supervisory body mentioned under Paragraph *d*) of Section 5, under Subparagraph *ea*) of Paragraph *e*) of Section 5 or under Subparagraph *eb*) of Paragraph *e*) of Section 5 shall - in accordance with, respectively, the Auditors Act, the Attorneys Act and the PSA - take into consideration:

*a*) the gravity of the infringement or negligence;

*b*) the impact the infringement or negligence has on the service provider or on its customers;

*c*) the level of cooperation of the responsible parties with the supervisory body in question;

*d*) the repeated occurrence and frequency of the infringement.

### *Section 35/B.*<sup>80</sup>

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<sup>79</sup> Enacted: by Section 22 of Act LII of 2013. In force: as of 1. 07. 2013.



The supervisory bodies mentioned under this Act shall, in the process of exercising supervisory functions, monitor the compliance of service providers with the RMA, and with the legislation of the European Union specified in the RMA.

### ***Special Provisions Relating to Attorneys and Notaries Public***

#### *Section 36*

(1) The obligations 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 properties;

c) founding, operating or dissolving a business association or other economic operator.

(2) The customer due diligence and reporting requirements 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 notarial 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 properties;

c) founding, operating or dissolving a business association or other economic operator.

(3) The obligations prescribed in this Act shall not apply to attorneys:

a) in the event of obtaining any information, or learning about any fact or circumstance suggesting money laundering or terrorist financing in connection with providing the defense in criminal proceedings or legal representation before a court - other than the court of registry - during any stage of such defense or representation or at any time thereafter;

b) in the event of obtaining any information, or learning about any fact or circumstance suggesting money laundering or terrorist financing in connection with the defense or legal representation referred to in Paragraph a) while providing legal advice relating to the opening of such proceedings.

(4) The obligations prescribed in this Act shall not apply to notaries public:

a) in the event of obtaining any information, or learning about any fact or circumstance suggesting money laundering or terrorist financing while providing legal advice relating to the opening of such proceedings;

b) in connection with nonjudicial proceedings.

#### *Section 37*

(1) Attorneys and notaries public shall file the report prescribed under Section 23 with the regional bar association or regional branch, respectively. The employees of attorneys and notaries public (including assistant attorneys) shall file the report with the attorney or notary public who exercises employer's rights, who shall forward the report forthwith to the regional bar

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<sup>80</sup> Enacted: by Section 22 of Act LII of 2013. In force: as of 1. 07. 2013.

association. Employees of law firms shall report to the person designated by the members' meeting, who shall forward the report forthwith to the bar association with which the law firm is registered.

(2) The presidents of the regional bar associations and regional branches shall appoint a person to be responsible for promptly forwarding the reports received from the persons referred to in Paragraph b) of Subsection (1) of Section 2 to the national financial intelligence unit. The regional bar associations and regional branches are required to promptly notify the national financial intelligence unit concerning the appointment of the liaison officer and also when the appointed liaison officer 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 policies for individual lawyers and single-member law firms that shall be treated as the internal policies of individual lawyers and single-member law firms in conformity with Section 33. The aforesaid uniform policies shall be approved by the minister in charge of the judicial system.

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

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

(3a)<sup>81</sup> The Magyar Ügyvédi Kamara shall review the uniform policies referred to in Subsection (1) and the standard by-law models referred to in Subsection (2), and the Magyar Országos Közjegyzői Kamara shall review the guidelines referred to in Subsection (3) every two years and make amendments as deemed necessary.

(3b)<sup>82</sup> The Magyar Ügyvédi Kamara shall review the uniform policies referred to in Subsection (1) and the standard by-law models referred to in Subsection (2), and the Magyar Országos Közjegyzői Kamara shall review the guidelines referred to in Subsection (3) after any amendment adopted to this Act, and shall make amendments accordingly.

(3c)<sup>83</sup> The law firms not mentioned in Subsection (1) shall review their internal policies after any amendment adopted to the relevant legislation, after changes made in the standard by-law models made available by the Magyar Ügyvédi Kamara or in their internal procedures, and shall make changes accordingly.

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

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<sup>81</sup> Enacted: by Section 23 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>82</sup> Enacted: by Section 23 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>83</sup> Enacted: by Section 23 of Act LII of 2013. In force: as of 1. 07. 2013.

(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.

### ***Special Provisions Pertaining to Providers of Fiduciary Asset Management Services<sup>84</sup>***

#### ***Section 38/A.<sup>85</sup>***

(1) In respect of discharging the responsibilities prescribed in this Act, the Office shall draw up uniform policies for providers of fiduciary asset management services that shall be treated as the internal policies of providers of fiduciary asset management services in conformity with Section 33. The aforesaid uniform policies shall be approved by the minister in charge of the money, capital and insurance markets.

(2) The Office shall review the uniform policies referred to in Subsection (1) every two years and make amendments as deemed necessary.

(3) The Office shall review the uniform policies referred to in Subsection (1) after any amendment adopted to this Act, and shall make amendments accordingly.

### ***Closing and Transitional Provisions***

#### ***Section 39***

(1) This Act - with the exceptions set out in Subsections (2)-(9) - shall enter into force on 14 December 2007.

(2)<sup>86</sup>

(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)<sup>87</sup>

(11)<sup>88</sup>

(12)<sup>89</sup>

(13)<sup>90</sup>

#### ***Section 40<sup>91</sup>***

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<sup>84</sup> Enacted by Subsection (7) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

<sup>85</sup> Enacted by Subsection (7) of Section 66 of Act XV of 2014, effective as of 15 March 2014.

<sup>86</sup> Repealed by Subsection (10) of Section 39 of this Act, effective as of 16 December 2007.

<sup>87</sup> Repealed by this Subsection, effective as of 17 December 2007.

<sup>88</sup> Repealed: by this paragraph of this Act. No longer in force: as of 3. 1. 2009.

<sup>89</sup> Repealed by this Subsection, effective as of 3 January 2008.

<sup>90</sup> Repealed by this Subsection, effective as of 4 January 2008.

## *Section 41<sup>92</sup>*

## *Section 42<sup>93</sup>*

By way of derogation from Subsection (6) of Section 11, the service provider must refuse to carry out transactions following 31 December 2014:

- a)* for customers with whom the business relationship was established before 1 July 2013;
- b)* for customers who failed to appear in person or by way of a representative at the service provider for the purpose of customer due diligence procedures by 31 December 2014; and
- c)* if the outcome of the customer due diligence requirements specified under Sections 7-10 is not fully available on 31 December 2014.

## *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 Article 40(4) of Directive 2005/60/EC.

(2) The minister is hereby authorized to decree the mandatory layout of internal policies.<sup>94</sup>

## *Section 44<sup>95</sup>*

## *Section 45*

(1) Following the entry of this Act into force, the competent supervisory body mentioned under Section 5 shall make available the standard policies 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 shall be required to adapt their internal policies within ninety days of the time of this Act entering into force to comply with the provisions of this Act.

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

(4)<sup>96</sup> The service providers commencing the activities defined in Paragraph *a)* of Subsection (1) of Section 1 by way of the pursuit of the payment services described in Subsection (1) of Section 6 to the CIFE, and the service providers commencing the activities defined in Paragraphs *f)-h)*, *j)* and *m)* of Subsection (1) of Section 1 shall be required to draw up their internal policies and

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<sup>91</sup> Repealed by Subsection (10) of Section 39 of this Act, effective as of 16 December 2007.

<sup>92</sup> Repealed by Subsection (12) of Section 39 of this Act, effective as of 2 January 2008.

<sup>93</sup> Established: by Section 24 of Act LII of 2013. In force: as of 1. 07. 2013.

<sup>94</sup> See Decree No. 35/2007 (XII. 29.) PM.

<sup>95</sup> Repealed: by paragraph (11) Section 39 of this Act. No longer in force: as of 2. 1. 2009.

<sup>96</sup> Established: by paragraph (4) Section 151 of Act LXXXV of 2009. Amended by Paragraph c) of Section 76 of Act CCXXXVI of 2013.

submit it for approval to the competent supervisory body mentioned under Section 5 within ninety days following the commencement of operations.

(5) The Hungarian Bar Association shall draw up internal policies for individual lawyers and single-member law firms, and the Hungarian Association of Notaries Public shall draw internal policies 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, shall be authorized to accept cash payments of three million six hundred thousand forints or more until 15 March 2008.

*Sections 46-51<sup>97</sup>*

*Section 52<sup>98</sup>*

*Sections 53-55<sup>99</sup>*

***Compliance with the Acquis***

*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.

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<sup>97</sup> Repealed by Subsection (10) of Section 39 of this Act, effective as of 17 December 2007.

<sup>98</sup> Repealed by Subsection (13) of Section 39 of this Act, effective as of 3 January 2008.

<sup>99</sup> Repealed by Subsection (10) of Section 39 of this Act, effective as of 16 December 2007.