

**18 SEPTEMBER 2017. – Law on the prevention of money laundering and terrorist financing and on the restriction of the use of cash**

(unofficial consolidated version – July 2022)

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**FEDERAL PUBLIC SERVICE ECONOMY, SMEs, SELF-EMPLOYED AND ENERGY, FEDERAL PUBLIC SERVICE HOME AFFAIRS, FEDERAL PUBLIC SERVICE JUSTICE AND FEDERAL PUBLIC SERVICE FINANCE**

**18 SEPTEMBER 2017. – Law on the prevention of money laundering and terrorist financing and on the restriction of the use of cash (1)**

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<sup>(1)</sup> Belgian Chamber of Representatives ([www.lachambre.be](http://www.lachambre.be))

Documents: K54-2566.

Full report: 18 July 2017.

PHILIPPE, King of the Belgians,

To all present and future citizens, greetings.

The Chamber of Representatives has adopted and We endorse the following:

**BOOK I. – GENERAL PROVISIONS**

**TITLE 1. – *Subject, scope and definitions***

**Article 1.** § 1. This Law regulates a matter as referred to in Article 74 of the Constitution.

§ 2. This Law is mainly aimed at preventing use of the financial system for purposes of money laundering and terrorist financing [<sup>1</sup>, as well as the financing of the proliferation of weapons of mass destruction]<sup>1</sup>. [<sup>1</sup> It ensures the partial transposition of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, [<sup>2</sup> of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU and Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA]<sup>2</sup>.]<sup>1</sup>

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<sup>1</sup> Law [20.07.2020](#), Art. 29 (Entry into force: 15.08.2020)

<sup>2</sup> Law [15.05.2022](#), Art. 3 (Entry into force: 04.06.2022)

**Art. 2.** For the purposes of [<sup>1</sup> this Law and its implementing Decrees]<sup>1</sup> and Regulations shall be regarded as “money laundering”:

1° the conversion or transfer of money or other property, knowing that this is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of his action;

2° the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of money or property, knowing that such property is derived from criminal activity or from an act of participation in such an activity;

3° the acquisition, the possession or the use of money or property, knowing, at the time of receipt, that these were derived from a criminal activity or from an act of participation in such an activity;

4° participation in, association to commit, attempts to commit and aiding, abetting, facilitating or counselling the commission of any of the actions referred to under 1°, 2° and 3°.

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<sup>1</sup> Law [20.07.2020](#), Art. 30 (Entry into force: 15.08.2020)

**Art. 3.** For the purposes of [<sup>1</sup> this Law and its implementing Decrees]<sup>1</sup> and Regulations “terrorist financing” shall be regarded as the provision or collection of funds and other assets, by any means, directly or indirectly, with the intention that they be used or in the knowledge that they are to be used, in full or in part, by a terrorist organisation or by a terrorist acting alone, even without any link to a specific terrorist act.

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<sup>1</sup> Law 20.07.2020, Art. 30 (Entry into force: 15.08.2020)

**Art. 4.** For the purposes of this Law and its implementing Decrees and Regulations, the following definitions shall apply:

1° “ML/FT”: money laundering and the financing of terrorism;

2° “ML/FTP”: money laundering, financing of terrorism and the financing of the proliferation of weapons of mass destruction;

3° “Directive 2015/849”: Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC;

4° “implementing measures of Directive 2015/849”: the implementing measures as referred to in Articles 10 to 15 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/20;

[<sup>5</sup> 4°/1 “Directive 2019/1153”: Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA; ]<sup>5</sup>

5° “European Regulation on transfers of funds”:

a) until 25 June 2017, 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;

b) from 26 June 2017: Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006;

[<sup>1</sup> 5°/1 “Regulation (EU) 2016/679”: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

5°/2 “European Regulation on controls on cash entering or leaving the Union”:

a) until 2 June 2021, 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;

b) from 3 June 2021, Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005;

5°/3 “Regulation 910/2014”: Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC;]<sup>1</sup>

[<sup>5</sup> 5°/4 “Regulation 2016/794”: Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA;]<sup>5</sup>

6° “Binding provisions on financial embargoes”: the obligations relating to financial embargoes, asset freezes or other restrictive measures and the due diligence requirements imposed, in the context of the fight against terrorism, terrorist financing or the financing of the proliferation of weapons of mass destruction, by European regulations, by the Decree Law of 6 October 1944 on the control of transfers of goods or assets between Belgium and foreign countries, by the Law of 11 May 1995 on the implementation of decisions of the United Nations Security Council, by the Law of 13 May 2003 on the implementation of restrictive measures adopted by the Council of the European Union against States and against certain persons and entities, by the implementing Decrees and Regulations of these laws, by the Royal Decree of 28 December 2006 on specific restrictive specific measures against certain persons and entities in the context of the fight against terrorist financing, or by the implementing Decrees and Regulations of this Royal Decree;

[<sup>1</sup> 6°/1 “Law of 11 March 2018”: the Law of 11 March 2018 on the legal status and the supervision of payment institutions and electronic money institutions, access to the activity of payment service provider, access to the activity of issuing electronic money, and access to payment systems;

6°/2 “Law of 8 July 2018”: Law of 8 July 2018 on the organisation of a central contact point for accounts and financial contracts and on extending access to the central file of notices of seizure, delegation, transfer, collective settlement of debts and recourse;

6°/3 “Law of 30 July 2018”: Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data;]<sup>1</sup>

7° “Member State”: a State that is a party to the European Economic Area (EEA) Agreement;

8° “third country”: a State that is not a party to the European Economic Area Agreement;

9° “high-risk third country”: a third country which has been identified by the European Commission, in accordance with Article 9 of Directive 2015/849, as having strategic deficiencies in its national AML/CFT regimes that pose significant threats to the financial system of the European Union, or which has been identified by the Financial Action Task Force, the Ministerial Committee tasked with coordinating the fight against the laundering of money of illicit origin, the National Security Council or the obliged entities, as presenting a high geographic risk;

10° “Financial Action Task Force” or “FATF”: intergovernmental body tasked with developing international standards on combating ML/FTP;

11° “European Supervisory Authorities”: the authority established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, the authority established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC and the authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, hereinafter referred to as “ESAs”;

12° “Ministerial Committee tasked with coordinating the fight against the laundering of money of illicit origin”: the Ministerial Committee established by the Royal Decree of 23 July 2013 establishing the Ministerial Committee and College tasked with coordinating the fight against the laundering of money of illicit origin, which is responsible for establishing and coordinating the general policy on combating the laundering of money of illicit origin and for determining the priorities of the departments involved in that combat;

13° “National Security Council”: the National Council created by the Royal Decree of [<sup>1</sup> 28]<sup>1</sup> January 2015 establishing the National Security Council, which is responsible for coordinating the fight against terrorist financing and the proliferation of weapons of mass destruction;

14° “coordinating bodies”: the Ministerial Committee tasked with coordinating the fight against the laundering of money of illicit origin and the National Security Council;

15° “financial intelligence unit”: a financial intelligence unit established by a Member State in accordance with Article 32 of Directive 2015/849 or an equivalent financial intelligence unit established by a third country, hereinafter referred to as “FIU”;

16° “CTIF-CFI”: the Belgian Financial Intelligence Processing Unit as referred to in Article 76;

17° “supervisory authorities”: the authorities as referred to in Article 85;

[<sup>2</sup> 17°/1 “competent authorities”: a public authority whose legal mission includes combating money laundering and terrorist financing or associated predicate offences, the fiscal authorities, the public authorities in charge of the seizure and confiscation of criminal assets, the public authorities receiving information on the transport and cross-border transport of money or bearer negotiable instruments, CTIF-CFI and the supervisory authorities;]<sup>2</sup>

18° “obliged entity”: an obliged entity as referred to in Article 5, §§ 1 and 4;

19° “obliged entity established in another Member State or in a third country”: an obliged entity that has a subsidiary, branch or other form of establishment in another Member State or in a third country, where it is represented on a permanent basis by agents or distributors;

20° “obliged entity governed by the law of another Member State”: an obliged entity as referred to in Article 2(1) of Directive 2015/849, that is subject to the legal and regulatory provisions of another Member State transposing this Directive;

21° “obliged entity governed by the law of a third country”: a natural or legal person engaged in an activity as referred to in Article 2(1) of Directive 2015/849, that is established in a third country and is subject in that country to legal and regulatory provisions for combating ML/TF;

22° “group”: a group consisting of companies linked by a relationship within the meaning of Article 22 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, and the branches of these affiliated companies that are established in another Member State than that of the latter or in a third country;

23° “criminal activity”: any kind of involvement in the commission of an offence related to:

a) terrorism or terrorist financing;

b) organised crime;

c) [<sup>1</sup> illicit trafficking in narcotic drugs and psychotropic substances]<sup>1</sup>;

d) illicit trafficking in goods and merchandise, and weapons, including anti-personnel mines and/or submunitions;

e) smuggling of human beings;

f) trafficking in human beings;

g) exploitation of prostitution;

h) illicit use in animals of hormonal substances or illegal trade in such substances;



- i)* illicit trafficking in human organs or tissues;
- j)* fraud detrimental to the financial interests of the European Union;
- k)* serious fiscal fraud, whether organised or not;
- l)* social fraud;
- m)* embezzlement by public officials and corruption;
- n)* serious environmental crime;
- o)* counterfeiting currency or bank notes;
- p)* counterfeiting products;
- q)* piracy;
- r)* stock market-related offence;
- s)* an improper public offering of securities;
- t)* the provision of banking services, financial services, insurance services or funds transfer services, or currency trading, or any other regulated activity, without having the required licence for these activities or meeting the conditions to carry out these activities;
- u)* fraud;
- v)* breach of trust;
- w)* misappropriation of corporate assets;
- x)* hostage-taking;
- y)* theft;
- z)* extortion;
- aa)* the state of bankruptcy;
- bb)* [<sup>1</sup> computer crime]<sup>1</sup>;

24° “goods”: assets of any kind, whether movable or immovable, corporeal or incorporeal, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets;

[<sup>1</sup> 24°/1 “work of art”: the original work of art as defined in Article XI.175, § 1, second and third subparagraph, of the Code of Economic Law;]<sup>1</sup>

25° “life insurance contract”: a life insurance contract within the meaning of those under branch 21 as referred to in Annex II of the Law of 13 March 2016 on the legal status of and the supervision of insurance or reinsurance companies, or an insurance contract where the investment risk is taken by the policy holder;

26° “trust”: a legal relationship created by an act of the founder (“express trust”), as referred to in Article 122 of the Law of 16 July 2004 on the Code on private international law;

27° “beneficial owner”: the natural person(s) who ultimately own(s) or control(s) the customer, the customer’s agent or the beneficiary of the life insurance contracts and/or the natural person(s) on whose behalf a transaction is carried out or a business relationship is established.

Are considered to be persons who ultimately own or control the customer, the customer’s agent or the beneficiary of the life insurance contracts:

a) in the case of corporate entities:

i) the natural person(s) who ultimately own(s) or control(s) a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings.

A natural person holding more than twenty five percent of the voting rights or more than twenty five percent of the shares or ownership interest in the company shall be an indication of direct ownership within the meaning of the first subparagraph.

A corporate entity which is under the control of (a) natural person(s), or multiple corporate entities which are under the control of the same natural person(s), holding more than twenty five percent of the shares or ownership interest in the company shall be an indication of indirect ownership within the meaning of the first subparagraph;

ii) the natural person(s) that exercise(s) control over this corporate entity via other means.

Exercising control through other means may be established in accordance with the criteria referred to in Article 22, paragraphs 1 through 5, of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC;

iii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point i) or ii) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s) shall keep records of the actions taken in order to identify the beneficial ownership;

b) [<sup>1</sup> in the case of *fiducies* or trusts, all the following persons]<sup>1</sup>:

i) the [<sup>1</sup> settlor(s)]<sup>1</sup>;

ii) the *fiduciaire(s)* or trustee(s);

iii) the [<sup>1</sup> protector(s)]<sup>1</sup>, if any;

iv) the beneficiaries, or where the individuals benefiting from the *fiducie* or trust have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

v) any other natural person exercising ultimate control over the *fiducie* or trust by means of direct or indirect ownership or by other means;

c) in the case of (international) non-profit organisations and foundations:

[<sup>1</sup> i) the persons, respectively referred to in Article 9 :5, first subparagraph, in Article 10 :9 and Article 11 :7 of the Companies and associations Code, that are members of the Management Board;

ii) the persons who are authorised to represent the association in accordance with Article 9 :7 , § 2, of the same Code;

iii) the persons in charge of the daily management of the (international) association or foundation, referred to respectively in Article 9 :10; in Article 11 :14 and in Article 10 :10 of the same Code;

iv) the founders of a foundation, referred to in Article 1 :3 of the same Code;]<sup>1</sup>

v) the natural persons or, when these persons are yet to be determined, the class of natural persons in whose main interest the (international) non-profit organisation or foundation was set up or operates;

vi) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;

d) in the case of legal arrangements similar to *fiducies* or trusts, the natural person(s) holding equivalent or similar positions to those referred to in b);

Are considered to be the natural person(s) for whom a transaction is being conducted or a business relationship is established or the natural person(s) who (will) benefit from this transaction or business relationship and who, in law or in fact, directly or indirectly, has/have the power to decide whether to carry out this transaction or to establish this business relationship and/or determine the terms or agree with these terms;

28° “politically exposed person”: a natural person who is or who has been entrusted with prominent public functions and includes the following:

a) heads of State, heads of government, ministers and deputy or assistant ministers;

b) members of parliament or of similar legislative bodies;

c) members of the governing bodies of political parties;

d) members of supreme courts, of constitutional courts or of other high-level judicial bodies, including administrative judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;

e) members of courts of auditors or of the boards of central banks;

f) ambassadors, consuls, *chargés d'affaires* and high-ranking officers in the armed forces;

g) members of the administrative, management or supervisory bodies of State-owned enterprises;

h) directors, deputy directors and members of the board or persons in an equivalent function of an international organisation;

[<sup>1</sup> i) natural persons holding functions considered to be important public functions on the list published by the European Commission in accordance with Article 20*bis*, third subparagraph, of Directive 2015/849;

The public functions referred to in points a) to i) do not cover middle-ranking or more junior functions;]<sup>1</sup>

29° “family member”:

a) the spouse or a person considered to be equivalent to a spouse;

b) the children and their spouses, or persons considered to be equivalent to a spouse;

c) the parents;

30° “persons known to be close associates”:

*a)* natural persons who are known to have joint beneficial ownership of a legal entity as referred to under 27°, *a)*, *b)*, *c)*, or *d)*, or are known to have any other close business relations with a politically [<sup>1</sup> exposed]<sup>1</sup> person;

*b)* natural persons who have sole beneficial ownership of a legal entity as referred to under 27°, *a)*, *b)*, *c)*, or *d)*, that is known to have been set up for the de facto benefit of a politically exposed person;

31° “senior management”: an officer or an employee with sufficient knowledge of the institution’s ML/TF risk exposure and sufficient seniority to take decisions affecting its risk exposure, without necessarily being a member of the legal management body;

32° “international organisation”: an association of means or interests established by means of an international agreement between States, with joint bodies if necessary, with legal personality and subject to a legal system which is different from the one of its members;

33° “business relationship”: a professional or commercial relationship established with a customer and that is expected to have an element of duration:

*a)* whether this business relationship results from the conclusion of a contract under which several successive transactions are carried out between the parties during a specific or indefinite period, or which gives rise to permanent obligations; or

*b)* whether this relationship results from the fact that apart from the conclusion of a contract as referred to in *a)*, a customer regularly requests the intervention of the same obliged entity to carry out successive transactions;

34° “correspondent relationship”:

*a)* the provision of banking services by an obliged entity as referred to in Article 5, § 1, 1°, [<sup>1</sup> 4° to 7°, 9° to 14° and 16° to 22°]<sup>1</sup>, (“correspondent institution”) to a credit institution within the meaning of Article 3(1) of Directive 2015/849 or governed by the law of a third country (“respondent institution”), which may include, inter alia, providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services;

*b)* business relationships that are similar in nature to those referred to in *a)* between the obliged entities as referred to in Article 5, § 1, 1°, [<sup>1</sup> 4° to 7°, 9° to 14° and 16° to 22°]<sup>1</sup>, (“correspondent institution”) and financial institutions within the meaning of Article 3, [<sup>1</sup> 1) and 2]<sup>1</sup>, of Directive 2015/849 (“respondent institution”) or governed by the law of a third country, and which may include, inter alia, carrying out securities transactions or funds transfers;

35° [<sup>1</sup> “electronic money”: electronic money within the meaning of Article 2, 77°, of the Law of 11 March 2018, excluding the monetary value issued in accordance with Articles 164 and 165 of said Law;]<sup>1</sup>

[<sup>1</sup> 35°/1 “virtual currencies”: a digital representation of value that is not issued or guaranteed by a central bank or a public authority, is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically;

35°/2 “custodian wallet provider”: an entity that provides services to safeguard private cryptographic keys on behalf of its customers, to hold, store and transfer virtual currencies;]<sup>1</sup>

[<sup>4</sup> 35°/3 “exchange services between virtual currencies and fiat currencies”: services consisting of carrying out transactions to purchase or sell virtual currencies, using own capital, where virtual currencies are exchanged for fiat currencies or fiat currencies for virtual currencies;]<sup>4</sup>

36° “games of chance”: games of chance within the meaning of Article 2 of the Law of 7 May 1999 on games of chance, betting, gambling establishments and the protection of gamblers, without prejudice to Articles 3 and 3bis of the same Law;

37° “shell bank”: a credit institution or an institution engaged in one or more of the activities referred to in Annex I of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, incorporated under the law of a State where it has no establishment involving meaningful mind and management, and which is not part of a regulated financial group;

38° “managerial responsibilities”: responsibilities entrusted to the persons exercising managerial functions in an obliged entity, in accordance with or pursuant to a legal provision, Articles of Association, or an attribution of powers by the entity concerned;

39° “managerial functions”: the functions of member of a statutory governing body or management body of the obliged entity concerned, including the functions of director, manager, day-to-day manager, member of the Management Committee, of the Governing Board or of the Supervisory Board, and any functions including the power to make binding agreements on behalf of this obliged entity and to represent it vis-à-vis third parties, in particular public authorities, including CTIF-CFI and the supervisory authority with competence with regard to the obliged entity;

40° “business day”: every day except Saturdays, Sundays or public holidays;

[<sup>1</sup> 41° “authentication service”: service provided by the Federal Public Service Policy and Support, in accordance with Article 9 of the Law of 18 July 2017 on electronic identification, which includes electronic registration services for government applications;

42° “Data Protection Authority”: the Authority established by the Law of 3 December 2017 on the establishment of the Data Protection Authority;

43° “high-level professional football club”: any company established in Belgium owning or managing a professional football club of which at least one team plays in the championship(s) of the highest level of the competition in Belgium. The King shall provide for their registration by the FPS Economy according to the detailed rules, criteria and conditions He determines;

44° “sports agent in the football sector”: any natural person or legal person established in Belgium that provides private job placement in the football sector for potentially paid sportsmen or for employers with a view to signing an employment contract for paid sportsmen and whose activity is activities are regulated by the Flemish Decree of 10 December 2010 on private job placement, the Order of the Brussels Capital Region of 14 July 2011 on the mixed management of the labour market in the Brussels Capital Region or the Decree of the Walloon Region of 3 April 2009 on the registration and accreditation of job placement agencies. The King shall provide for their registration by the FPS Economy according to the detailed rules, criteria and conditions He determines;]<sup>1</sup>

[<sup>3</sup> 45° “EBA”: the authority established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC.]<sup>3</sup>

[<sup>5</sup> 46° “ financial information: any type of information or data, such as data on financial assets, movement of funds or financial business relationships, that is already held by CTIF-CFI to prevent, detect and effectively combat money laundering and terrorist financing;

47° “financial analysis”: the results of operational and strategic analysis that has already been carried out by CTIF-CFI in the performance of its tasks, pursuant to this Law;

48° “law enforcement information”:

i) any type of information or data that is already held by the judicial authorities in the context of preventing, detecting, investigating or prosecuting criminal offences;

ii) any type of information or data that is held by public authorities or by private entities in the context of preventing, detecting, investigating or prosecuting criminal offences and that is available to competent authorities without the taking of coercive measures under national law. Such information can be, inter alia, criminal records, information on investigations, information on the freezing or seizure of assets or on other investigative or provisional measures and information on convictions and on confiscations;

49° “COSC”: the Central Office for Seizure and Confiscation designated pursuant to Article 5 of the Law of 4 February 2018 on the tasks and the composition of the Central Office for Seizure and Confiscation as a “centralised office” within the meaning of Article 10 of Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union and a “national Asset Recovery Office” within the meaning of Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime;

50° “judicial authorities”: the Public Prosecutor’s Office, investigating judges as well as the police in charge of conducting the investigation entrusted to them by the the Public Prosecutor’s Office or the investigating judge, and the COSC;

51° “serious criminal offences”: the forms of crime listed in Annex I to Regulation (EU) 2016/794.]<sup>5</sup>

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<sup>1</sup> Law 20.07.2020, Art. 31 (Entry into force: 15.08.2020)

<sup>2</sup> Law 02.06.2021, Art. 46 (Entry into force: 28.06.2021)

<sup>3</sup> Law 11.07.2021, Art. 303 (Entry into force: 30.06.2021)

<sup>4</sup> Law 01.02.2022, Art. 2 (Entry into force: 21.02.2021)

<sup>5</sup> Law 15.05.2022, Art. 4 (Entry into force: 04.06.2022)

**Art. 5. § 1.** The provisions of this Law shall apply to the following obliged entities, acting in the exercise of their [° regulated]<sup>6</sup> professional activities:

1° the National Bank of Belgium;

2° [° ...]<sup>2</sup>;

3° the limited company under public law bpost, hereinafter referred to as “bpost”, for its postal financial services or for the issuance of electronic money;

4° a) credit institutions as defined in Article 1, § 3, first subparagraph, of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms, which are governed by Belgian law;

b) branches in Belgium of credit institutions as defined in Article 1, § 3, first subparagraph, of the same Law, which are governed by the law of another Member State or of a third country;

[° c) credit institutions as defined in Article 1, § 3, first subparagraph, of the same Law, that are governed by the law of another Member State and who use a linked agent established in Belgium to carry out investment services and/or investment activities there within the meaning of Article 2, 1°, of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies, and ancillary services within the meaning of Article 2, 2°, of the same Law;]<sup>2</sup>

[° d) credit institutions, as defined in Article 1, § 3, first subparagraph, of the same Law, that are governed by the law of another Member State and use an agent established in Belgium to provide services there consisting of receiving deposits or other repayable funds, within the meaning of Article 4, 1) of said Law;]<sup>6</sup>

5° a) insurance companies governed by Belgian law referred to in Book II of the Law of 13 March 2016 on the legal status and supervision of insurance or reinsurance companies that are authorised to engage in the life insurance activities referred to in Annex II of the same Law;

*b)* branches in Belgium of insurance companies governed by the law of another Member State or of a third country, as referred to, respectively, in Articles 550 and 584 of the same Law and that are authorised to engage in the life insurance activities in Belgium referred to in Annex II of the same Law;

6°<sup>[4</sup> *a)* payment institutions governed by Belgian law as referred to in Book II, Title II, Chapter 1 of <sup>[6</sup> the Law of 11 March 2018]<sup>6</sup>;

*b)* branches in Belgium of payment institutions governed by the law of another Member State or of a third country, as referred to, respectively, in Articles 120 and 144 of the same Law;

*c)* registered payment institutions as referred to in Book II, Title II, Chapter 2 of the same Law;

*d)* payment institutions as referred to in Article 4(4) of Directive 2015/2366/EU of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC, governed by the law of another Member State and offering payment services in Belgium through one or more persons established in Belgium who represent the institution for that purpose;]<sup>4</sup>

7° <sup>[4</sup> *a)* electronic money issuers as referred to in Article 163, 4° and 5° of the aforementioned Law of 11 March 2018;

*b)* electronic money institutions governed by Belgian law as referred to in Book IV, Title II, Chapter 1, of the same Law;

*c)* branches in Belgium of electronic money institutions governed by the law of another Member State or of a third country as referred to, respectively, in Articles 218 and 228 of the same Law;

*d)* limited electronic money institutions as referred to in Article 201 of the same Law;

*e)* electronic money institutions as referred to in Article 2(1) of Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, governed by the law of another Member State and distributing electronic money in Belgium through one or more persons established in Belgium who represent the institution for that purpose;]<sup>4</sup>

8° <sup>[3</sup> ...]<sup>3</sup>

<sup>[2</sup> 8°/1 central securities depositories as defined in Article 36/26/1 of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium;]<sup>2</sup>

9° mutual guarantee societies as referred to in the Royal Decree of 30 April 1999 on the legal status and supervision of mutual guarantee societies;

10° *a)* stockbroking firms, as referred to in Article 1, § 3, second subparagraph, of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms, which are governed by Belgian law;

*b)* branches in Belgium of stockbroking firms as referred to in Article 1, § 3, second subparagraph, of the same Law, which are governed by the law of another Member State or of a third country;

<sup>[2</sup> *c)* stockbroking firms as referred to in Article 1, § 3, second subparagraph, of the same Law, which are governed by the law of another Member State who use a linked agent established in Belgium to carry out investment services and/or investment activities within the meaning of Article 2, 1°, of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies, and ancillary services within the meaning of Article 2, 2°, of the same Law;]<sup>2</sup>

11° a) investment firms governed by Belgian law that are authorised as portfolio management and investment advice companies within the meaning of Article 6, § 1, 2° of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies;

b) branches in Belgium of foreign portfolio management and investment advice companies governed by the law of another Member State as referred to in Article 70 of the same Law and branches in Belgium of foreign portfolio management and investment advice companies governed by the law of a third country as referred to in Title III, Chapter II, Section III of the same Law;

[<sup>6</sup> c) portfolio management and investment advice companies that are governed by the law of another Member State and who use a linked agent established in Belgium to carry out investment services and/or investment activities there within the meaning of Article 2, 1°, of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies, and, where applicable, ancillary services within the meaning of Article 2, 2°, of the same Law;]<sup>6</sup>

12° a) management companies of undertakings for collective investment governed by Belgian law as referred to in Part 3, Book 2 of the Law of 3 August 2012 on undertakings for collective investment that meet the conditions laid down in Directive 2009/65/EC and institutions for investments in receivables;

b) management companies of alternative investment funds governed by Belgian law as referred to in Article 3, 12° of the Law of 19 April 2014 on alternative investment funds and their managers;

c) branches in Belgium of management companies of foreign undertakings for collective investment as referred to in Article 258 of the aforementioned Law of 3 August 2012;

d) branches in Belgium of management companies of foreign alternative investment funds referred to in Articles 114, 117 [<sup>6</sup> and 163]<sup>6</sup> of the aforementioned Law of 19 April 2014;

13° a) investment firms governed by Belgian law as referred to in Article 3, 11°, of the aforementioned Law of 3 August 2012, provided that and to the extent that these firms trade their securities themselves, within the meaning of Article 3, 22°, c) and 30° of the same Law;

b) [<sup>6</sup> ...]<sup>6</sup>

c) debt investment firms governed by Belgian law as referred to in Article 271/1 of the aforementioned Law of 3 August 2012, provided that and to the extent that these firms trade their securities themselves;

d) investment firms governed by Belgian law as referred to in Article 3, 11°, of the aforementioned Law of 19 April 2014, provided that and to the extent that these firms trade their securities themselves, within the meaning of Article 3, 26° of the same Law;

14° [<sup>9</sup> ...]<sup>9</sup>;

[<sup>6</sup> 14°/1 [<sup>8</sup> without prejudice to the third subparagraph, providers of exchange services between virtual currencies and fiat currencies]<sup>8</sup> established in Belgium and as referred to in the Royal Decree <sup>8</sup>[adopted pursuant to the fourth subparagraph]<sup>8</sup> of this paragraph;

14°/2 [<sup>8</sup> without prejudice to the third subparagraph, custodian wallet providers]<sup>8</sup> established in Belgium and as referred to in the Royal Decree [<sup>8</sup> adopted pursuant to the fourth subparagraph]<sup>8</sup> of this paragraph;]<sup>6</sup>

15° [<sup>2</sup> [<sup>6</sup> market operators]<sup>6</sup> as referred to in Article 3, 3°, of the Law of 21 November 2017 on the infrastructure of markets for financial instruments and on transposing Directive 2014/65/EU, organising the Belgian regulated markets, except for their public tasks;]<sup>2</sup>



16° persons established in Belgium who, by way of their business activity, carry out spot purchases and sales of foreign currency in the form of cash or cheques expressed in foreign currencies, or by using a credit or payment card, as referred to in [° Article 102, third subparagraph]°, of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies;

17° intermediaries in banking and investment services as referred to in Article 4, 4°, of the Law of 22 March 2006 on intermediation in banking and investment services and on the distribution of financial instruments, and branches in Belgium [° of persons]° engaged in equivalent activities that are governed by the law of another Member State;

18° independent financial planners as referred to in Article 3, § 1 of the Law of 25 April 2014 on the legal status and supervision of independent financial planners and the provision of expertise in financial planning by regulated companies, and branches in Belgium of persons engaged in equivalent activities that are governed by the law of another Member State;

19° insurance intermediaries as referred to in Part 6 of the Law of 4 April 2014 on insurance, that exercise their professional activities without any exclusive agency contract in one or more of the classes of life insurance as referred to in Annex II of the aforementioned Law of 13 March 2016, and branches in Belgium of persons engaged in equivalent activities that are governed by the law of another Member State;

20° lenders within the meaning of Article I.9, 34° of the Code of Economic Law that are established in Belgium and are engaged in consumer credit or mortgage credit activities as referred to in Book VII, Title 4, Chapters 1 and 2 of the same Code, and branches in Belgium of persons engaged in equivalent activities that are governed by the law of another Member State;

21° persons as referred to in Article 2, § 1 of Royal Decree 55 of 10 November 1967 regulating the legal status of companies engaged in lease financing, and branches in Belgium of persons engaged in equivalent activities that are governed by the law of another Member State;

22° [° natural or legal persons established in Belgium that are engaged]° in at least one of the activities as referred to in Article 4, first subparagraph, 2) to 12), 14) and 15) of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms, [° without being subject in that capacity to one of the provisions under 4° to 21°]°, as well as branches in Belgium of persons engaged in equivalent activities that are governed by the law of another Member State, that are designated by the King;

23° natural or legal persons operating in Belgium that are registered or recorded in the public register held by the *Institut des réviseurs d'entreprises / Instituut der Bedrijfsrevisoren* [Institute of company auditors], in accordance with Article 10 of the Law of 7 December 2016 on the organisation of the profession and the public supervision of auditors, natural persons that are trainee external auditors as referred to in Article 11, § 3 of the aforementioned law, as well as audit firms and persons exercising the profession of statutory auditor;

24° [° natural or legal persons entered in the public register in their capacity of certified external accountants [experts-comptables] as referred to in Article 2, 1° of the Law of 17 March 2019 on the professions of accountant and tax consultant or in their capacity as certified tax consultants [conseillers fiscaux] as referred to in Article 2, 2°, of the aforementioned Law, as well as the natural or legal persons entered in the public register in accordance with Article 29, § 1, third subparagraph, of the aforementioned Law mentioning the person is a trainee with one of the aforementioned capacities, provided that these persons are professionals within the meaning of Article 2, 3° of the aforementioned Law;]°

25° [° natural or legal persons entered in the public register in their capacity of certified external accountants [experts-comptables] as referred to in Article 2, 4° of the Law of 17 March 2019 on the professions of accountant and tax consultant or in their capacity as tax accountant [expert-comptable fiscaliste] as referred to in Article 2, 5°, of the aforementioned Law of 17 March 2019 on the professions of accountant and tax consultant, as well as the natural or legal persons entered in the public register in accordance with Article 29, § 1, third subparagraph, of the aforementioned Law mentioning the person is a trainee with one of the

aforementioned capacities, provided that these persons are professionals within the meaning of Article 2, 3° of the aforementioned Law of 17 March 2019;]<sup>6</sup>

[<sup>6 10</sup> 25°/1 non-certified tax consultants [*conseillers fiscaux*], i.e. the natural or legal persons not entered in the public register as referred to in Article 29, § 1, of the Law of 17 March 2019 on the professions of accountant and tax consultant, committing to providing as their main economic or professional activity, directly or through other persons linked to him, material aid, assistance or advice related to tax matters;]<sup>6 10</sup>

26° notaries;

27° bailiffs;

28° lawyers:

a) when they assist their client in planning or carrying out transactions concerning the:

i) buying and selling of real property or business entities;

ii) managing of the client's money, securities or other assets;

iii) opening or management of bank, savings or securities accounts;

iv) organisation of contributions necessary for the creation, operation or management of companies;

v) creation, operation or management of *fiducies* or trusts, companies, foundations, or similar structures;

b) or when they act on behalf of and for their client in any financial or real property transaction;

29° company service providers as referred to in Article 3, 1°, of the [<sup>1</sup> Law of 29 March 2018 on the registration of company service providers]<sup>1</sup>;

30° estate agents, as referred to in Article 2, 5° and 7°, of the Law of 11 February 2013 on the organisation of the profession of estate agent, who are listed on the official roll [<sup>6</sup> or list]<sup>6</sup> [<sup>6</sup> referred]<sup>6</sup> to in Article 3 of the same Law or the roll [<sup>6</sup> or list]<sup>6</sup> [<sup>6</sup> referred]<sup>6</sup> to in Article 3 of the Law of 11 May 2003 establishing the Federal Councils of certified land surveyors;

31° dealers in diamonds as referred to in Article 169, §3, of the Programme Law of 2 August 2002;

[<sup>6</sup> 31°/1 natural or legal persons purchasing, selling or acting as intermediaries in the trade in works or art or moveable property of more than fifty years old, when the sales price of one or an entity of these works or goods is equal or greater than EUR 10 000 and, registered with the Federal Public Service Economy, SMEs, Self-employed and Energy in accordance with the seventh subparagraph of this paragraph;

The intermediaries include art galleries, auction houses and organisers of fairs and exhibitions;

When the intermediary is an auction house, the sales price referred to in the first subparagraph is the maximum estimate by the auction house;

31°/2 natural persons or legal persons owning or managing warehouses, including customs warehouses or warehouses located in free ports, that specifically provide a storage service for works of art or moveable property of more than fifty years old and only for such goods and works and those registered with the Federal Public Service Economy, SMEs, Self-employed and Energy in accordance with the seventh subparagraph of this paragraph;]<sup>6</sup>

[<sup>5</sup> 31°/3 high-level professional football clubs;]<sup>5</sup>

[<sup>7</sup> 31°/4 sports agents in the football sector;]<sup>7</sup>

[<sup>5</sup> 31°/5 the Royal Belgian Football Association ASBL/VZW;]<sup>5</sup>

32° security companies as referred to in Article 4 of the Law of 2 October 2017 regulating private and special security, that provide services of surveillance as referred to in Article 3, 3°, *a)*, *b)* or *c)* of the same Law;

33° natural or legal persons that operate one or several games of chance as referred to in Article 2 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players, excluding natural or legal persons as referred to in Article 3 and *3bis* of the same Law;

[<sup>8</sup> For the purposes of subparagraph 1, 14°/1 and 14°/2, providers of exchange services between virtual currencies and fiat currencies and custodian wallet providers that have established electronic infrastructure on Belgian territory through which they provide the aforementioned services, shall also be deemed to be established in Belgium.

For natural persons or legal persons under the law of a third country it shall be prohibited, as a habitual professional activity, even if this is an ancillary or additional activity, to offer or provide exchange services between virtual currencies and fiat currencies or to provide custodian wallet services.]<sup>8</sup>

The King shall also determine the form and the conditions for sending registration requests to the FSMA, as well as which information and documents the applicant must provide in support of his request, in order to demonstrate that the registration conditions were met.

These conditions shall in particular require [<sup>8</sup> persons responsible for the actual management of the providers referred to in the previous subparagraph that they have the necessary professional reputation and appropriate expertise to carry out their activities]<sup>8</sup>. They may not be in one of the cases as described in Article 20 of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms. [<sup>8</sup> ...]<sup>8</sup>

The registration of the company shall be refused if the persons directly or indirectly holding a participation, with voting rights or not, of at least five percent in the capital of the company, [<sup>8</sup> or the persons who exercise control over the service provider within the meaning of the Companies and associations Code, ]<sup>8</sup> do not have the necessary qualities given the need to ensure the sound and prudent management of the company.

The King may determine that the registration is refused, revoked or suspended if the persons referred to [<sup>8</sup> in the fourth subparagraph]<sup>8</sup> do not meet the aforementioned conditions or the other conditions He determines.

[<sup>8</sup> The FSMA shall keep a register of the providers of exchange services between virtual currencies and fiat currencies and a register of custodian wallet providers. For each provider these registers shall provide the following information:

1° its identification details;

2° where applicable, if the provider is a regulated company, its other regulated articles of association;

The registers kept by the FSMA may contain a specific section for regulated companies.

The FSMA shall also publish the changes made to these registers in the previous twelve months.

For the purposes of the ninth to the eleventh subparagraph, a “regulated company” shall mean a company with a regulated status as referred to in Article 36/2, § 1 of the Law of 22 February 1998 or in Article 45, § 1, 2°, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, or with an equivalent status in another Member State, and that provides or plans to provide exchange services between virtual currencies and fiat currencies in Belgium or provides or plans to provide custodian wallet services, provided that this status allows the provision of such activities.]<sup>8</sup>

The King shall determine [<sup>10</sup>...] <sup>10</sup> the rules and conditions for the registration with the Federal Public Service Economy, SMEs, Self-employed and Energy for:

1° natural or legal persons purchasing, selling or acting as an intermediary in the trade in works of art of moveable property of more than fifty years old, when the sales price of one or an entity of these works or goods is equal or greater than EUR 10 000; and

2° natural persons or legal persons owning or managing warehouses, including customs warehouses or warehouses located in free ports, that specifically provide a storage service for works of art or moveable property of more than fifty years old and only for such goods and works. These rules must in particular require the natural persons or legal persons referred to in the previous subparagraph to have the necessary professional good repute to carry out their activities. They must meet the following requirements of good repute:

1° to not have lost their civil and political rights;

2° to not have been declared bankrupt without having obtained rehabilitation;

3° to not have punished in Belgium or in another Member State of the European Union with one of the following penalties:

a) a criminal penalty;

b) an unsuspended prison sentence of at least six months for one of the offences listed in Article 1 of the Royal Decree nr. 22 of 24 October 1934 on the court ban on some of those convicted and declared bankrupt to hold or carry out certain offices, professions or activities;

c) a criminal penalty of at least EUR 2 500, prior to applying the additional 10% surcharges, for infringing this law and its implementing decrees.]<sup>6</sup>

[<sup>10</sup> 3° the non-certified tax consultants as referred to in subparagraph 1, 25°/1.]<sup>10</sup>

§ 2. The King may, by Decree deliberated in the Council of Ministers, based on an adequate risk assessment conducted by the Gaming Commission for the games of chance as referred to in Article 4, 36°, exempt licensees defined in Article 25, 1/1 to 9 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players, from applying some or all of the provisions of book II of the same Law, on the basis of the low risk of operating these services, due to their nature and, where appropriate, due to their scale.

The risk assessment referred to the first subparagraph will take into account the degree of vulnerability of the transactions involved, in particular with regard to the payment methods used. The competent Minister shall notify the European Commission of any decree taken in accordance with the first subparagraph, with grounds based on a specific risk assessment referred to in the same subparagraph, indicating how the relevant conclusions of the report drafted by the European Commission in accordance with Article 6, first paragraph, of Directive 2015/849, were taken into account.

§ 3. The King may, by Decree deliberated in the Council of Ministers, based on Article 85 and an adequate risk assessment, exempt natural or legal persons from applying some or all of the provisions of Book II of this Law that engage in a financial activity as referred to in Article 4, 2) to 12), and 14), of the Law of 25 April 2014 on the status and supervision of credit institutions and stockbroking firms, which are not money transfers as referred to in Article I.9, 14°, of the Code of Economic Law, on an occasional or very limited basis, provided that all of the following criteria are met:

1° the financial activity is limited in absolute terms;

2° the financial activity is limited on a transaction basis;

3° the financial activity is not the main activity of such persons and the turnover of this financial activity does not exceed five percent of this person's total turnover;

4° the financial activity is ancillary and directly related to the main activity of such persons;

5° the main activity of such persons is not an activity referred to paragraph 1, 23° to 30° or 33°;

6° the financial activity is provided only to the customers of the main activity of such persons, and is not generally offered to the public.

When the King uses the power granted in accordance with the first subparagraph He shall:

1° determine, for the purpose of the first subparagraph, 1°, the amount of the total turnover which it may not exceed. This amount is fixed at national level, depending on the type of financial activity. It is sufficiently low to significantly reduce the ML/TF risk;

2° determine, for the purpose of the first subparagraph, 2°, a maximum amount per customer and per transaction, whether carried out in a single or in several apparently related transactions. This amount is fixed at national level, depending on the type of financial activity. It is sufficiently low to ensure that these transactions are not a suitable or efficient method for money laundering or terrorist financing, and does not exceed EUR 1 000;

3° designate the competent authority referred to in Article 85, which He shall task with supervising of compliance with the conditions for the exemption granted in accordance with the first subparagraph and establishing the specific supervisory rules by regulation. The competent minister informs the European Commission of any Decree issued in accordance with the first subparagraph.

§ 4. The King may, by Decree deliberated in the Council of Ministers, upon the advice of the coordinating bodies and taking into account the national risk assessment referred to in Article 68, extend the implementation [<sup>6</sup> of this Law] to categories of entities not referred to in paragraph 1 and whose activities could be used for money laundering or terrorist financing purposes. The competent minister informs the European Commission of the extension of the scope of this Law in accordance with the first subparagraph.

§ 5. The Royal Decrees issued pursuant to paragraphs 2 to 4 will cease to apply if they are not confirmed by law within twelve months from the date of commencement. The confirmation is retroactive to the date of commencement of the Royal Decrees.

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<sup>1</sup> Law [29.03.2018](#), Art. 12 (Entry into force: 01.09.2018)

<sup>2</sup> Law [30.07.2018](#), Art. 111,1°-111,2°; 111,4°, 111, 5°, 111,6° (Entry into force: 20.08.2018)

<sup>3</sup> Law [30.07.2018](#), Art. 111,3° (Entry into force: not specified, and on 01.10.2020 at the latest)

<sup>4</sup> Law [02.05.2019](#), Art. 101 (Entry into force: 31.05.2019)

<sup>5</sup> Law [20.07.2020](#), Art. 32 (Entry into force: 01.07.2021)

<sup>6</sup> Law [20.07.2020](#), Art. 32 (Entry into force: 15.08.2020)

<sup>7</sup> Law [20.07.2020](#), Art. 32 (Entry into force: not specified)

<sup>8</sup> Law [01.02.2022](#), Art. 3 (Entry into force: 21.02.2022)

<sup>9</sup> Law [23.02.2022](#), Art. 18 (Entry into force: 04.04.2022)

<sup>10</sup> Law [23.06.2022](#), Art. 5 (Entry into force: 21.07.2022)

**Art. 6.** The restrictions on the use of cash referred to in Article 66, § 2, first subparagraph, and Article 67, are also applicable to any natural person or legal person making payments or [<sup>1</sup> donations]<sup>1</sup> referred to in these provisions.

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<sup>1</sup> Law [20.07.2020](#), Art. 33 (Entry into force: 15.08.2020)

## **TITLE 2. – Risk-based approach**

**Art. 7.** Unless otherwise stipulated, the competent authorities and the obliged entities, in accordance with the provisions of this Law, shall implement the preventive measures referred to in Book II, in a differentiated manner, according to their ML/TF risk assessment.

**BOOK II. – OBLIGATIONS OF OBLIGED ENTITIES REGARDING THE PREVENTION OF MONEY LAUNDERING  
AND TERRORIST FINANCING**

**TITLE 1. – *Organisation and internal control***

**CHAPTER 1. – *Organisation and internal control within obliged entities***

**Art. 8.** § 1. Obligated entities shall develop and implement policies, procedures and internal control measures that are efficient and commensurate with their nature and size:

1° in order to comply with the provisions of this Law, of its implementing decrees and regulations and of the implementing measures of Directive 2015/849, and in order to efficiently manage and mitigate the relevant risks identified at the level of the European Union, of Belgium and of the obliged entity itself;

2° in order to comply, where appropriate, with the provisions of the European Regulation on transfers of funds;

3° in order to comply with the mandatory provisions on financial embargoes.

§ 2. The policies, procedures and internal control measures referred to in paragraph 1 shall include:

1° developing policies, procedures and internal control measures relating in particular to model risk management practices, customer acceptance, customer and transaction due diligence, reporting of suspicions, record-keeping, internal control, management of compliance with the obligations set out in this Law, in its implementing decrees and regulations and in the European Regulation on transfers of funds, as well as with the restrictive measures referred to in paragraph 1, 3°;

2° where appropriate with regard to the nature and size of the obliged entity, and without prejudice to the obligations laid down by or pursuant to other legislative provisions:

a) an independent audit function charged with testing the policies, procedures and internal control measures referred to in 1°;

b) procedures for verifying, when recruiting and assigning staff or appointing agents or distributors, whether these persons have adequate integrity considering the risks associated with the tasks and functions to be performed;

3° educating the obliged entity's staff and, where appropriate, its agents or distributors, on ML/FT risks, and training these persons with regard to the measures implemented to reduce such risks.

§ 3. Obligated entities shall submit the policies, procedures and internal control measures implemented by them for approval to a higher ranked member of their hierarchy, pursuant to paragraph 1.

§ 4. Obligated entities shall verify the relevance and efficiency of the measures taken to comply with this article and shall, where appropriate, improve these measures.

**Art. 9.** § 1. Obligated entities that are legal persons shall appoint, among the members of their statutory governing body or, where appropriate, of their senior management, the person responsible, at the highest level, for supervising the implementation of and compliance with the provisions of this Law and its implementing decrees and regulations and, where appropriate, the administrative decisions made pursuant to these provisions, the European Regulation on transfers of funds and the restrictive measures referred to in Article 8, § 1, 3°.

If the obliged entity is a natural person, the functions referred to in the first subparagraph shall be performed by that person.

§ 2. Without prejudice to paragraph 3, obliged entities shall moreover appoint, within the entity, one or multiple persons charged with ensuring the implementation of the policies, procedures and internal control measures referred to in Article 8, ensuring the analysis of atypical transactions and the preparation of the relevant written reports in accordance with Articles 45 and 46, in order to, if necessary, provide the follow-up required pursuant to Article 47 [<sup>1</sup> and the provisions adopted in implementation of Article 54]<sup>1</sup>, as well as ensuring the transmission of [<sup>1</sup> the information referred to in Article 48]<sup>1</sup>. Moreover, these persons shall oversee the education and training of the staff and, where appropriate, of the agents and distributors, in accordance with Article 11.

If the obliged entity is a legal person, the person or persons referred to in the first subparagraph shall be appointed by its statutory governing body or its senior management.

Obliged entities shall verify in advance whether the person or persons referred to in the first subparagraph possess:

1° the professional good repute necessary to perform their functions with integrity;

2° the adequate expertise, knowledge of the Belgian legal and regulatory AML/CFTP framework, availability, hierarchical level and powers within the entity that are necessary to perform these functions effectively, independently and autonomously;

3° the power to propose, on their own initiative, all necessary or useful measures, including the implementation of the means required, in order to guarantee the compliance and efficiency of the internal AML/CFTP measures, to the statutory governing body or the senior management of the obliged entity that is a legal person, or to the natural person who is an obliged entity.

§ 3. The functions referred to in paragraph 2 may be performed by the person referred to in paragraph 1 where this is justified to take into account the nature or size of the obliged entity, particularly with regard to its legal form, its management structure or its workforce.

§ 4. [<sup>1</sup> ...]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 34 (Entry into force: 15.08.2020)

**Art. 10.** Obliged entities shall develop and implement procedures that are appropriate and commensurate with their nature and size, in order to enable their staff or their agents or distributors to report non-compliance with the obligations set out in this Book to the persons appointed pursuant to Article 9 through a specific, independent and anonymous channel.

**Art. 11.** § 1. Obliged entities shall take measures commensurate with their risks, nature and size in order to familiarise the members of their staff whose functions require this as well as their agents or distributors with the provisions of this Law and its implementing decrees and regulations, including the applicable data protection requirements and, where appropriate, the obligations referred to in Article 8, § 1, 2° and 3°.

They shall ensure that the persons referred to in the first subparagraph know and understand the policies, procedures and internal control measures in force within the obliged entity in accordance with Article 8, § 1. They shall also ensure that these persons possess the required knowledge of the methods and criteria to be applied in order to identify possible ML/FT related transactions, of the course of action to be taken in such a case, and of the manner in which the obligations referred to in Article 8, § 1, 2° and 3°, should be fulfilled.

Additionally, they shall ascertain that the persons referred to in the first subparagraph are aware of the internal reporting procedures referred to in Article 10, and of the procedures for reporting to the supervisory authorities referred to in Article 90.

§ 2. The measures referred to in paragraph 1 shall include the participation of the persons referred to in the first paragraph in special permanent training programmes. They can be determined taking into account the

functions performed by these persons within the obliged entity, as well as the ML/FT risks to which they might be exposed by performing these functions.

**Art. 12.** Where a natural person falling within any of the categories of obliged entities listed in Article 5, § 1, 23° to 25°, performs professional activities as an employee of a legal person, the obligations in this Chapter shall apply to that legal person rather than to the natural person.

## CHAPTER 2. – *Organisation and internal control within groups*

**Art. 13.** § 1. Obligated entities that are part of a group shall implement group-wide AML/CFT policies and procedures, including in particular data protection policies and policies and procedures for sharing information within the group for AML/CFT purposes.

[<sup>1</sup> The policies and procedures for sharing information referred to in the first subparagraph provide that the entities that are part of the group, when required for the prevention of ML/TF, share all relevant information between them on, in particular, the identity and the characteristics of the customers involved, the identity of the agents and the beneficial owners of these customers, the identity of the agents and beneficial owners of these customers, the aim and nature of the business relationships with these customers, their transactions, as well as, where applicable, the analysis of their atypical transactions, and unless otherwise indicated by CTIF-CFI, the suspicious transaction reports involving these customers, in accordance with the rules and the conditions ensuring adequate guarantees with regard to confidentiality, personal data protection and the use of the exchanged information, including guarantees to prevent disclosure thereof.]<sup>1</sup>

Obligated entities established in another Member State or in a third country shall ascertain that these policies and procedures are implemented efficiently within their establishments in that other Member State or third country.

§ 2. Obligated entities established in another Member State shall ensure that their establishments comply with the national provisions of that Member State transposing Directive 2015/849.

§ 3. Obligated entities established in a third country shall ensure that their establishments in that third country comply with the national provisions of that country which provide for minimum AML/CFT requirements that are at least as strict as those provided for in this Law.

Obligated entities established in a third country whose minimum AML/CFT requirements are less strict than those provided for in this Law shall ensure that their establishments implement the obligations set out in this Law, including those regarding data protection, to the extent that the third country's law so allows.

If a third country's law does not permit the implementation of the policies and procedures required pursuant to paragraph 1, obliged entities shall ensure that their establishment in that third country applies additional measures to those provided for locally in order to effectively handle the ML/FT risk, and shall inform their supervisory authority competent in accordance with Article 85.

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<sup>1</sup> Law 20.07.2020, Art. 35 (Entry into force: 15.08.2020)

**Art. 14.** Obligated entities may not open a branch or representative office in a country or territory designated by the King pursuant to Article 54.

They may neither directly nor indirectly acquire nor create a subsidiary operating as an obliged entity that is domiciled, registered or established in the aforementioned country or territory.

**Art. 15.** The obliged entities referred to in Article 5, § 1, [<sup>1</sup> 4°, c), 6°, d), 7°, e), and 10°, c), ]<sup>1</sup> shall, under the conditions set by the National Bank of Belgium through a regulation adopted in accordance with the implementing measures of Directive 2015/849 referred to in Article 45(10) of the said Directive, appoint a central contact point situated in Belgium that is charged with ensuring, on behalf of the appointing obliged entity, compliance with the provisions of this Law and its implementing decrees and regulations, as well as



facilitating the National Bank of Belgium's performance of its supervisory tasks, particularly by providing this authority with all documents and information it requests.

The regulation referred to in the first subparagraph shall specify in particular the functions to be performed by the appointed central contact points.

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<sup>1</sup> Law 20.07.2020, Art. 36 (Entry into force: 15.08.2020)

## **TITLE 2. – Overall risk assessment**

**Art. 16.** Obligated entities shall take measures that are appropriate and commensurate with their nature and their size to identify and assess the ML/FT risks to which they are exposed, by taking into account in particular the characteristics of their customers, the products, services or transactions offered by them, the countries or geographical areas concerned and the distribution channels used by them.

In their overall risk assessment referred to in the first subparagraph, they shall at least take into consideration the variables set out in Annex I. Moreover, they may take into account the factors that are indicative of a potentially lower risk set out in Annex II, and shall at least take into account the factors that are indicative of a potentially higher risk set out in Annex III.

They shall also take into account the relevant conclusions of the report drawn up by the European Commission pursuant to Article 6 of Directive 2015/849, and of the report drawn up by the coordinating bodies pursuant to Article 68, each in its own ambit, as well as all other relevant information at their disposal.

**Art. 17.** The overall risk assessment referred to in Article 16 shall be documented, updated and kept at the disposal of the supervisory authorities competent pursuant to Article 85.

Obligated entities must be able to demonstrate to their supervisory authority competent by virtue of Article 85 that the policies, procedures and internal control measures developed by them in accordance with Article 8, including, where appropriate, their customer acceptance policies, are appropriate in view of the ML/FT risks they have identified.

Updating the overall risk assessment implies, where appropriate, also updating the individual risk assessments referred to in Article 19, § 2, first subparagraph.

**Art. 18.** Supervisory authorities competent pursuant to Article 85 may decide that individual documented risk assessments are not required where the specific risks inherent to the activities concerned are clear and understood.

## **TITLE 3. – Customer and transaction due diligence**

### **CHAPTER 1. – General due diligence requirements**

#### **Section 1. – General provisions**

**Art. 19. § 1.** Obligated entities shall take customer due diligence measures that involve:

1° identifying and verifying the identity of the persons referred to in Section 2, in accordance with the provisions of the said Section;

2° assessing the customer's characteristics and the purpose and intended nature of the business relationship or occasional transaction as well as, where appropriate, obtaining additional information for this purpose in accordance with the provisions laid down in Section 3; and

3° [<sup>1</sup> applying due diligence with regard to occasional transactions, as well as ongoing due diligence with regard to the transactions carried out during a business relationship, in accordance with the provisions laid down in Section 4.]<sup>1</sup>

§ 2. The due diligence measures referred to in paragraph 1 shall be based on an individual ML/FT risk assessment, taking into account the characteristics of the customer and of the business relationship or the transaction concerned. Moreover, this individual risk assessment shall take into account the overall risk assessment referred to in Article 16, first subparagraph, as well as the variables and factors referred to in the second subparagraph of the same Article, which are in particular taken into consideration in the latter assessment.

If obliged entities, in the context of their individual risk assessment referred to in the first subparagraph, identify cases of high risk, they shall take enhanced due diligence measures. They may apply simplified due diligence measures if they identify cases of low risk.

In all cases, obliged entities shall ensure that they can demonstrate to the supervisory authorities competent pursuant to Article 85 that the due diligence measures applied by them are appropriate in view of the ML/FT risks they have identified.

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<sup>1</sup> Law 20.07.2020, Art. 37 (Entry into force: 15.08.2020)

**Art. 20.** [<sup>1</sup> The obliged entities referred to in Article 5, § 1, 3° to 22°, may not open anonymous accounts or safes or accounts or safes under false names or pseudonyms. They shall take all appropriate measures to ensure compliance with this prohibition.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 38 (Entry into force: 15.08.2020)

## *Section 2. – Identification and identity verification obligations*

### *Subsection 1. – Persons to be identified*

**Art. 21.** § 1. Obligated entities shall identify and verify the identity of customers:

1° who establish a business relationship with them;

2° who, outside the framework of a business relationship referred to in 1°, occasionally carry out:

a) one or more transactions that appear to be linked amounting to a total of EUR 10 000 or more; or

b) without prejudice to the obligations laid down in the European Regulation on transfers of funds, one or more credit transfers or transfers of funds within the meaning of that Regulation that appear to be linked and that amount to a total of more than EUR 1 000, or regardless of the amount, if the obliged entity receives the funds concerned in cash or in the form of anonymous electronic money.

For the purposes of the first subparagraph, a transfer of funds carried out in Belgium on the payment account of a beneficiary shall not be considered a credit transfer or a transfer of funds within the meaning of the European Regulation on transfers of funds if each of the following conditions is met:

i) the account concerned only enables payment of the price for the provision of goods or services;

ii) the payment service provider of the beneficiary is an obliged entity;

iii) the payment service provider of the beneficiary is able to trace, by means of a unique transaction identifier and [<sup>1</sup> through the beneficiary]<sup>1</sup>, the person who has entered into an agreement with the beneficiary for the provision of goods and services; and

iv) the amount of the transfer of funds does not exceed EUR 1 000;

3° in the case of the operators of games of chance referred to in Article 5, § 1, 33°, without prejudice to the provisions [<sup>1</sup> under 4° to 6°]<sup>1</sup>, who perform a transaction consisting of the wagering of a stake or, if the

customer has yet to be identified and his identity yet to be verified, the collection of winnings amounting to EUR 2 000 or more, regardless of whether the transaction is performed in a single operation or in several operations that appear to be linked;

4° who are not referred to in 1° to 3°, and with regard to whom there is a suspicion of money laundering or terrorist financing;

5° with regard to whom there are doubts regarding the veracity or accuracy of the data that was previously obtained in order to identify them.

[<sup>1</sup> 6° for whom there are reasons to doubt that the person who, as part of a business relationship, wishes to carry out a transaction is actually the customer with whom the business relationship was established or his authorised and identified agent.]<sup>1</sup>

§ 2. For the purposes of § 1, 3°, transactions shall be deemed to be linked if they are performed by a single person, pertain to a single transaction of the same nature, have the same or a similar goal and are performed in the same place, regardless of whether these transactions are carried out simultaneously or at regular intervals.

§ 3. On the advice of the supervisory authorities competent pursuant to Article 85, the King may, by Decree deliberated in the Council of Ministers, set a lower threshold than the one referred to in paragraph 1, 2°, a), for certain types of transactions and/or certain obliged entities, particularly taking into account the risk assessment conducted by the competent supervisory authorities by virtue of Article 87, § 1.

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<sup>1</sup> Law 20.07.2020, Art. 39 (Entry into force: 15.08.2020)

**Art. 22.** [<sup>1</sup> Where appropriate, obliged identities shall identify the agent(s) of the customers referred to in Article 21. They shall verify their identity and their ability to act on behalf of clients. ]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 40 (Entry into force: 15.08.2020)

**Art. 23.** § 1. Where appropriate, obliged entities shall identify and take reasonable measures to verify the identity of the beneficial owner(s) of the customers referred to in Article 21 and of the agents referred to in Article 22.

Identifying the beneficial owners in accordance with the first subparagraph includes taking reasonable measures to understand the ownership and control structure of the customer or of the agent who is a company, a legal person, a foundation, *fiducie*, trust or a similar legal arrangement.

[<sup>1</sup> The obligation referred to in the first subparagraph to take reasonable measures required to verify the identity of the beneficial owner is applicable in particular when the identified beneficial owner is a member of senior management as referred to in Article 4, 27°, second subparagraph, a), iii).]<sup>1</sup>

§ 2. Paragraph 1 shall not apply if the customer, the customer's agent or a company that controls the customer or the agent is a company listed on a regulated market within the meaning of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, in a Member State, or on a regulated market in a third country where the listed company is subject to legal provisions that are equivalent to those laid down in the aforementioned Directive and that in particular impose disclosure requirements with regard to the shareholdings in the company concerned that are equivalent to those provided for in European Union Law.

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<sup>1</sup> Law 20.07.2020, Art. 41 (Entry into force: 15.08.2020)

**Art. 24.** Without prejudice to Articles 21 to 23, the obliged entities referred to in Article 5, § 1, 4° to 22°, shall identify and verify the identity of the beneficiaries of life insurance policies.

Where appropriate, the obliged entities referred to in the first subparagraph shall identify and verify the identity of the beneficial owners of the beneficiaries of the life insurance policies concerned. In that case, the provisions of Article 23 shall apply.

**Art. 25.** Obligated entities that issue electronic money may, based on an appropriate ML/FT risk assessment conducted in accordance with Article 16 that demonstrates a low ML/FT risk, derogate from Articles 21 to 23 with regard to customers in the course of their business related to the issuance of electronic money, if the following risk mitigation conditions are met:

1° the payment instrument is not reloadable or can only be used in Belgium to make payments up to a maximum monthly limit of [<sup>1</sup> EUR 150]<sup>1</sup>;

2° the maximum amount stored electronically does not exceed [<sup>1</sup> EUR 150]<sup>1</sup>;

3° the payment instrument is used exclusively to purchase goods or services;

4° the payment instrument cannot be funded with anonymous electronic money;

5° the electronic money issuer concerned carries out sufficient monitoring of the transactions or business relationship to enable the detection of unusual or suspicious transactions.

[<sup>1</sup> However, the electronic money issuer shall identify and verify the identity of every person:

1° to who he redeems the monetary value of the electronic money in cash, for an amount exceeding EUR 50;

2° who withdraws the monetary value of the electronic money in cash, for an amount exceeding EUR 50; or

3° who carries out remote payment transactions within the meaning of Article 2, 23° of the Law of 11 March 2018, for an amount exceeding EUR 50 per transaction;]<sup>1</sup>

[<sup>2</sup> The obliged entities referred to in Article 5, § 1, 4°, 6° and 7°, providing the payment service consisting of the acceptance of payment transactions, as referred to in item 5 of Annex I.A of the Law of 11 March 2018, shall only accept payments carried out with anonymous prepaid cards issued in third countries if these cards comply with conditions equivalent to those laid down in subparagraphs 1 and 2.]<sup>2</sup>

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<sup>1</sup> Law [20.07.2020](#), Art. 42 (Entry into force: 15.08.2020)

<sup>2</sup> Law [20.07.2020](#), Art. 42d (Entry into force: 10.07.2020)

#### *Subsection 2. – Object of the identification and identity verification*

**Art. 26. § 1.** In order to fulfil their obligation to identify the persons referred to in Articles 21 to 24, obliged entities shall collect relevant information on these persons that enables the entities to distinguish them from any other person with reasonable certainty, taking into account the risk level identified in accordance with Article 19, § 2, first subparagraph.

§ 2. Without prejudice to the low-risk situations referred to in paragraph 3 or the high-risk situations referred to in paragraph 4, the relevant information referred to in paragraph 1 shall comprise:

1° where the identification obligation pertains to a natural person in the capacity of : his last name, first name, date and place of birth and, to the extent possible, address;

2° where the identification obligation pertains to a legal person: his corporate name, registered office, the list of his directors and the provisions governing the power to make binding agreements on behalf of the legal person;

3° where the identification obligation pertains to a trust or a similar legal arrangement: its corporate name, the information referred to in 1° or in 2° regarding its trustee(s), its founder(s) and, where appropriate, its

protector(s), as well as the provisions governing the power to make binding agreements on behalf of the trust or similar legal arrangement.

By way of derogation from the first subparagraph, 1°:

1° if the identification obligation pertains to a natural person in his capacity as beneficial owner, his date and place of birth shall be identified to the extent possible;

2° where the identification obligation pertains to natural persons in their capacity as beneficial owners of a foundation, a(n) (international) non-profit organisation, a *fiducie* or a trust or a similar legal arrangement that appoints its beneficiaries based on their special characteristics or the specific category to which they belong, the obliged entity shall collect sufficient information on the characteristics or category concerned in order to be able to identify the natural persons who are beneficial owners at the time of the exercise of their vested rights or at the time of the payout.

By way of derogation from the first subparagraph, 1° to 3°, if the identification obligation pertains to the beneficiary of a life insurance policy:

1° where the beneficiary of the policy is designated by name, the obliged entity shall collect information on the first and last name or the corporate name of the beneficiary;

2° where the beneficiary of the policy is designated by his or its characteristics, by category or by other means, the obliged entity shall collect sufficient information on this beneficiary to ensure that it is able to determine the identity of this beneficiary at the time of the payout.

§ 3. If the individual risk assessment conducted in accordance with Article 19, § 2, first subparagraph, shows that the risk associated with the customer and with the business relationship or with the transaction is low, the obliged entity may reduce the amount of information it collects in comparison with the information listed in paragraph 2. The collected information must however remain sufficient in order to make it possible to distinguish the person concerned from any other person with reasonable certainty.

§ 4. If the individual risk assessment conducted in accordance with Article 19, § 2, first subparagraph, shows that the risk associated with the customer and with the business relationship or with the transaction is high, the obliged entity shall pay particular attention to ensure that the information it collects pursuant to paragraph 2 enables it to conclusively distinguish the person concerned from any other person. If necessary, it shall collect additional information for this purpose.

**Art. 27.** § 1. <sup>[1]</sup> To fulfil their obligation to verify the identity of the persons referred to in Articles 21 to 24, obliged entities shall check, in order to have a sufficient degree of certainty that they know the persons concerned, all or part of the identification data collected pursuant to Article 26, against:

1° one or more supporting documents or reliable and independent sources of information enabling them to confirm this data;

2° where applicable, the information obtained through electronic identification means such as those provided or recognised within the authentication service as referred to in Articles 9 and 10 of the Law of 18 July 2017 on electronic identification, confirming the identity of persons online;

3° where applicable, information obtained through relevant trust services referred to in Regulation 910/2014.

In doing so, obliged entities must take into account the identified risk level in accordance with Article 19, § 2, first subparagraph.<sup>[1]</sup>

§ 2. Without prejudice to the application of paragraphs 3 and 4, obliged entities shall verify all identification data collected pursuant to Article 26, § 2.

§ 3. If the individual risk assessment conducted in accordance with Article 19, § 2, first subparagraph, shows that the risk associated with the customer and with the business relationship or with the transaction is low, the obliged entity may verify a smaller amount of information collected pursuant to Article 26. However, a sufficient amount of information must be verified in order to enable the obliged entity to have a sufficient degree of certainty as to its knowledge of the person concerned.

§ 4. If the individual risk assessment conducted in accordance with Article 19, § 2, first subparagraph, shows that the risk associated with the customer and with the business relationship or with the transaction is high, the obliged entity shall verify all the information collected by it pursuant to Article 26, and it shall pay particular attention to ensure that the documents and sources of information it uses to verify this information enable it to have a high degree of certainty as to its knowledge of the person concerned.

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<sup>1</sup> Law 20.07.2020, Art. 43 (Entry into force: 15.08.2020)

**Art. 28.** § 1. Upon request from an obliged entity referred to in Article 5, § 1, and solely for the purposes of the verification, by such an entity, of the identity of the customers and their agents who are natural persons and who are not present during their identification, for the purposes of the verification of the identity of the beneficial owners of the customers, as well for the purposes of updating the data relating to the identification of the customers, agents and beneficial owners, in accordance with this Law, the professional associations designated by the King shall be authorised to:

1° use the identification number from the National Register;

2° access the data of the National Register of natural persons referred to in Article 3 of the Law of 8 August 1983 establishing a National Register of natural persons;

3° make a paper or electronic copy of the information consulted in said Register.

They shall provide the obliged entity that requested it with the information necessary to fulfil its obligations listed in the first subparagraph.

They may, together or each separately, create or use an institution which, where appropriate, has received the authorisation referred to in the first subparagraph in their stead and which provides the obliged entity that requested it with the information necessary to fulfil its obligations listed in the first subparagraph.

Without prejudice to the provisions of other laws, regulations or implementing decrees, the institutions referred to in the third paragraph shall meet the following requirements:

1° they possess legal personality;

2° their registered office and general management are established in Belgium;

3° they are under the exclusive control of the professional associations that created them pursuant to the first subparagraph or of the obliged entities that are members of these professional associations.

§ 2. The obliged entities referred to in paragraph 1, first subparagraph may, for the purpose of compliance with the obligations listed therein, use, process, maintain and make a paper or electronic copy of any information they receive from the professional associations or the institutions created by them pursuant to paragraph 1, third subparagraph.

§ 3. When designating the professional associations referred to in paragraph 1, the King shall ensure that they are qualified to perform their function as intermediary in the context of the application of this Article, particularly in the context of their suitability to represent the obliged entities, of their sustainability, their governance and their organisation or, where appropriate, that of the institution they create.

**Art. 29.** [<sup>1</sup> When they establish a new business relationship with legal entities referred to in Article 74, § 1, obliged entities shall collect proof of the registration of the information referred to in Article 74, § 1 or an excerpt of said register.]<sup>1</sup>

[<sup>1</sup> Obligated entities that have access to the central register of beneficial owners]<sup>1</sup> referred to in Article 73, to the equivalent registers held in other Member States pursuant to Article 30(3) of Directive 2015/849 or in third countries, or to the registers of the beneficial owners of trusts, *fiducies* or similar legal arrangements held in other Member States pursuant to Article 31(4) of Directive 2015/849 or in third countries, shall, [<sup>1</sup> however, ]<sup>1</sup> not rely solely on the consultation of these registers in order to fulfil their obligation to identify and verify the identity of the beneficial owners of their customers, their customers' agents or the beneficiaries of life insurance policies. To that end, they shall implement additional measures that are proportionate with the risk level identified in accordance with Article 19, § 2, first subparagraph.

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<sup>1</sup> Law 20.07.2020, Art. 44 (Entry into force: 15.08.2020)

### *Subsection 3. – Time of identification and identity verification*

**Art. 30.** Obligated entities shall fulfil their obligations to identify and verify the identity of the customers referred to in Article 21, § 1, and of the beneficial owners referred to in Article 23, § 1, before entering into a business relationship with their customers or carrying out occasional transactions for which they are called on.

The obliged entities shall satisfy their obligations to identify and verify the identity of the customers' agents referred to in Article 22 before these agents exercise their power to make binding agreements on behalf of customers that they represent.

In the case of life insurance policies, the obliged entities shall fulfil their obligation to identify the beneficiaries referred to in Article 24 as soon as the latter have been designated or identified. They shall fulfil their obligation to verify the identity of the said beneficiaries no later than at the time of the payout. In the case of assignment, in whole or in part, of a life insurance policy to a third party, obliged entities aware of the assignment shall identify the beneficiary of the policy concerned at the time of the assignment to the natural or legal person or legal arrangement receiving for its own benefit the value of the policy assigned.

**Art. 31.** By way of derogation from Article 30, first and second subparagraph and without prejudice to Article 37, obliged entities may, in special circumstances that are listed exhaustively in their internal procedures and if necessary so as not to interrupt the conduct of business, verify the identity of the persons referred to in Articles 21 to 24 over the course of the business relationship, if the following conditions are met:

1° the individual risk assessment conducted in accordance with Article 19, § 2, first subparagraph, shows that the business relationship poses a low ML/FT risk;

2° in accordance with Article 27, the identities of the persons concerned are verified as soon as possible after the first contact with the customer.

If an obliged entity referred to in Article 5, § 1, 4° to 22°, makes use of the derogation referred to in the first subparagraph when opening an account, particularly an account that allows transactions in financial instruments, no transfers, withdrawals or deposits of funds or securities may be performed by the customer or in his name from this account to the customer or his agent before the identities of the persons referred to in Articles 21 to 24 have been verified in accordance with Articles 27 to 29.

**Art. 32.** Obligated entities that issue electronic money may, based on an appropriate assessment of the ML/FT risks conducted pursuant to Article 16 that demonstrates that these risks are low, derogate from Article 30, first and second subparagraph, with regard to customers in the course of their business related to the issuance of electronic money, if all risk mitigation conditions listed in Article 25 are met.

### *Subsection 4. – Non-compliance with the identification and identity verification obligation*

**Art. 33. § 1.** If obliged entities cannot fulfil their obligations to identify and verify the identity of a customer, his agents or his beneficial owners within the time limits referred to in Articles [1 30 and 31]<sup>1</sup>, they may neither establish a business relationship with nor carry out a transaction for that customer. Moreover, they shall end any already established business relationship.

In the cases referred to in the first subparagraph, obliged entities shall examine, in accordance with Article 46, whether the causes of the inability to fulfil the obligations referred to in the first subparagraph could raise ML/FT suspicions and whether CTIF-CFI should be notified.

The supervisory authorities may, by way of a regulation, authorise obliged entities that fall with their competence to implement restrictive measures as an alternative to ending the business relationship as required pursuant to the first subparagraph in particular cases, specified in that regulation, where the unilateral termination of the business relationship by the obliged entity is prohibited by other mandatory statutory provisions or public policy provisions, or if such a unilateral termination would have a severe and disproportionate negative impact on the entity.

§ 2. Paragraph 1 shall not apply to the obliged entities referred to in Article 5, § 1, 23° to 28°, with the strict proviso that they ascertain the legal position of their customer or perform the task of defending or representing that customer in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

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<sup>1</sup> Law 20.07.2020, Art. 45 (Entry into force: 15.08.2020)

*Section 3. – Obligation to identify the customer's characteristics and the purpose and nature of the business relationship or of the occasional transaction*

**Art. 34. § 1.** Obligated entities shall take adequate measures to assess the characteristics of [1 the customers identified in accordance with Article 21, § 1,]<sup>1</sup> and the purpose and nature of the business relationship or of the intended occasional transaction.

In particular, they shall ensure that they possess the information necessary for the implementation of the customer acceptance policy referred to in Article 8, for the application of [1 the due diligence requirements with regard to business relationships and occasional transactions]<sup>1</sup>, in accordance with Section 4, and for the specific enhanced due diligence requirements in accordance with Chapter 2.

In particular, they shall take reasonable measures to determine whether the persons identified pursuant to Section 2, including the beneficial owner of the beneficiary of a life insurance policy, are politically exposed persons, family members of politically exposed persons or persons who are known to be closely associated with politically exposed persons.

This information shall be obtained at the latest when the business relationship is established or the occasional transaction is carried out. The measures taken for this purpose shall be proportionate with the risk level identified in accordance with Article 19, § 2, first subparagraph.

§ 2. Obligated entities that issue electronic money may, based on an appropriate assessment of the ML/FT risks conducted pursuant to Article 16 that demonstrates that these risks are low, derogate from the first paragraph, with regard to customers in the course of their business related to the issuance of electronic money, if the risk mitigation conditions listed in Article 25 are met.

§ 3. If obliged entities are unable to fulfil their obligation referred to in paragraph 1, they may neither establish a business relationship with nor carry out a transaction, especially a transaction through a bank account, for the customer concerned. [1 ...]<sup>1</sup>

In the cases referred to in the first subparagraph, obliged entities shall examine, in accordance with Article 46, whether the causes of the inability to fulfil the obligations referred to in paragraph 1 could raise ML/FT suspicions and whether CTIF-CFI should be notified.



§ 4. Paragraph 3 shall not apply to the obliged entities referred to in Article 5, § 1, 23° to 28°, with the strict proviso that they ascertain the legal position of their customer or perform the task of defending or representing that customer in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

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<sup>1</sup> Law 20.07.2020, Art. 46 (Entry into force: 15.08.2020)

*Section 4. – [1 Due diligence requirement with regard to business relationships and occasional transactions]*<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 47 (Entry into force: 15.08.2020)

**Art. 35.** § 1. Obligated entities shall, with regard to [1 any transaction carried out by their customers identified in accordance with Article 21, § 1, as an occasional transaction or during a business relationship, exercise ongoing due diligence proportionate to]<sup>1</sup> the risk level identified in accordance with Article 19, § 2, first subparagraph, which involves, among other things:

1° [1 carefully examining occasional transactions and continuously examining transactions carried out during the business transaction as well as, where necessary, the origin of the funds, in order to verify whether these transactions are consistent with the characteristics of the customer, his risk profile, and, where applicable, the purpose and the nature of the business relationship, and to detect atypical transactions that should be subject to an in-depth analysis in accordance with Article 45;]<sup>1</sup>

2° [1 in case of a business relationship,]<sup>1</sup> updating the data held in accordance with Sections 2 and 3, particularly when data relevant for the individual risk assessment referred to in Article 19 is modified [1 or when the obliged entity, during the calendar year in question is required, due to a legal requirement, to contact the customer to re-examine any relevant information with regard to the beneficial owner(s), or if the obliged entity is legally required to do so pursuant to the Law of 16 December 2015 on the rules on providing information on financial accounts, by Belgian financial institutions and the FPS Finance, as part of the automatic exchange of information at international level and for tax purposes.]<sup>1</sup>

The data referred to in the first subparagraph, 2°, shall be updated and verified in accordance with Articles 26 to 29.

In the framework of updating the information they keep on their customers, obliged entities shall implement measures as referred to in Article 41, § 1, 1°, that enable them to identify which of their customers have become politically exposed persons, family members of politically exposed persons or persons who are known to be closely associated with politically exposed persons; where appropriate, a member of senior management shall decide whether or not to continue the business relationship, and the other enhanced due diligence measures laid down in Article 41, § 1, shall apply.

Without prejudice to Article 17, third subparagraph, updating the information in accordance with the third subparagraph shall imply, where this is relevant, also updating the individual risk assessment referred to in Article 19, § 2, first subparagraph, with regard to the customers concerned and, where appropriate, adapting the extent of the ongoing due diligence measures implemented.

§ 2. If obliged entities have reasons to consider that they will not be able to fulfil their obligation referred to in paragraph 1, they may neither establish a business relationship with nor carry out a transaction for the customer concerned. Moreover, if they cannot fulfil that same obligation with regard to their existing customers, they shall terminate any already established business relationship or, where appropriate, apply the alternative restrictive measures referred to in Article 33, § 1, third subparagraph.

In the cases referred to in the first subparagraph, obliged entities shall examine, in accordance with Article 46, whether the causes of the inability to fulfil the obligation referred to in the first subparagraph could raise ML/FT suspicions and whether CTIF-CFI should be notified.

§ 3. Paragraph 2 shall not apply to the obliged entities referred to in Article 5, § 1, 23° to 28°, with the strict proviso that they ascertain the legal position of their customer or perform the task of defending or

representing that customer in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

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<sup>1</sup> Law 20.07.2020, Art. 48 (Entry into force: 15.08.2020)

**Art. 36.** Each obliged entity shall ensure that its staff, as well as its agents and distributors who internally report a transaction they consider atypical within the meaning of Article 35, § 1, 1°, or who report that the entity is unable to fulfil the due diligence requirements referred to in Articles 33, § 1, 34, § 3 and 35, § 2, are protected from being exposed to any threats [<sup>1</sup>, any retaliatory measure]<sup>1</sup> or any hostile action, and in particular from adverse or discriminatory employment actions.

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<sup>1</sup> Law 20.07.2020, Art. 49 (Entry into force: 15.08.2020)

## CHAPTER 2. – *Special cases of enhanced due diligence*

**Art. 37.** § 1. In the cases referred to in Article 31, the measures taken for the purpose of verifying the identity of the persons referred to in Articles 21 to 24, as well as the transactions carried out in the context of the business relationship shall be subject to enhanced due diligence until the identity of all persons concerned has been verified. Any anomaly, including the inability to verify the identity of the aforementioned persons as soon as possible, shall be analysed and documented in a written report as laid down in Article 45.

§ 2. If they implement the alternative restrictive measures referred to in Articles 33, § 1 [<sup>1</sup> ...]<sup>1</sup>, and 35, § 2, obliged entities shall exercise enhanced due diligence with regard to the business relationships concerned.

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<sup>1</sup> Law 20.07.2020, Art. 50 (Entry into force: 15.08.2020)

**Art. 38.** [<sup>1</sup> § 1. Obligated entities shall apply the following enhanced customer due diligence measures for their business relationships or occasional transactions with natural persons or legal persons or with legal arrangements such as trusts or *fiducies* linked to a high-risk third country:

1° obtaining additional information on the customer and on the beneficial owner(s);

2° obtaining additional information on the intended nature of the business relationship;

3° obtaining information on the source of funds and source of wealth of the customer and of the beneficial owner(s);

4° obtaining information on the reasons for the intended or performed transactions;

5° obtaining the approval of senior management for establishing or continuing the business relationship;

6° conducting enhanced monitoring of the business relationship by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;

7° where applicable, ensuring that the first payment be carried out through an account in the customer's name with a credit institution subject to customer due diligence standards that are not less robust than the standards laid down in this Law.

§ 2. Without prejudice to Articles 14 and 54, the King may, by Royal Decree deliberated in the Council of Ministers, upon advice of the supervisory authorities of the obliged entities involved, and taking into account, where applicable, the reports and evaluations produced by the Financial Action Task Force, the Ministerial Committee for coordinating the fight against the laundering of money of illicit origin and the National Security Council:

1° require obliged entities to apply, one or more additional mitigating measures to persons and legal entities carrying out transactions involving high-risk third countries. Those measures may consist of:

a) the introduction of enhanced relevant reporting mechanisms or systematic reporting of financial transactions; and/or

b) the limitation of business relationships or transactions with natural persons or legal entities from high-risk third countries;

2° apply one or more of the following measures with regard to high-risk third countries:

a) refusing the establishment of subsidiaries, branches or representative offices of obliged entities from the country concerned, or otherwise taking into account the fact that the relevant obliged entity is from a country that does not have adequate AML/CFT regimes;

b) prohibiting obliged entities from establishing branches or representative offices in the country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AML/CFT regimes;

c) requiring increased prudential supervision or increased external audit requirements for branches and subsidiaries of obliged entities located in the country concerned;

d) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned;

e) requiring the obliged entities referred to in Article 5, § 1, 4° to 7°, 9° to 14° and 16° to 22 to review and amend, or if necessary terminate, correspondent relationships with respondent institutions in the country concerned.

The application of measures referred to in the provision under 1°, a), is required by the King upon advice of CTIF-CFI.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 51 (Entry into force: 15.08.2020)

**Art. 39.** Obligated entities shall apply increased due diligence measures, particularly taking into account the risk of laundering money stemming from serious fiscal fraud, whether organised or not, as referred to in Article 4, 23°, k):

1° with regard to transactions, including the receipt of funds, that are somehow linked to a State with low or no taxes included in the list established by Royal Decree in accordance with [1 Article 307, § 1/2, third subparagraph]<sup>1</sup>, of the Income Tax Code 1992; and

2° with regard to business transactions that involve carrying out transactions, including the receipt of funds, that are somehow linked to a State referred to in 1°, or that somehow involve natural or legal persons or legal arrangements, such as trusts or *fiducies*, that are established in such a State or that are governed by the law of such a State.

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<sup>1</sup> Law 20.07.2020, Art. 52 (Entry into force: 15.08.2020)

**Art. 40. § 1.** Obligated entities referred to in Article 5, § 1, 1°, [1 4° to 7°, 9° to 14° and 16° to 22°]<sup>1</sup>, [1 that establish cross-border correspondent relationships with a respondent institution from a third country in which payments are conducted]<sup>1</sup> shall, in addition to the customer due diligence measures laid down in Chapter 1, take the following measures:

1° gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of the supervision it is subject to;

2° assess the respondent institution's AML/CFT checks;

3° obtain approval from senior management before establishing new correspondent relationships;

4° document the respective responsibilities of each institution;

5° with respect to payable-through accounts, ensure that the respondent institution has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent institution, and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

[<sup>1</sup> These measures shall be taken prior to establishing a business relationship.]<sup>1</sup>

§ 2. Obligated entities [<sup>1</sup> referred to in Article 5, § 1, 1° and 3° to 22°,]<sup>1</sup> may neither establish nor continue a correspondent relationship with a shell bank, or with a credit or financial institution within the meaning of Article 3(1) and (2) of Directive 2015/849, or a credit or financial institution governed by the law of a third country, that is known to allow its accounts to be used by a shell bank.

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<sup>1</sup> Law 20.07.2020, Art. 53 (Entry into force: 15.08.2020)

**Art. 41.** § 1. [<sup>1</sup> Without prejudice to Article 8, obliged entities shall implement appropriate risk management systems, including adequate risk-based procedures, to determine whether the customer with whom they establish or have a business relationship or for whom they carry out an occasional transaction, an agent of the customer or a beneficial owner of the customer is or has become a politically exposed person, a family member of a politically exposed person or a person known to be a close associate of a politically exposed person.

When they find that a customer, an agent or a beneficial owner of the customer is or has become a politically exposed person, a family member of a politically exposed person or a person known to be a close associate of a politically exposed person, obliged entities shall, in addition to the customer due diligence measures referred to in chapter 1, apply the following enhanced due diligence measures:

1° obtain senior management approval for establishing or continuing business relationships with such persons or to carry out an occasional transactions for such persons;

2° take appropriate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such persons;

3° conduct enhanced scrutiny of the business relationship.]<sup>1</sup>

§ 2. Without prejudice to paragraph 1, if the beneficiaries of a life insurance policy and/or, where appropriate, the beneficial owner of the beneficiary of such a policy are or have become politically exposed persons, family members of politically prominent persons or persons who are known to be closely associated with politically exposed persons, obliged entities shall, in addition to the customer due diligence measures laid down in Chapter 1, take the following measures, [<sup>1</sup> no later than at the time of the payout or at the time of the assignment, in whole or in part, of the policy]<sup>1</sup>:

1° inform senior management before payout of insurance benefits;

2° conduct ongoing enhanced scrutiny of the entire business relationship with the policyholder.

§ 3. Where a politically exposed person is no longer entrusted with a prominent public function by a Member State, a third country or an international organisation, obliged entities shall, for at least twelve months, take into account the continuing risk posed by that person and apply appropriate and risk-sensitive measures until such time as that person poses no further risk specific to politically exposed persons.

[<sup>1</sup> § 4. The list of exact functions that qualify as prominent public functions in accordance with Article 4, 28°, are those defined in Annex IV, as well as those included in the list published by the European Commission pursuant to Article 20*bis*, third paragraph, of Directive 2015/849. The King shall update this Annex, within the

limits of the definitions laid down in Article 4, 28°, each time when changes are made to the designated functions. The Minister of Finance shall submit this list to the European Commission, as well as any updates.

The Minister of Foreign Affairs shall ask the international organisations accredited on Belgian territory to produce and update a list of prominent functions, as referred to in the first subparagraph. He is in charge of sending the lists drawn up by these international organisations to the European Commission.

Functions included in the lists referred to in the first and second subparagraph shall be dealt with in accordance with the following conditions:

1° personal data shall be processed only for the purposes of the prevention of ML/TF and shall not be further processed in a way that is incompatible with these purposes;

2° the processing of personal data for any other purpose than the one laid down in this law, in particular commercial purposes, shall be prohibited.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 54 (Entry into force: 15.08.2020)

### CHAPTER 3. – *Compliance of third-party business introducers with the due diligence requirements*

**Art. 42.** Without prejudice to the use of agents or subcontractors that act on their instructions and operate under their control and responsibility, obliged entities may rely on third-party business introducers to fulfil the due diligence requirements laid down in Articles 26 to 32, 34 and 35, § 1, 2°. In that case, the ultimate responsibility for ensuring compliance with these obligations shall remain with the obliged entities concerned.

**Art. 43.** § 1. For the purposes of this Chapter, a “third-party business introducer” shall be defined as:

1° an obliged entity as referred to in Article 5;

2° an obliged entity within the meaning of Article 2 of Directive 2015/849 that is governed by the law of another Member State;

3° an obliged entity within the meaning of Article 2 of Directive 2015/849 that is governed by the law of a third country and:

a) that must fulfil legal or regulatory customer due diligence requirements and record-keeping obligations that are consistent with those laid down in Directive 2015/849; and

b) whose compliance with these legal or regulatory obligations is monitored in accordance with the requirements laid down in Chapter VI, Section 2, of Directive 2015/849.

§ 2. Obligated entities may not rely on third-party business introducers established in high-risk third countries.

By way of derogation from the first subparagraph, obliged entities may rely on their branches and majority-owned subsidiaries or on other entities of their group that are established in a high-risk third country, if the following conditions are met:

1° the obliged entity relies on information provided solely by a third-party business introducer that is part of the same group;

2° this group applies AML/CFT policies and procedures, customer due diligence measures and rules on record-keeping in accordance with this Law, with Directive 2015/849 or with equivalent rules provided for by the law of a third country, and efficiently verifies whether the third-party business introducer complies effectively with these policies and procedures, measures and rules;

3° the effective implementation of the obligations referred to in 2° is supervised at group level by the supervisory authority competent pursuant to Article 85 or by the supervisory authority of the Member State or third country where the parent company of the group is established.

**Art. 44.** § 1. Obligated entities that rely on a third-party business introducer shall demand that the latter immediately submit the information on the identity of the customer and, where appropriate, of his agents and beneficial owners, as well as on the customer's characteristics and on the purpose and intended nature of the business relationship, that is necessary for the fulfilment of the due diligence requirements that have been conferred upon the third-party business introducer in accordance with Article 42.

They shall also take appropriate measures in order to enable the third-party business introducer to, immediately and at first request send them a copy of the supporting documents or of the reliable sources of information he used to verify the identity of the customer and, where appropriate, of his agents and beneficial owners.

Under the conditions set out in Articles 42 and 43, obliged entities may accept the results of due diligence requirements fulfilled by a third-party business introducer situated in a Member State or in a third country, even if the data or supporting documents that were used as a basis for the identification or identity verification differ from the data required by this Law or its implementing measures.

§ 2. The obliged entities referred to in Article 5 that act as third-party business introducers shall immediately provide the bodies or persons to which the customer has been introduced with the information concerning the identity of the customer and, where appropriate, of his agents and beneficial owners, concerning the customer's characteristics and the purpose and intended nature of the business relationship, that is necessary for fulfilling the due diligence requirements conferred upon them in accordance with Article 42.

They shall also, without delay and at first request, submit a copy of the supporting documents or of the reliable sources of information they used to verify the identity of the customer and, where appropriate, of his agents and beneficial owners [<sup>1</sup>, including:

1° where available, information obtained through electronic identification means such as those provided or recognised within the authentication service in accordance with Articles 9 and 10 of the Law of 18 July 2017 on electronic identification, that confirm the identity of persons online;

2° where available, information obtained from relevant trust services as set out in Regulation (EU) No 910/2014]<sup>1</sup>.

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<sup>1</sup> Law 20.07.2020, Art. 55 (Entry into force: 15.08.2020)

## **TITLE 4. – Analysis of atypical transactions and reporting of suspicions**

### **CHAPTER 1. – Analysis of atypical transactions**

**Art 45.** § 1. [<sup>1</sup> Obligated entities shall conduct a specific analysis, under the responsibility of the person designated in accordance with Article 9, § 2, of the atypical transactions identified pursuant to Article 35, § 1, 1°, in order to determine whether these transactions can be suspected of being linked to money laundering or terrorist financing. In particular, they shall examine, as far as reasonably possible, the background and purpose of all transactions that fulfil at least one of the following conditions:

1° they are complex transactions;

2° they are unusually large transactions;

3° they are conducted in an unusual pattern;

4° they do not have an apparent economic or lawful purpose.

To this end, they shall implement all measures that are necessary in addition to those referred to in Articles 19 to 41 and shall, in particular, increase the degree and nature of due diligence with regard to the business relationship, in order to determine whether these transactions appear suspicious.]<sup>1</sup>

§ 2. Obligated entities shall draw up a written report on the analysis performed pursuant to paragraph 1.

This report shall be drawn up under the responsibility of the persons referred to in Article 9, § 2, who shall provide adequate follow-up pursuant to the obligations described in this Title.

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<sup>1</sup> Law 20.07.2020, Art. 56 (Entry into force: 15.08.2020)

**Art. 46.** In the cases referred to in Articles 33, § 1, 34, § 3 and 35, § 2, obliged entities shall conduct a specific analysis of these situations under the responsibility of the person designated in accordance with Article 9, § 2, to determine whether the causes of the inability to fulfil the due diligence requirements could raise ML/FT suspicions and whether CTIF-CFI should be notified, in accordance with Articles 47 to 54.

Obligated entities shall draw up a written report on the analysis conducted pursuant to the first subparagraph. This report shall be drawn up under the responsibility of the persons referred to in Article 9, § 2, who shall provide adequate follow-up pursuant to the obligations described in this Title.

## CHAPTER 2 – *Reporting of suspicions*

### *Section 1. – Obligation to report suspicions and send additional information to CTIF-CFI*

**Art. 47 § 1** The obliged entities shall report to CTIF-CFI, when they know, suspect or have reasonable grounds to suspect:

1° that funds, regardless of the amount, are related to money laundering or terrorist financing;

2° that transactions or attempted transactions are related to money laundering or terrorist financing. This obligation also applies when the customer decides not to carry out the intended transaction;

3° other than the cases referred to in 1° and 2°, that a fact of which they know, is related to money laundering or terrorist financing. The obligation to report to CTIF-CFI in accordance with 1° to 3°, does not entail that the obliged entity must identify the predicate money laundering offence.

§ 2. The obliged entities also report to CTIF-CFI suspicious funds, transactions or attempted transactions and facts, referred to in paragraph 1, of which they know as part of activities carried out by them in another Member State without having a subsidiary, branch or other type of establishment through agents or distributors representing them there.

§ 3. The obliged entities report to CTIF-CFI funds, transactions and facts determined by the King, by Decree deliberated in the Council of Ministers, upon the advice of CTIF-CFI.

§ 4. The obliged entities report to CTIF-CFI, in accordance with paragraphs 1 to 3, within the periods referred to in Article 51.

*(NOTE: In its judgment no. 114/2020 of 24 September 2020 (Belgian Official Gazette of 31 December 2020, page 97956) the Constitutional Court annulled the second sentence of Article 47, § 1, 2°, insofar as it applies to lawyers.)*

**Art. 48.** The obliged entities respond to the requests for additional information sent by CTIF-CFI, in accordance with Article 81, within the periods determined by CTIF-CFI.

**Art. 49.** In principle any information or intelligence referred to in Article 47 and 48 is reported to CTIF-CFI by the person(s) designated pursuant to Article 9, § 2.

Any manager, employee, agent or distributor of an obliged entity referred to in Article 5, § 1, 1° to 22°, and 29° to 33°, as well as any employee or representative of an obliged entity referred to in Article 5, § 1, 23° to 28°, who is an obliged entity himself, shall nevertheless personally report the relevant information or intelligence to CTIF-CFI each time when the procedure referred to in the first subparagraph cannot be followed.

*(NOTE: In its judgment no. 114/2020 of 24 September 2020 (Belgian Official Gazette of 31 December 2020, page 97956) the Constitutional Court annulled the reference in Article 49, second subparagraph, to Article 5, § 1, 28°.)*

**Art. 50.** The information and intelligence referred to in Articles 47, 48, and 66, § 2, third subparagraph, is reported to CTIF-CFI in writing or electronically, in accordance with its terms.

The King may, upon the advice of CTIF-CFI, determine by Decree, a list of obliged entities for which the reporting of information and intelligence referred to in the first subparagraph, is done exclusively online.

**Art. 51.** § 1. The information relating to a transaction, referred to in Article 47, § 1, 2°, and §§ 2 and 3, is [<sup>1</sup> immediately reported to CTIF-CFI prior to carrying out the transaction. Where appropriate, the reporting obliged entity mentions the period of time during which the transaction must be carried out, and it complies with CTIF-CFI's instructions pursuant to Article 80 and 81.]<sup>1</sup>.

In case the obliged entities are unable to inform CTIF-CFI prior to carrying out the transaction, either because it is not possible to delay carrying out the transaction due to its nature, or because doing so could prevent prosecution of the individuals benefiting from this transaction, they shall report this transaction to CTIF-CFI immediately after carrying out the transaction.

In such a case, the reason why it was not possible to inform CTIF-CFI beforehand should be indicated.

§ 2 When the obliged entities know, suspect or have reasonable grounds to suspect that the funds or a fact, referred to in Article 47, § 1, 1° and 3°, and § 2, are linked to money laundering or terrorist financing, or when they become aware of funds or facts referred to in Article 47, § 3, they shall immediately report this to CTIF-CFI.

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<sup>1</sup> Law 20.07.2020, Art. 57 (Entry into force: 15.08.2020)

**Art. 52.** [<sup>1</sup> By way of derogation from Articles 47 and 49]<sup>1</sup>, lawyers who, while carrying out the activities listed in Article 5, § 1, 28°, are faced with funds, transactions to be carried out or facts referred to in Article 47, are obliged to immediately inform the President of the bar association to which they belong.

The President of the bar association shall verify compliance with the conditions referred to in Article 5, § 1, 28°, and 53. Where appropriate, in accordance with Articles 50 and 51, he shall [<sup>2</sup> immediately]<sup>2</sup> and unfiltered transmit the information to CTIF-CFI.

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<sup>1</sup> Law 30.07.2018, Art. 112 (Entry into force: 20.08.2018)

<sup>2</sup> Law 20.07.2020, Art. 58 (Entry into force: 15.08.2020)

**Art. 53.** By way of derogation from Articles 47, 48 and 54, the obliged entities referred to in Article 5, § 1, 23° to 28°, shall not transmit the information and intelligence referred to in these Articles if it was received from one of their clients or obtained on one of their clients in the course of ascertaining that client's legal position or performing their task of defending or representing that client in, or concerning judicial proceedings, including giving advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings, unless they take part in the money laundering or terrorist financing activities themselves or provide legal advice for money laundering or terrorist financing purposes, or if they know their client requests advice for money laundering or terrorist financing purposes.

**Art. 54.** § 1. The King may, by Decree deliberated in the Council of Ministers, upon the advice of CTIF-CFI, extend the reporting obligation of obliged entities to funds, transactions and facts involving natural or legal



persons domiciled, registered or established in a country or jurisdiction whose legislation is considered insufficient or whose practices are deemed to impede the fight against money laundering and terrorist financing by the national risk assessment referred to in Article 68, or by a competent international or European consultative and coordinating authority.

He may determine the type of such facts, funds and transactions, as well as their minimum amount, that is most appropriate to mitigate the risks linked to the countries or jurisdictions concerned.

§ 2. When the national risk assessment referred to in Article 68 identifies a country or a jurisdiction whose legislation is considered insufficient or whose practices are deemed to impede the fight against ML/TF the King may, by Decree deliberated in the Council of Ministers and without prejudice to paragraph 1, determine other countermeasures proportionate to the high money laundering or terrorist financing risks of the country or jurisdiction concerned.

## *Section 2. – Prohibition of disclosure*

**Art. 55.** § 1. Obligated entities, their directors, employees, agents and distributors, as well as the President of the bar association in the cases referred to in Article 52, shall not disclose to the customer concerned or to other third persons the fact that information or intelligence is being, will be or has been transmitted to CTIF-CFI in accordance with Article 47, 48, [<sup>1</sup> 52,]<sup>1</sup> 54 or 66, § 2, third subparagraph, or that a money laundering or terrorist financing analysis is being, or may be, carried out.

The prohibition referred to in the first subparagraph is also applicable to the communications of information or intelligence referred therein to branches of obliged entities established in third countries.

§ 2. When a natural person belonging to one of the categories of obliged entities referred to in Article 5, § 1, 23° to 28°, seeks to dissuade a client from engaging in illegal activity, that shall not constitute disclosure within the meaning of paragraph 1.

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<sup>1</sup> Law 20.07.2020, Art. 59 (Entry into force: 15.08.2020)

**Art. 56.** § 1. The prohibition referred to in Article 55 does not apply to the disclosure to supervisory authorities in accordance with Article 85, nor to disclosure for law enforcement purposes.

§ 2. The prohibition referred to in Article 55 shall not apply to disclosure of information:

1° between credit or financial institutions referred to in Article 2, paragraph 1, items 1 and 2, of Directive 2015/849, established in a Member State when these institutions belong to the same group;

2° between the institutions referred to in 1°, their branches and majority-owned subsidiaries located in third countries, provided that those branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures, including procedures for sharing information within the group, in accordance with Article 45 of Directive 2015/849, and that the group-wide policies and procedures comply with the requirements laid down in this Directive;

3° between the institutions referred to in 1° or between these institutions and equivalent institutions established in third countries whose requirements are equivalent to those laid down in Directive 2015/849, when these institutions act for the same customer and for the same transaction, provided that the information exchanged relates to that customer or that transaction, that it is used exclusively for the prevention of money laundering or terrorist financing, and that the institution receiving the information is subject to obligations equivalent to those laid down in Directive 2015/849 with regard to professional secrecy and personal data protection;

4° between the persons referred to in Article 2, paragraph 1, item 3, *a)* and *b)*, of Directive 2015/849 or between these persons and persons carrying out the same profession in third countries which impose requirements equivalent to those laid down in Directive 2015/849:

a) who carry out their professional activities, whether as employees or not, within the same legal person or a larger structure to which the person belongs and which shares common ownership, management or compliance control.

b) when acting for the same customer and for the same transaction, provided that the information exchanged relates to that customer or that transaction, that it is used exclusively for the prevention of money laundering or terrorist financing, and that the recipient of the information is subject to requirements equivalent to those laid down in Directive 2015/849 with regard to professional secrecy and personal data protection.

### *Section 3. – Protection of reporting entities*

**Art. 57.** Disclosure of information in good faith to CTIF-CFI by an obliged entity, by one of its directors, members of staff, agents or distributors, or by the President of the bar association referred to in Article 52, [<sup>1</sup> as well as by a lawyer to the President of the bar association in accordance with Article 52,]<sup>1</sup> shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the obliged entity or its directors, members of staff, agents or distributors, in liability of any kind, either civil, criminal or disciplinary, nor any adverse or discriminatory employment action, even in circumstances where they were not precisely aware of the predicate criminal activity, and regardless of whether any illegal activity actually occurred.

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<sup>1</sup> Law 20.07.2020, Art. 60 (Entry into force: 15.08.2020)

**Art. 58.** Where CTIF-CFI forwards information to the Public Prosecutor, the Federal Public Prosecutor or the authorities referred to in Article 83, § 2, this does not include the disclosures received from obliged entities in accordance with Article 47, 54 and 66, § 2, third subparagraph, in order to preserve the anonymity of its authors.

If the persons referred to in Article 83, § 1, are summoned to testify in court, they are also prohibited from disclosing the identity of the authors referred to in the first subparagraph.

**Art. 59.** The competent authorities for investigating and prosecuting ML/TF shall take all appropriate measures [<sup>1</sup> to legally protect]<sup>1</sup> directors, members of staff, agents or distributors of obliged entities who report suspicions of money laundering or terrorist financing, either internally, or to CTIF-CFI [<sup>1</sup> from any threats, retaliatory measures or hostile action]<sup>1</sup>.

[<sup>1</sup> Persons exposed to threats, retaliatory measures or hostile actions, or adverse or discriminatory employment actions for having reported a suspicion of money laundering or terrorist financing internally or to CTIF-CFI are entitled to present a complaint to the competent authorities, without prejudice to the application of Article 90. In order to ensure an effective remedy, the exception to the prohibition of disclosure for law enforcement purposes pursuant to Article 56, § 1, shall remain fully applicable.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 61 (Entry into force: 15.08.2020)

### *Section 4. – Retention [<sup>1</sup> ...]<sup>1</sup> of data and documents*

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<sup>1</sup> Law 20.07.2020, Art. 62 (Entry into force: 15.08.2020)

**Art. 60.** Obligated entities shall keep, using any type of record-keeping system, for the purposes of the prevention, detection or investigation of potential money laundering and terrorist financing by CTIF-CFI or other competent authorities, the following documents and information:

1° [<sup>1</sup> identification data referred to in Sections 2 and 3 of Title 3, Chapter 1, where appropriate updated in accordance with Article 35, and a copy of the records or of the result of checking an information source, referred to in Article 27, including:

a) where available, information obtained through electronic identification means such as those provided or recognised within the authentication service in accordance with Articles 9 and 10 of the Law of 18 July 2017 on electronic identification, that confirm the identity of persons online;

b) where available, information obtained from relevant trust services as set out in Regulation 910/2014.

The aforementioned documents and information shall be kept for a period of ten years after the end of the business relationship with their customer or after the date of an occasional transaction;]<sup>1</sup>

[<sup>1</sup> 1°/1 the documents containing the measures taken to comply with the verification obligation in the case referred to in Article 23, § 1, third subparagraph, including the information on any difficulties that arose during the verification process. These documents and information shall be kept for a period of ten years after the end of the business relationship with their customer or after the date of an occasional transaction;]<sup>1</sup>

2° without prejudice to any other applicable document retention legislation, the records and registration data of transactions required to identify and precisely reconstitute the transactions conducted, for a period of ten years after carrying out the transaction;

3° the written report prepared in accordance with Articles 45 and 46, in accordance with the methods described in 2°.

By way of derogation of the first subparagraph, the retention period of ten years shall be reduced to seven years in 2017 and respectively to eight and nine years in 2018 and 2019.

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<sup>1</sup> Law 20.07.2020, Art. 63 (Entry into force: 15.08.2020)

**Art. 61.** By way of derogation of Article 60, 1°, obliged entities may substitute the retention of a copy of the records by the retention of references of these records, provided that the references, due to their nature and their retention methods, enable obliged entities to produce these documents immediately, upon request of CTIF-CFI or other competent authorities during the retention period laid down in the same Article, and without that these documents could have been changed or altered in the meantime.

Obliged entities who intend to use the derogation referred to in the first subparagraph shall specify beforehand in their [<sup>1</sup> internal procedures]<sup>1</sup>, the categories of records of which they retain references instead of a copy, as well as the methods of retrieving these documents through which they can be produced upon request, in accordance with the first subparagraph.

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<sup>1</sup> Law 20.07.2020, Art. 64 (Entry into force: 15.08.2020)

**Art. 62.** § 1. Without prejudice to any other applicable legislation, obliged entities are obliged to delete personal data at the end of the retention period referred to in Article 60.

§ 2. With respect to the retention of documents and information, referred to in Article 60, first subparagraph, regarding the business relationships ended or transactions concluded up to 5 years prior to the date of entry into force of this Law, the retention period of these documents and information shall be seven years.

**Art. 63.** Obliged entities have systems enabling them to fully respond, within the period of time laid down in Article 48 via secure and confidential channels, in order to ensure complete confidentiality, to requests for information from CTIF-CFI [<sup>1</sup> in accordance with Article 81]<sup>1</sup>, from the judicial authorities or supervisory authorities referred to in Article 85, within the scope of their respective powers, to determine whether the entities involved maintain or, in the ten years prior to this request, have maintained a business relationship with a specific person, as well as, where appropriate, to questions on the nature of this relationship.

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<sup>1</sup> Law 20.07.2020, Art. 65 (Entry into force: 15.08.2020)

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<sup>1</sup> Law 20.07.2020, Art. 66 (Entry into force: 15.08.2020)

**Art. 64.** § 1. [<sup>1</sup> The processing of personal data pursuant to this Law by the obliged entities, as well as their supervisory authorities, is subject to the provisions of Regulation 2016/679.

The processing of these data is necessary to carry out a task in the public interest within the meaning of Articles 6, 1. e) and 23 e) and, with regard to the supervisory authorities, 23, h) of Regulation 2016/679 and is based on and necessary to fulfil the legal obligations that obliged entities and their supervisory authorities must comply with in accordance with this law.

Furthermore, this processing is a necessary measure for the prevention and detection of the offence of money laundering, the related predicate offences and the financing of terrorism within the meaning of Article 23, d) of Regulation 2016/679.]<sup>1</sup>

[<sup>1</sup> § 1/1. The processing of personal data pursuant to this law by CTIF-CFI is subject to the provisions of Title 2 of the Law of 30 July 2018.

The processing of these data is a necessary measure for the prevention and detection of the offence of money laundering, the related predicate offences and the financing of terrorism within the meaning of Article 27 of the Law of 30 July 2018 and is based on and necessary to fulfil the legal obligations that CTIF-CFI must comply with in accordance with this law.

§ 1/2. Pursuant to Article 4, § 1, first subparagraph of the Law of 3 December 2017 establishing the Data Protection Authority, the Data Protection Authority shall be in charge of the supervision of the processing of personal data and compliance with the fundamental principles of the protection of personal data under this Law.]<sup>1</sup>

§ 2. Under this Law personal data shall be processed [<sup>1</sup> ...]<sup>1</sup> for the purposes of ML/TF prevention only and shall not be further processed in a way that is incompatible with these purposes.

The processing of personal data collected in accordance with this Law for any other purposes than those laid down in this Law, in particular for commercial purposes, is prohibited.

§ 3. [<sup>1</sup> Obligated entities shall, prior to establishing a business relationship or to carrying out an occasional transaction, provide a general notice to their new customers about the legal obligations, pursuant to this Law and to Regulation 2016/679, when they process personal data for ML/TF purposes.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 67 (Entry into force: 15.08.2020)

**Art. 65.** [<sup>1</sup> § 1. Each obliged entity referred to in Article 5, § 1, or designated by the King pursuant to Article 5, § 2, shall be the data controller of the personal data it processes pursuant to this Law for the purposes referred to in Articles 1 and 64.

The personal data referred to in the first subparagraph are collected by the obliged entity, when fulfilling:

1° its identification and verification obligations, referred to in Articles 21 to 29;

2° its obligation to identify the characteristics of the customer and the purpose and the nature of the business relationship or of the occasional transaction, referred to in Article 34; as well as

3° its ongoing due diligence obligation, referred to in Article 35;

4° its enhanced due diligence obligations, referred to in Articles 37 to 41; and

5° its obligation to analyse atypical transactions, referred to in Articles 45 and 46.

Pursuant to the prohibition of disclosure laid down in Article 55, and in addition to the exceptions laid down in Articles 14, paragraph 5, points *c)* and *d)*, 17, paragraph 3, point *b)*, 18, paragraph 2, and 20, paragraph 3, of Regulation 2016/679, in order to ensure the objectives of Article 23, first paragraph, points *d)* and *e)* of the aforementioned Regulation, the exercise of the rights referred to in Articles 12 (transparent information, communication and modalities for the exercise of the rights of the data subject), 13 (information to be provided when personal data are collected from the data subject), 15 (right of access), 16 (right to rectification), 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing), 21 (right to object), 22 (profiling right), and 34 (communication of a personal data breach to the data subject) of the Regulation is entirely restricted for the processing of personal data as referred to in Article 4, first subparagraph, of the same Regulation and as laid down in the first subparagraph of this paragraph, that are carried out by the obliged entity as the data controller in charge of a task in the public interest pursuant to Articles 1 and 64, in order to:

1° enable the obliged entity, its supervisory authority as referred to in Article 85 and CTIF-CFI to fulfil the obligations to which they are subject in accordance with this Law; or

2° avoid jeopardising the prevention, detection and investigation of money laundering and terrorist financing and to avoid obstructing official or legal inquiries, analyses, investigations or procedures for the purposes of this Law.

Article 5 of the aforementioned Regulation 2016/679 shall not apply to the processing of personal data referred to in the first subparagraph, to the extent that the provisions of this Article correspond to the rights and obligations referred to in Articles 12 to 22 of this Regulation.

When the Data Protection Authority receives a complaint pursuant to Article 77 of Regulation 2016/679 with regard to a processing of personal data referred to the first subparagraph, it shall only notify the person involved that the necessary verifications have been carried out.

§ 2. Each supervisory authority referred to in Article 85 shall be the data controller of the personal data it processes pursuant to this Law for the purposes referred to in Articles 1 and 64. The personal data referred to in the first subparagraph are collected by the supervisory authorities when fulfilling:

1° its supervisory powers, as defined in Book IV, Title 4;

2° its obligations with regard to national and international cooperation, as defined in Book IV, Title 5; and

3° its powers with regard to administrative sanctions, as defined in Book V, Title 1.

Pursuant to the prohibition of disclosure laid down in Article 55, and the professional secrecy defined in Article 89 and in other legal provisions applicable to the supervisory authority involved, and in addition to the exceptions laid down in Articles 14, paragraph 5, points *c)* and *d)*, 17, paragraph 3, point *b)*, 18, paragraph 2, and 20, paragraph 3, of Regulation 2016/679, in order to ensure the objectives of Article 23, first paragraph, points *d)* and *e)* of the aforementioned Regulation, the exercise of the rights referred to in Articles 12 (transparent information, communication and modalities for the exercise of the rights of the data subject), 13 (information to be provided when personal data are collected from the data subject), 15 (right of access), 16 (right to rectification), 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing), 21 (right to object), 22 (profiling right), and 34 (communication of a personal data breach to the data subject) of the Regulation is entirely restricted for the processing of personal data as referred to in Article 4, first subparagraph, of the same Regulation and as laid down in the first subparagraph of this paragraph, that are carried out by the obliged entity as the data controller in charge of a task in the public interest pursuant to Articles 1 and 64, in order to:

1° enable this supervisory authority and CTIF-CFI to fulfil the obligations to which they are subject in accordance with this Law; or

2° to avoid jeopardising the prevention, detection and investigation of money laundering and terrorist financing and to avoid obstructing official or legal inquiries, analyses, investigations or procedures for the purposes of this Law.

Article 5 of the aforementioned Regulation 2016/679 shall not apply to the processing of personal data referred to in the first subparagraph, to the extent that the provisions of this Article correspond to the rights and obligations referred to in Articles 12 to 22 of this Regulation.

The supervisory authority shall retain the personal data for no longer than is necessary for the purposes for which they are stored.

This paragraph shall apply without prejudice to any other legal provisions on the processing of personal data by a supervisory authority pursuant to this Law.

When the Data Protection Authority receives a complaint pursuant to Article 77 of Regulation 2016/679 with regard to a processing of personal data referred to the first subparagraph, it shall only notify the person involved that the necessary verifications have been carried out.

§ 3. CTIF-CFI shall be the data controller of the personal data it processes pursuant to this Law for the purposes referred to in Articles 1, 64 and 76.

The personal data collected by CTIF-CFI, pursuant to the first subparagraph, are contained in:

1° disclosures, additional information and intelligence received from obliged entities and the President of the Bar Association, in accordance with Articles 47, 48, 54, 66, § 2, third subparagraph;

2° information, additional intelligence, judgments and other information received from supervisory authorities, police services, administrative services of the State, judicial authorities, financial intelligence units, and other services and authorities referred to in Articles 74, 79, 81 and 90/2, pursuant to Articles 74, 79, 81, 82, 84, 90/2, 121, 123, 124, 127 and 135.

CTIF-CFI shall retain the personal data for no longer than is necessary for the purposes for which they are stored, and for a maximum period of ten years after their receipt.

Subject to other applicable legislation, it shall erase the personal data at the end of this retention period.

In accordance with CTIF-CFI's enhanced professional secrecy, pursuant to Article 83, § 1, of this Law, and in order to ensure compliance with the prohibition of disclosure pursuant to Article 55 of this Law and prevent any harm to the prevention, detection and investigation and the prosecution or the execution of criminal penalties as referred to in Articles 37, § 2, 38, § 2, 39, § 4, and 62, § 5, of the Law of 30 July 2018, the right to information, rectification, erasure or security breach notification, as respectively referred to in Articles 37, § 1, 38 § 1, 39, § 1, and 62, § 1, of the Law of 30 July 2018 for the processing of personal data, as referred to in the second subparagraph of this paragraph are entirely restricted.

Pursuant to Article 43 of the Law of 30 July 2018 the rights of the persons involved, referred to in the previous subparagraph, are exercised by the Data Protection Authority. The Data Protection Authority shall only notify the person involved that the necessary verifications have been carried out.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 68 (Entry into force: 15.08.2020)

### **BOOK III. – RESTRICTION OF THE USE OF CASH**

**Art. 66.** § 1. For the purposes of this Article the “sales price of real property” means the total amount that the buyer must pay and that relates to the purchase and financing of this property, including the resulting associated costs.

§ 2. The sales price of real property may only be paid by means of a bank transfer or cheque.

The agreement and deed of sale must specify the number(s) of the financial accounts from which the amount was or will be debited, as well as the identity of the account holders.

When notaries or estate agents referred to in Article 5, § 1, 26° and 30°, find that the first and second subparagraphs are not complied with, they shall immediately inform CTIF-CFI using the methods described in Article 50.

**Art. 67.** § 1. For the purposes of this Article the following definition shall apply:

1° “consumer”: any natural person acting for purposes outside the framework of his commercial, industrial, craft or professional activity.

2° “precious materials”: gold, platinum, silver, palladium;

3° “old metals”: any used or reclaimed pieces of metal;

4° “copper cables”: any delivered copper cables, in any form, whether stripped or cut, shredded, ground or mixed with other materials, excluding flexible copper cables that are part of an appliance.

[<sup>1</sup> 5° “postal deposit”: a financial postal service ordering to credit an amount of money to a postal current account or to a bank account with a beneficiary financial institution established in Belgium.]<sup>1</sup>

§ 2. Regardless of the total amount, no payment or donation may be made or received in cash for an amount above EUR 3 000, or its equivalent in another currency, as part of one or several transactions that seem to be related.

[<sup>1</sup> Except in case of public auction carried out under the supervision of a bailiff:

1° the payment of copper cables may not be carried out in cash, when the buyer is not a consumer;

2° the payment of old metals or goods containing precious materials, unless these precious materials are only present in small quantities and only because of their necessary physical properties:

a) may not be carried out or received in cash when neither the seller nor the buyer is a consumer;

b) may not be carried out or received in cash for an amount or more than EUR 500 when the seller is a consumer and the buyer is not a consumer. If in this latter case the buyer accepts to carry out the payment fully or partially in cash, he must identify the consumer, verify his identity and keep his data and the proof of verification, in accordance with the rules determined by the King.]<sup>1</sup>

The provision laid down in the first subparagraph shall not apply to:

1° the sale of real property, referred to in Article 66;

2° transactions between consumers;

3° the obliged entities referred to in Article 5, § 1, 1°, 3°, 4°, 6°, 7°, 10° and 16°, [<sup>1</sup> as well as their clients when they]<sup>1</sup> carry out transactions with these entities.

§ 3. When the submitted accounting documents, including bank statements, do not enable to determine how payments or donations have been carried out or received, these are presumed to have been carried out or received in cash.

Subject to evidence to the contrary, any payment or donation in cash is presumed to be made on Belgian territory, and therefore subject to the provisions of this Article when at least one of the parties resides or conducts an activity in Belgium.

[<sup>1</sup> Shall be irrefutably presumed to be carried out or received as part of a set of linked transactions, and therefore limited to a total of EUR 3 000 in cash, the set of amounts mentioned in an official or unofficial accounting, that do not relate to one or more specific debts.]<sup>1</sup>

[<sup>1</sup> § 4. Irrespective of the total amount, postal deposits on accounts of third parties or on postal current accounts may only be carried out by consumers, for a maximum amount of EUR 3000 per deposit or a set of linked deposits.]<sup>1</sup>

[<sup>2</sup> The first subparagraph shall not apply to postal deposits on postal current accounts or current accounts carried out by public service officials of federal or regional public services in the performance of their duties.]<sup>2</sup>

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<sup>1</sup> Law 20.07.2020, Art. 69 (Entry into force: 15.08.2020)

<sup>2</sup> Law 02.06.2021, Art. 47 (Entry into force: 28.06.2021)

## **BOOK IV. – COMPETENT AUTHORITIES**

### **TITLE 1. – *National Risk Assessment***

**Art. 68.** The coordinating bodies shall take the necessary measures to identify, assess and mitigate the ML/TF risks that Belgium faces, as well as any related data protection issue.

To this end, they shall prepare a risk assessment report, each insofar as it concerns them and six months after publication of this Law at the latest. They shall then update this report every two years or more frequently if circumstances warrant this.

**Art. 69.** § 1. To conduct the national risk assessment referred to in Article 68, the coordinating bodies shall use the following:

1° the relevant conclusions of the report prepared by the European Commission in accordance with Article 6 of Directive 2015/849;

2° the recommendations sent by the European Commission to Belgium in accordance with the same Article on the measures that need to be taken to address the identified risks.

When the coordinating bodies decide, each insofar as it concerns them, not to implement the recommendations referred to in the first subparagraph, 2°, as part of the national AML/CFT framework, they shall inform the European Commission accordingly and substantiate their decision.

§ 2. When assessing the ML/TF risks relating to types of customers, geographic areas, and particular products, services, transactions or delivery channels, the coordinating bodies shall take into account at least:

1° indicative factors of potentially lower-risk situations set out in Annex II;

2° indicative factors of potentially higher-risk situations set out in Annex III.

**Art. 70.** [<sup>1</sup> In the report referred to in Article 68, second subparagraph, and where appropriate, based on the national risk assessment it contains, the coordinating bodies shall:]<sup>1</sup>

1° identify which legislative or other measures should be taken to enhance the national ML/TF framework, in particular by identifying in which areas obliged entities should apply enhanced customer due diligence and, if applicable, which specific measures should be taken;

2° identify, where appropriate, sectors or areas of lower or greater risk of ML/TF;

3° make the necessary recommendations to ensure a better distribution and ranking of resources allocated to combating money laundering on the one hand and terrorist financing on the other hand.



4° publish appropriate information for obliged entities to make it easier for them to carry out their own risk assessments on the one hand, and have access to up-to-date information on ML/TF risks, the practices of money launderers and financiers of terrorism and on indications leading to the recognition of suspicious transactions specific to that sector on the other hand;

5° [1 describe the institutional structure and general procedures of the national AML/CFT framework, including those of CTIF-CFI and the tax authorities and judicial authorities, as well as the allocated human and financial resources, when this information is available;]<sup>1</sup>

[1 6° describe the national efforts and resources (personnel and budget) dedicated to fighting ML/TF.]<sup>1</sup>

[1 The coordination bodies shall make the results of their risk assessments, including the updated versions of these assessments, available to the European Commission, the [2 EBA]<sup>2</sup> and the other Member States. Where appropriate, the coordination bodies can provide relevant additional information to another Member State conducting its risk assessment, and take into consideration such information received from another Member State. This summary shall not contain any classified information pursuant to Chapter 2 of the Law of 11 December 1998 on classification and security clearances, security certificates and security advisories.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 70 (Entry into force: 15.08.2020)

<sup>2</sup> Law 11.07.2021, Art. 304 (Entry into force: 30.06.2021)

**Art. 71.** For the purposes of contributing to the preparation of risk assessments referred to in Article 68 and to be able to review the effectiveness of their system to combat ML/FT at national level, the competent authorities referred to in this Title designated by the King, on the recommendation of the Minister of Finance and the Minister of Justice, shall maintain comprehensive statistics on matters relevant to the effectiveness of such systems.

The King shall determine, on the recommendation of the Minister of Finance and the Minister of Justice, and in accordance with Article 44, paragraph 2, of Directive 2015/849, the data to be included in the statistics referred to in the first subparagraph of this Article [1 ...]<sup>1</sup> in order to publish an annual consolidated overview.

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<sup>1</sup> Law 20.07.2020, Art. 71 (Entry into force: 15.08.2020)

**Art. 72. § 1.** The authorities designated by the King in accordance with Article 71 shall send the statistics they collect to the Minister of Justice every year.

§ 2. The Minister of Justice shall publish [1 ...]<sup>1</sup> a consolidated overview of the statistics sent to him in accordance with paragraph 1 and shall forward this to the European Commission [1 every year]<sup>1</sup>.

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<sup>1</sup> Law 20.07.2020, Art. 72 (Entry into force: 15.08.2020)

## **TITLE 2. – Register of beneficial owners**

**Art. 73.** Within the General Administration of the Treasury of the Federal Public Service Finance, hereinafter referred to as “Administration of the Treasury”, a department is created in charge of a central register of beneficial owners, called UBO register.

**Art. 74. § 1.** The UBO register is aimed at providing adequate, accurate and current information on the beneficial owners, referred to in Article 4, 27°, *a*), of companies created in Belgium, on the beneficial owners referred to in Article 4, 27°, *b*), of [1 *fiducies* or]<sup>1</sup> trusts, on the beneficial owners referred to in Article 4, 27°, *c*), of foundations and (international) non-profit organisations and on the beneficial owners referred to in Article 4, 27°, *d*), of legal [1 arrangements]<sup>1</sup> similar to *fiducies* or trusts.

The King shall determine, by Decree deliberated in the Council of Ministers, [1 the list of]<sup>1</sup> legal [1 arrangements]<sup>1</sup> referred to in the first subparagraph similar to *fiducies* or trusts.

[<sup>1</sup> The Minister of Finance shall submit to the European Commission the list referred to in the second subparagraph by specifying the categories, the description of the characteristics, the name and, where applicable, the legal basis.]<sup>1</sup>

§ 2. The department of the Administration of the Treasury referred to in Article 73 is in charge of collecting, retaining, managing and checking the quality of the data and providing the information referred to in the first paragraph, in accordance with the provisions of this Law and the legal and statutory provisions allowing the initial collecting of these data.

The Administration of the Treasury is in charge of supervising compliance with the obligations referred to in Article [<sup>1</sup> 1: 35 of the Companies and associations Code.]<sup>1</sup>.

The Administration of the Treasury carries out this supervision, referred to in the second subparagraph of this paragraph, in accordance with the supervisory powers laid down in Article 110, second subparagraph.

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<sup>1</sup> Law 20.07.2020, Art. 73 (Entry into force: 15.08.2020)

**Art. 74/1.** [<sup>1</sup> § 1. Obligated entities shall report electronically to the Administration of the Treasury any discrepancy they find between the information on beneficial owners available in the UBO register and the information on beneficial owners they have at their disposal.

By way of derogation from the first subparagraph, lawyers who, while carrying out the activities listed in Article 5, § 1, 28°, are faced with a discrepancy as referred to in the same subparagraph, shall immediately inform the President of the bar association to which they belong.

The President of the bar association shall verify compliance with the conditions referred to in the fourth subparagraph and in Article 5, § 1, 28°. Where appropriate, in accordance with the first subparagraph, he shall electronically transmit the information and intelligence immediately and unfiltered to the Administration of the Treasury.

By way of derogation from the first subparagraph, the obliged entities referred to in Article 5, § 1, 23° to 28°, shall not communicate the discrepancy referred to in the same subparagraph when the information and intelligence has been received from or obtained on a customer in the course of ascertaining that customer's legal position or in the exercise of their task of defending or representing the customer in legal proceedings or in relation to such proceedings, including giving advice on how to initiate or avoid proceedings, regardless of whether such information or intelligence is received or obtained before, during or after such proceedings, unless the obliged entities concerned have taken part in money laundering or terrorist financing activities, have provided legal advice for money laundering or terrorist financing purposes or know that the customer has sought legal advice for such purposes.

The reporting obligation referred to in the first subparagraph shall apply to the competent authorities other than CTIF-CFI insofar as this requirement does not interfere with their functions unnecessarily.

§ 2. Where discrepancies are reported, or on its own initiative, the Administration of the Treasury shall take appropriate measures to amend, confirm, complete, correct or clarify the information on beneficial owners contained in the UBO register. In particular, it may communicate the grounds for the reporting referred to in the first subparagraph to the relevant information provider as referred to in Article 74, § 1, first subparagraph, and ask him to amend, confirm, complete, correct or clarify the information on beneficial owners contained in the UBO register within one month of receiving this communication. The identity of the obliged entity or competent authority that submitted the report may not be communicated to the information provider involved under any circumstances.

Where the Administration of the Treasury communicates information to a third party, including the Public Prosecutor or the Federal Public Prosecutor, the identity of the obliged entity or the competent authority that reported a discrepancy as referred to in the first subparagraph may not be communicated under any circumstances.

The Administration of the Treasury shall mention in the UBO register that a reporting was submitted in accordance with the first subparagraph, without specifying the obliged entity or the competent authority that submitted it. This mention shall only be visible to the competent authorities and shall be removed as soon as the information on beneficial owners in the UBO register is amended, confirmed, completed, corrected or clarified in accordance with the first subparagraph.]<sup>1</sup>

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<sup>1</sup> Law 02.06.2021, Art. 48 (Entry into force: 28.06.2021)

**Art. 75.** The King shall determine, by Decree deliberated in the Council of Ministers, upon the advice of [<sup>2</sup> the Data Protection Authority,]<sup>2</sup> the way in which the information is collected, the content of the collected information, the management, the access, the use of data, the methods for verifying the data and the functioning of the UBO register.

[<sup>1</sup> [<sup>3</sup> Consulting the UBO register shall be free of charge.]]<sup>3</sup>

[<sup>3</sup> ...]]<sup>3</sup> <sup>1</sup>

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<sup>1</sup> Law 30.07.2018, Art. 42 (Entry into force: 20.08.2018)

<sup>2</sup> Law 20.07.2020, Art. 74 (Entry into force: 15.08.2020)

<sup>3</sup> Law 02.06.2021, Art. 49 (Entry into force: 28.06.2021)

### **TITLE 3. – *The Financial Intelligence Processing Unit***

#### **CHAPTER 1. – *General provisions***

**Art. 76. § 1.** An administrative authority with legal personality “Financial Intelligence Processing Unit”, hereinafter referred to as “CTIF-CFI” is established, responsible for processing and disseminating information with a view to combating ML/TF, as well as the financing of the proliferation of weapons of mass destruction, when it is granted the latter power pursuant to the relevant European Directives.

The Minister of Finance sends written notification of the name and address of CTIF-CFI to the European Commission.

§ 2. CTIF-CFI is operationally independent and autonomous, which means that it has the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and disseminate specific information it receives in accordance with this Law.

It is placed under the administrative supervision of the Minister of Justice and the Minister of Finance.

§ 3. Analysis of information by CTIF-CFI has two aspects:

1° operational analysis, focussing on individual cases in order to identify specific targets, follow the trace of specific activities or transactions and demonstrate the links between these targets and the potential proceeds of crime, money laundering, predicate offences, terrorist financing or proliferation financing; and

2° typological and strategic analysis, focussing on the proactive research of [<sup>1</sup> ML/FTP]<sup>1</sup> trends and aimed at completing and enhancing operational analysis.

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<sup>1</sup> Law 20.07.2020, Art. 75 (Entry into force: 15.08.2020)

**Art. 77. § 1.** CTIF-CFI is composed of financial experts and a senior officer seconded from the Federal Police. It is headed by a magistrate or his deputy seconded from the Public Prosecutor’s Office. Its magistrates are appointed by the King, on the recommendation of the Minister of Justice, and its members by the King, by Decree deliberated in the Council of Ministers.

Members of CTIF-CFI may not concurrently hold or have held, in the year prior to their appointment, a position of administrator, director, manager or agent in the institutions or for the persons referred to in Articles 5, § 1, 1° to 22°, and 29° to 33°.

§ 2. At the time of their appointment, members of CTIF-CFI must fulfil the following requirements:

1° be a Belgian citizen;

2° enjoy civil and political rights;

3° have their permanent residence in Belgium;

4° have at least ten years' experience in judicial, administrative or scientific duties relating to the operations of the obliged entities.

They shall take the oath stipulated in the Decree of 20 July 1831 before the Minister of Justice.

They may not hold any elected public office or engage in any public or private employment or activity that could compromise the independence or integrity of the position.

§ 3. The King shall determine, by Decree deliberated in the Council of Ministers:

1° the rules regarding the composition, organisation, operation and independence of CTIF-CFI; and

2° the contributions to the operating expenses of CTIF-CFI to be paid by the institutions and persons referred to in Article 5, § 1, 1° to 27°, and 29° to 33°, as well as the way in which they are collected.

§ 4. CTIF-CFI is treated as equivalent to the State for the implementation of the laws and regulations regarding taxes, levies, duties and charges of the State, the provinces, the municipalities and the agglomerations of municipalities.

§ 5. The civil liability of CTIF-CFI and its members cannot be invoked when it carries out its legal tasks, except in case of fraud or gross error.

**Art. 78.** At least once a year, CTIF-CFI shall prepare a report on its activities for the Minister of Justice and the Minister of Finance. This report shall contain all information useful, as far as CTIF-CFI is concerned, for assessing the effectiveness of the preventive system for combating ML/FTP, [1, up-to-date information on practices of money laundering and terrorist financing, and on indications to be able to identify suspicious transactions, as well as general feedback aimed at the obliged entities to provide details on the efficiency and the follow-up of their disclosures]<sup>1</sup>.

[1 Specific feedback on the efficiency and the follow-up of disclosures shall be ensured by CTIF-CFI, where possible, for obliged entities, where applicable during joint meetings.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 76 (Entry into force: 15.08.2020)

## CHAPTER 2. – *Competences and powers*

**Art. 79.** § 1. Without prejudice to the powers of the judicial authorities, CTIF-CFI shall be responsible for receiving and analysing reports of suspicions relating to ML/FT disclosed by the obliged entities in accordance with Articles 47, 54 and 66, § 2, third subparagraph, as well as reports of suspicions relating to financing of proliferation of weapons of mass destruction, disclosed by the obliged entities in accordance with the relevant European Directives.

§ 2. CTIF-CFI shall also be responsible for receiving and analysing information received from:

1° the supervisory authorities, when during checks carried out on the obliged entities for which they are responsible, or in any other way, they identify funds, transactions or facts they know, suspect, or have reasonable grounds to suspect to be related to money laundering or to terrorist financing. The same applies to the authorities in charge of supervising the financial markets, by way of derogation of their statutory and regulatory rules on their professional secrecy;

2° the officials of the administrative services of the State, the trustees in a bankruptcy and the temporary administrators referred to in [1 Articles XX.31, § 1, and XX.32, § 2, of the Code of Economic Law]<sup>1</sup>, when, in the course of their duties or in the course of their professional activities, they identify funds, transactions or facts they know, suspect, or have reasonable grounds to suspect to be related to money laundering or to terrorist financing;

3° the Federal Public Service Health, Food Chain Safety and Environment, in accordance with Article 98 of Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011;

4° the Point of contact Regularisation of the Federal Public Service Finance, in the framework of the implementation by the Government of the voluntary fiscal regularisation procedure, pursuant to which the aforementioned Point of contact sends CTIF-CFI a copy of the regularisation certificate, as well as a concise explanation of the scope and the origin of the regularised income, amounts, VAT transactions and capital, the period from which they originated, and the financial accounts used for the regularised amounts;

5° the Flemish tax authority in the framework of the temporary Flemish fiscal regularisation, pursuant to which it sends CTIF-CFI a copy of the regularisation certificate, as well as the data mentioned in Article 6 of the Decree of 10 February 2017 on a temporary Flemish fiscal regularisation;

6° the General Customs and Excise Administration of the Federal Public Service Finance, hereinafter referred to as “General Customs and Excise Administration”, in accordance with the Royal Decree of 26 January 2014 on supervisory measures for the physical cross-border transportation of currency and [2 the European Regulation on controls of cash entering or leaving the Union]<sup>2</sup>; and

7° the public social welfare centres [CPAS-OCMW] when, in the performance of their duties, they identify funds, transactions or facts they know, suspect, or have reasonable grounds to suspect to be related to money laundering or to terrorist financing.

The authorities and departments referred to in this paragraph shall immediately inform CTIF-CFI of funds, transactions or facts referred to in this paragraph, in accordance with the methods referred to in Article 50.

When they report this information to CTIF-CFI, Articles 55 to 59 shall apply under the same conditions.

§ 3. CTIF-CFI shall also be responsible for receiving and analysing information received from:

1° FIUs, carrying out duties, similar to those of CTIF-CFI, within the framework of mutual cooperation;

2° the Public Prosecutor’s Office, within the framework of an inquiry or preliminary inquiry related to terrorism and terrorist financing;

3° the European Anti-Fraud Office of the European Commission, within the framework of an investigation of fraud detrimental to the financial interests of the European Union.

The authorities and departments referred to in this paragraph sovereignly decide to send this information to CTIF-CFI.

§ 4. As soon as CTIF-CFI receives reports of suspicions referred to in paragraph 1 and the information referred to in paragraphs 2 and 3:

1° it acknowledges receipt; and

2° exercises its powers in accordance with Articles 80 to 83;

§ 5. Without prejudice to Article 123, the intelligence obtained by CTIF-CFI from an intelligence or security service, in accordance with paragraph 2, 2°, may not be disseminated by CTIF-CFI to a body under foreign law, in accordance with Article 83, § 2, without the explicit consent of the intelligence or security service in question.

[<sup>2</sup> § 6. Without prejudice to other legal provisions, CTIF-CFI, for exercising its powers determined by or pursuant to this Law, has access to the information contained in the documents, papers, plans, databases and data held by the General Administration Patrimonial Documentation of the Federal Public Service Finance within the framework of its tasks assigned in accordance with Title IX of the Code of Income Tax 1992. This access takes place in accordance with Title 3 of the Royal Decree of 30 July 2018 on the creation and updating of land registry documents and laying down the rules for issuing land registry extracts and Article 64, 66, §§ 1 to 2, of this Law.

The information obtained pursuant to the first subparagraph enable CTIF-CFI to identify all natural or legal persons that own real estate in a timely manner. The data of this information are the data referred to in Article 11, first subparagraph, 1° and 3°, of the aforementioned Royal Decree of 30 July 2018.]<sup>2</sup>

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<sup>1</sup> Law 30.07.2018, Art. 113 (Entry into force: 20.08.2018)

<sup>2</sup> Law 20.07.2020, Art. 77 (Entry into force: 15.08.2020)

**Art. 80.** § 1. When CTIF-CFI receives a report of a suspicion or information in accordance with Article 79, it may freeze the execution of any transaction related to this report.

CTIF-CFI determines to which transactions and bank accounts the freezing order refers and immediately informs the obliged entities involved in writing.

§ 2. The freezing order referred to in paragraph 1 halts the execution of the transactions to which it relates for a maximum period of five working days from the time of notification.

If CTIF-CFI is of the opinion that the measure referred to in the first subparagraph should be extended, it shall notify, without delay, the Public Prosecutor or the Federal Public Prosecutor, who shall take the appropriate decision. In case the obliged entities are not notified of a decision within the time period referred to in subparagraph 1, these entities may carry out the transaction(s) to which the decision relates.

§ 3. When CTIF-CFI forwards information to the Public Prosecutor or the Federal Public Prosecutor in accordance with paragraph 2, CTIF-CFI shall also, without delay, inform the [<sup>12</sup>COSC]<sup>2</sup><sup>1</sup>.

§ 4. CTIF-CFI may also decide to implement a freezing order referred to in paragraph 1 at the request of another FIU. Where appropriate, the provisions of paragraphs 1 to 3 shall apply.

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<sup>1</sup> Law 04.02.2018, Art. 56 (Entry into force: 01.07.2018)

<sup>2</sup> Law 15.05.2022, Art. 5 (Entry into force: 04.06.2022)

**Art. 81.** § 1. When CTIF-CFI receives reports of suspicions and information referred to in Article 79, CTIF-CFI, one of its members, one of its members of staff designated for this purpose by the magistrate heading CTIF-CFI or by his deputy may demand to obtain, in accordance with the procedures determined by CTIF-CFI, any additional information [<sup>2</sup>, including any financial, administrative and law enforcement information,]<sup>2</sup> they deem useful to accomplish CTIF-CFI's task, from:

1° obliged entities;

2° supervisory authorities and the President of the bar association referred to in Article 52;

3° police services, in accordance with [<sup>1</sup> Article 44/11/9, § 1, 1°,]<sup>1</sup> of the Law of 5 August 1992 on the policing function;

4° administrative services of the State;

5° public social welfare centres [CPAS-OCMW];

6° trustees in a bankruptcy;

7° temporary administrators referred to in Article XX.31, § 1, and XX.32, § 2, XX.31, § 1, and XX.32, § 2, of the Code of Economic Law;

8° judicial authorities.

[<sup>1</sup> For the same purposes as those referred to in subparagraph 1, the information kept in the central point of contact of accounts and financial contracts held by the National Bank of Belgium and organised pursuant to the Law of 8 July 2018, shall be accessible directly, immediately and unfiltered to CTIF-CFI, one of its members, one of its members of staff designated for this purpose by the magistrate heading CTIF-CFI or by his deputy. In accordance with Article 123, CTIF-CFI may provide this information in a timely manner to any other FIU.]<sup>1</sup>

§ 2. The judicial authorities, police services, administrative services of the State, public social welfare centres [CPAS-OCMW], trustees in a bankruptcy and temporary administrators referred to in paragraph 1 may, on their own initiative, send any information to CTIF-CFI they deem useful to accomplish its task.

§ 3. By way of derogation from paragraph 1, 1° and 2°, the obliged entities referred to in Article 5, § 1, 23° to 28°, and the President of the bar association referred to in Article 52 do not transmit the additional information requested by CTIF-CFI when such information was received from, or obtained on, one of their clients, in the course of ascertaining the legal position of their client, or in performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings, unless these obliged entities themselves take part in the money laundering or terrorist financing activities or provide legal advice for money laundering or terrorist financing purposes, or they know that their client requests legal advice for these purposes.

§ 4. Without prejudice to Article 123, the intelligence obtained by CTIF-CFI from an intelligence or security service, in accordance with paragraph 1, 4°, may not be disseminated by CTIF-CFI to a body under foreign law, in accordance with Article 83, § 2, without the explicit consent of the intelligence or security service in question.

§ 5. By way of derogation from paragraph 1, 8°, an investigating judge may not transmit intelligence to CTIF-CFI without the explicit consent of the Public Prosecutor or the Federal Public Prosecutor. Moreover, and without prejudice to Article 123, the intelligence obtained by CTIF-CFI from a judicial authority may not be disseminated to a body under foreign law, in accordance with Article 83, § 2, without the explicit consent of Public Prosecutor or the Federal Public Prosecutor.

§ 6. Without prejudice to Article 56, the entities, authorities and services referred to in paragraph 1 shall not disclose to the person involved or to third parties that intelligence they provided to CTIF-CFI in accordance with the same paragraph or paragraph 2 was requested by CTIF-CFI or was or will be provided.

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<sup>1</sup> Law 20.07.2020, Art. 78 (Entry into force: 15.08.2020)

<sup>2</sup> Law 15.05.2022, Art. 6 (Entry into force: 04.06.2022)

**Art. 82.** § 1. When CTIF-CFI receives reports of suspicions and information referred to in Article 79, it determines, by means of a thorough analysis, whether the funds or the goods involved in the transaction or disclosed fact may be the proceeds of a criminal activity, as defined in Article 4, 23°.

§ 2. When the analysis referred to in paragraph 1 reveals a serious indication of ML/FTP, CTIF-CFI disseminates the information in question to the Public Prosecutor or the Federal Public Prosecutor.

CTIF-CFI also informs the [<sup>1</sup> COSC]<sup>1</sup> when assets of significant value, of any nature, are available for a potential judicial seizure.

§ 3. The Public Prosecutor's Office informs CTIF-CFI about the use made of the information provided in accordance with this Article and about the outcome of the investigations or inspections carried out on the basis of that information.

Moreover, the Public Prosecutor's Office sends a copy of the final decisions delivered, including settlements in criminal cases, in the files for which CTIF-CFI disseminated information in accordance with this Article.

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<sup>1</sup> Law 15.05.2022, Art. 7 (Entry into force: 04.06.2022)

**Art. 83.** § 1. Subject to the application of Articles 79 to 82, the notifications referred to in [<sup>3</sup> paragraphs 2 and 3]<sup>3</sup> with the exception of cases where they are summoned to testify in court, or before a parliamentary committee of inquiry, the members of CTIF-CFI and members of its staff, the members of the police services and other officials seconded to CTIF-CFI as well as the external experts it calls upon may not disclose, even in the circumstances referred to in Article 29 of the Code of Criminal Procedure, and notwithstanding any provision to the contrary, the information collected in the performance of their tasks.

Disclosure of any information referred to in the first subparagraph by a member of CTIF-CFI or a member of its staff, a member of the police services or other official seconded to CTIF-CFI, or an external expert it calls upon, shall be punished with the penalties referred to in Article 458 of the Criminal Code.

§ 2. Paragraph 1 shall not apply to information provided:

1° within the framework of mutual cooperation, pursuant to international treaties to which Belgium is a party or, based on reciprocity, to FIUs fulfilling similar duties and subject to obligations of professional secrecy as those of CTIF-CFI, in order for them to accomplish their task;

2° between CTIF-CFI and the European Anti-Fraud Office of the European Commission, when applying Article 325 of the Treaty on the Functioning of the European Union;

3° between CTIF-CFI and the supervisory authorities, in accordance with Article 121, § 2, of all information useful to authorities for carrying out their powers with regard to supervising and sanctioning, pursuant to this Law;

4° between CTIF-CFI and the State Security Service [VSSE], the General Intelligence and Security Service of the Armed Forces [SGRS-ADIV], and the Coordination Unit for Threat Analysis [OCAM-OCAD], within the framework of the fight against the radicalisation process, terrorism, terrorist financing and related money laundering transactions.

[<sup>4</sup> 5° between CTIF-CFI en Europol in the framework of reasoned requests for financial information and financial analysis that Europol sends directly to CTIF-CFI, on a case-by-case basis, within the limits of its competences and for the performance of its tasks, in accordance with Articles 3 and 4 of Regulation 2016/794. When CTIF-CFI receives such a request, it shall respond to this request as soon as possible, according to the degree of urgency and the nature of the request, taking into account the guarantees laid down in Article 84, § 1 of this Law and in Article 7, subparagraphs 6 and 7 of Regulation 2016/794. The information exchanges shall take place via the FIU.Net or its successor.]<sup>4</sup>

Moreover, paragraph 1 shall not apply when CTIF-CFI has disseminated information to the Public Prosecutor or to the Federal Public Prosecutor in accordance with Articles 80, § 2, and 82, § 2, regarding laundering the proceeds of an offence for which a supervisory authority, referred to in Article 85, has investigative powers, CTIF-CFI shall inform this authority of this dissemination.



Where this dissemination contains information regarding laundering the proceeds of [1 trafficking in human beings, smuggling of human beings or social fraud]<sup>1</sup>, CTIF-CFI shall forward to the Prosecutor at a labour tribunal a copy of the report that was disseminated to the Public Prosecutor or Federal Public Prosecutor pursuant to Article 82, § 2.

Where this dissemination contains information regarding laundering the proceeds of offences for which the Customs and Excise Administration conducts criminal proceedings, CTIF-CFI shall forward to [3 this Administration a copy]<sup>3</sup> of the report that was disseminated to the Public Prosecutor or Federal Public Prosecutor pursuant to Article 82, § 2.

Where this dissemination contains information regarding laundering the proceeds of offences that may have repercussions with respect to serious fiscal fraud, whether organised or not, except for the cases laid down in the previous subparagraph, CTIF-CFI shall forward to the Minister of [3 Finance the relevant]<sup>3</sup> information in these matters resulting from the dissemination of this file to the Public Prosecutor or Federal Public Prosecutor pursuant to Article 82, § 2.

Where this dissemination contains information regarding laundering the proceeds of offences that may have repercussions with respect to social fraud, CTIF-CFI shall forward to the Social Intelligence and Investigation Service [SIRS-SIOD], established by Article 3 of the Social Criminal Code of 6 June 2010, the information that may be relevant to this Service resulting from the dissemination of this file to the Public Prosecutor or Federal Public Prosecutor, pursuant to Article 82, § 2.

Where this dissemination contains information regarding laundering the proceeds of an offence for which the Federal Public Service Economy, SMEs, Self-employed and Energy has investigative powers, CTIF-CFI shall forward to the Minister of [3 Economy the relevant ]<sup>3</sup> information in these matters resulting from the dissemination of this file to the Public Prosecutor or Federal Public Prosecutor, pursuant to Article 82, § 2.

Where this dissemination contains information for which the State Security Service [VSSE] or the General Intelligence and Security Service of the Armed Forces [SGRS-ADIV] provided information to CTIF-CFI, it shall inform them of this dissemination.

[1 Where this dissemination contains information for which the Directorate-General Prisons of the Federal Public Service Justice provided information to CTIF-CFI, CTIF-CFI shall inform this Directorate-General of this dissemination.]<sup>1</sup>

[3 Where this dissemination contains information regarding laundering the proceeds of offences for which the Financial Services and Markets Authority has investigative and supervisory powers, CTIF-CFI shall forward to this Authority the relevant information in these matters resulting from the dissemination of the file to the Public Prosecutor or the Federal Public Prosecutor, pursuant to Article 82, § 2.]<sup>3</sup>

[2 Paragraph 1 shall not apply to the dissemination of information to the common databases referred to in Article 44/11/3bis of the Law of 5 August 1992 on the policing function, to which CTIF-CFI has direct access. When information [3 is]<sup>3</sup> disseminated by CTIF-CFI to the common databases in accordance with 44/11/3ter, § 4 of the aforementioned Law, all relevant information can be provided to all departments that in accordance with the aforementioned Law, or the implementing Decrees, have direct access to all or part of the personal data and information in these common databases. This information can only be used by these departments within the purposes for which they have access to the common databases.]<sup>2</sup>

[3 § 3. By way of derogation from paragraph 1, and within the limits of European Union Law, CTIF-CFI can grant access to confidential information to the Data Protection Authority, to the extent that this Authority requires this information to carry out its tasks.]<sup>3</sup>

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<sup>1</sup> Law 30.07.2018, Art. 114 (Entry into force: 20.08.2018)

<sup>2</sup> Law 05.05.2019, Art. 190 (Entry into force: 03.06.2019)

<sup>3</sup> Law 20.07.2020, Art. 79 (Entry into force: 15.08.2020)

<sup>4</sup> Law 15.05.2022, Art. 8 (Entry into force: 04.06.2022)

**Art. 84.** [<sup>1</sup> § 1. When conducting investigations on money laundering, related criminal activities and terrorist financing, the judicial authorities may, subject to the application of the requirement referred to in Article 58, request from CTIF-CFI any relevant information it holds, and send reasoned requests for financial information and financial analysis, if this financial information or financial analysis is necessary in this case, and when the request relates to matters regarding the prevention, detection, investigation or prosecution of serious criminal offences.

When CTIF-CFI receives such a request it has the discretion to assess whether it is necessary to disseminate the information it holds. In this case Article 83, § 1, does not apply to the information disseminated by CTIF-CFI.

In accordance with the second subparagraph, when there are objective reasons to assume that the communication of such information would have a negative effect on ongoing investigations or analyses, or, in exceptional circumstances, when the disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or would not be relevant to the purposes for which the information was requested, CTIF-CFI shall not be obliged to comply with the request for information. CTIF-CFI shall duly substantiate any refusal to respond to a request referred to in the second paragraph.

Any use by the judicial authorities for purposes beyond those originally approved shall require prior consent from CTIF-CFI.

§ 2. The judicial authorities may exchange, upon request, on a case-by-case basis, financial information and financial analyses provided by CTIF-CFI with a competent authority of another Member State designated pursuant to Article 3.2. of Directive 2019/1153 when this information or financial analysis is necessary for the purposes of preventing, detecting and combating money laundering, related criminal activities and terrorist financing.

The judicial authorities shall use the financial information or financial analyses received from a designated competent authority of another Member State pursuant to Article 3.2. of Directive 2019/1153 only for the purpose for which it was sought or provided.

The dissemination of financial information or financial analyses received by the judicial authorities from CTIF-CFI to another authority, agency or department, or any use of this information for purposes beyond those originally approved, shall require prior consent of CTIF-CFI.

§ 3. The judicial authorities shall exchange the financial information and financial analyses with the competent authority in another Member State designated pursuant to Article 3.2 of Directive 2019/1153 using dedicated secure electronic communications ensuring a high level of data security.

§ 4. The judicial authorities may process the financial information and financial analyses received from CTIF-CFI for the specific purposes of the prevention, detection, investigation or prosecution of serious criminal offences and criminal activities associated with money laundering, the associated predicate offences and terrorist financing, other than the purposes for which personal data are collected pursuant to Article 29, § 1, of the Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data.]<sup>1</sup>

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<sup>1</sup> Law 15.05.2022, Art. 9 (Entry into force: 04.06.2022)

## **TITLE 4. – Supervisory authorities**

### **CHAPTER 1. – General provisions**

**Art. 85.** § 1. Without prejudice to the prerogatives granted to them by or pursuant to other legal provisions, the following authorities shall monitor compliance with the provisions of Book II of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, [<sup>3</sup> where applicable, ]<sup>3</sup> the

European Regulation on transfers of funds, and the due diligence requirements imposed by the binding provisions on financial embargoes:

1° the Minister of Finance, through his representative referred to in Article 22 of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium, with regard to the latter;

2° the Administration of the Treasury, with regard to [1° the obliged entity]<sup>1</sup> referred to in Article 5, § 1, [1° ...]<sup>1</sup> 3°;

3° the National Bank of Belgium, hereinafter called “the Bank”, with regard to the obliged entities [3° referred to in Article 5, § 1, 4° to 10°, for the regulated activities carried out in this capacity, as well as for the activities carried out, where applicable, by these same entities as lenders within the meaning of Article I.9, 34° of the Code of Economic Law]<sup>3</sup>;

4° the Financial Services and Markets Authority, hereinafter called “the FSMA”, with regard to the obliged entities referred to in Article 5, § 1, 11° to 20° [3°, for the regulated activities carried out in this capacity]<sup>3</sup> [2°, excluding lenders within the meaning of Article I.9, 34° of the Code of Economic Law, which are under the supervisory remit of the National Bank of Belgium pursuant to 3°]<sup>2</sup>;

5° the Federal Public Service Economy, SMEs, Self-Employed and Energy, with regard to the obliged entities referred to in Article 5, § 1, 21°, [4° 25°/1]<sup>4</sup> and 29° [3° to 31°/5]<sup>3</sup>;

6° [3° the Belgian Audit Oversight College [*Collège de supervision des réviseurs d'entreprise*] with regard to the obliged entities referred to in Article 5, § 1, 23°, for their auditing tasks and the other activities they can carry out by enrolling or registering in the public register of auditors or in their capacity of trainee-auditor;]<sup>3</sup>

7° [3° the Institute of Accountants and Tax Consultants [*Institut des Experts-comptables et des Conseils fiscaux*] with regard to the obliged entities referred to in Article 5, § 1<sup>er</sup>, 24° to [4° 25°]<sup>4</sup> ;]<sup>3</sup>

8° [3° ...]<sup>3</sup>

9° the National Chamber of Notaries with regard to the obliged entities referred to in Article 5, § 1, 26°;

10° the National Association of Bailiffs with regard to the obliged entities referred to in Article 5, § 1, 27°;

11° the President of the Bar Association to which they belong with regard to the obliged entities referred to in Article 5, § 1, 28°;

12° the Federal Public Service Home Affairs with regard to the obliged entities referred to in Article 5, § 1, 32°;

13° the Gaming Commission with regard to the obliged entities referred to in Article 5, § 1, 33°;

§ 2. The King shall designate the authorities that are competent to monitor, without prejudice to the prerogatives granted to them by or pursuant to other legal provisions, compliance with the provisions referred to in § 1 by the entities to which He, where appropriate, extends the scope of all or part of the provisions of Book II of this Law in accordance with Article 5, § 1, 22°, and § 4.

§ 3. Without prejudice to the prerogatives granted to them in paragraph 1 and by or pursuant to other legal provisions, the following authorities shall monitor compliance with the provisions of Book III:

1° with respect to the provisions of Article 66, § 2, first subparagraph, and of Article 67: the Federal Public Service Economy, SMEs, Self-Employed and Energy;

2° with respect to the provisions of Article 66, § 2, second and third subparagraph:

a) the National Chamber of Notaries with regard to the obliged entities referred to in Article 5, § 1, 26°;

b) the Federal Public Service Economy, SMEs, Self-Employed and Energy with regard to the obliged entities referred to in Article 5, § 1, 30°.

[<sup>3</sup> § 4. The Minister of Finance and the Minister of Economy shall send to the European Commission the list of supervisory authorities referred to in paragraphs 1 to 3, their contact details, as well as any changes to these details.]<sup>3</sup>

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<sup>1</sup> Law 30.07.2018, Art. 115 (Entry into force: 20.08.2018)

<sup>2</sup> Law 02.05.2019, Art. 102 (Entry into force: 31.05.2019)

<sup>3</sup> Law 20.07.2020, Art. 81 (Entry into force: 15.08.2020)

<sup>4</sup> Law 23.06.2022, Art. 6 (Entry into force: 21.07.2022)

**Art. 86.** § 1. Supervisory authorities or, where appropriate, authorities designated by other laws may issue regulations that apply to the obliged entities under their competence and that complete the provisions of Books II and III and their implementing decrees on a technical level, taking into account the national risk assessment referred to in Article 68.

Where appropriate, the regulations referred to in the first subparagraph shall only take effect after their approval by the King.

If the supervisory authorities or, where appropriate, the other authorities referred to in the first subparagraph fail to issue the regulations referred to in the first subparagraph or fail to amend them in the future, the King shall be empowered to issue these regulations Himself or to amend them.

[<sup>1</sup> Technical points may refer to the clarification of certain terms, which have or have not been defined in the Law, such as the terms “customer” or “business relationship”, depending on the sector involved.]<sup>1</sup>

§ 2. Depending on what they deem necessary for an effective application of the provisions referred to in Article 85, § 1, the supervisory authorities shall:

1° send circulars, recommendations or other forms of communication to the obliged entities in order to clarify the scope of the obligations arising from the aforementioned provisions for these entities;

2° take measures to raise the obliged entities’ awareness of ML/FT risks; and

3° take measures to inform the obliged entities of the developments in the legal AML/CFTP framework.

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<sup>1</sup> Law 20.07.2020, Art. 82 (Entry into force: 15.08.2020)

**Art. 87.** § 1. The supervisory authorities shall exercise their supervision based on a risk assessment. To that end, they shall ensure that they:

1° have a clear understanding of the ML/FT risks present in Belgium, based on relevant information concerning national and international risks, including the report drawn up by the European Commission pursuant to Article 6(1) of Directive 2015/849 and on the national risk assessment referred to in Article 68;

2° base the frequency and intensity of on-site and off-site supervision on the obliged entities’ risk profile.

The risk profile referred to in the first subparagraph, 2°, shall be the result of the combination of:

1° an assessment of the level of the ML/FT risks to which the obliged entity is exposed, taking into account in particular the characteristics of its sector of activity, its customers, the products and services it provides, the geographic areas where it conducts its business and its distribution channels, on the one hand; and

2° an assessment of the management of these risks, including in particular an assessment of the measures it has taken to identify and reduce these risks and an assessment of its level of compliance with the applicable legal and regulatory obligations, on the other hand.

The supervisory authorities shall ensure that they possess relevant information on the obliged entities that is necessary to establish their risk profile.

The obliged entities' risk profile shall be reviewed by the supervisory authority:

1° periodically, with a frequency that has been adapted to take into account in particular the characteristics of the sector of activity and the risk profile previously attributed to the obliged entity; and

2° when important events occur that could affect the level of the ML/FT risks to which the obliged entity is exposed or the management of these risks by the obliged entity.

§ 2. When exercising their supervisory powers, the supervisory authorities shall take into account the risk assessment discretion left to the obliged entities pursuant to this Law. To that end, they shall examine the relevance of the overall risk assessment conducted by the obliged entities in accordance with Article 16 and shall take into account the risk factors listed [<sup>1</sup> in Annex III and, where applicable, in Annex II.]<sup>1</sup>.

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<sup>1</sup> Law 20.07.2020, Art. 83 (Entry into force: 15.08.2020)

**Art. 88.** In the cases referred to in Article 13, § 3, third subparagraph, where the additional measures imposed by the obliged entity on the establishment it operates in the third country concerned are not sufficient to efficiently manage the ML/FT risk, the supervisory authority competent pursuant to Article 85 may require that the group does not establish a business relationship or that it ends the relationship and does not carry out any transactions. If necessary, the supervisory authority shall demand that the establishment in the third country concerned be closed.

**Art. 89.** § 1. Except for the case where they are called upon to testify in criminal proceedings, the supervisory authorities referred to in Article 85, § 1, 2°, the members and former members of their bodies and their staff who are involved in exercising the supervision laid down in this Law, or the persons designated for that purpose, shall be bound by professional secrecy and may not disclose confidential information they became aware of in exercising their supervisory powers pursuant to this Law to any person or authority.

Except for the case where they are called upon to testify in criminal proceedings, the supervisory authority referred to in Article 85, § 1, 5°, the members and former members of its staff who are involved in exercising the supervision laid down in this Law, or the persons designated for that purpose, shall be bound by professional secrecy and may not disclose confidential information they have received from another supervisory authority in the context of exercising their supervisory powers pursuant to this Law to any person or authority.

§ 2. Paragraph 1 is without prejudice to the disclosure of confidential or secret information to third parties in the cases laid down in the Law.

§ 3. The supervisory authorities referred to in paragraph 1 and the members or former members of their bodies and their staff shall be exempt from the obligation laid down in Article 29 of the Code of Criminal Procedure.

§ 4. Breaches of this Article shall be punished by the penalties laid down in Article 458 of the Criminal Code. They shall be subject to the provisions of Book 1 of the Criminal Code, including Chapter VII and Article 85.

**Art. 90.** The supervisory authorities shall set up efficient and reliable mechanisms for the reporting, by the obliged entity's managers, staff members, agents and distributors or by third parties, to these authorities of supposed or actual breaches of the provisions of this law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds and the due diligence requirements imposed by the binding provisions on financial embargoes.

The mechanisms referred to in the first subparagraph shall include specific procedures for the receipt of reports on breaches and their follow-up [<sup>2</sup> via one or more secure communication channels to ensure that the

identity of the persons providing information is only known to the competent authorities and, where applicable, self-regulatory bodies, as well as specific procedures for the follow-up of this reporting.]]<sup>2</sup>

The supervisory authority may not inform the obliged entity or third parties of the identity of the person who submitted the report.

No civil, criminal or disciplinary proceedings may be brought against and no professional sanction may be imposed on the staff member or representative of the obliged entity who submitted a report to the supervisory authority in good faith because of the fact that he/she submitted the aforementioned report. This protection shall also apply if the report submitted in good faith mentions information that is or should have been included in a notification of a suspicious transaction.

Any adverse or discriminatory treatment of this person, as well as any termination of this person's employment at or representation of the entity because of the reporting, is prohibited.

[<sup>1</sup> The provisions of this Article do not prejudice the application of special provisions regarding the disclosure of breaches to a supervisory authority.]]<sup>1</sup>

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<sup>1</sup> Law 30.07.2018, Art. 116 (Entry into force: 20.08.2018)

<sup>2</sup> Law 20.07.2020, Art. 84 (Entry into force: 15.08.2020)

**Art. 90/1.** [<sup>1</sup> Without prejudice to Article 137, second subparagraph, where the supervisory authorities listed in Article 85 identify breaches subject to criminal sanctions as referred to in Articles 136 and 137 of this Law, they shall inform the Public Prosecutor thereof in a timely manner.]]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 85 (Entry into force: 15.08.2020)

**Art. 90/2.** [<sup>1</sup> Without prejudice to other legal provisions, the supervisory authorities referred to in Article 85, §§ 1 and 2, shall, for the exercise of their powers determined by or pursuant to this Law, have access to the information in documents, records, plans, databases and data that the General Administration of Patrimonial Documentation of the Federal Public Service Finance possesses as part of the tasks entrusted to it pursuant to Title IX of the Income Tax Code 1992. This access occurs in accordance with Title 3 of Royal Decree of 30 July 2018 on the creation and updating of land registry documents and laying down the rules for issuing land registry extracts, and Article 64, §§ 1 to 2 of this Law.

The information received by virtue of the first subparagraph enables the aforementioned supervisory authorities to, in a timely manner, identify all natural or legal persons who are owners of property. The data in this information are the data referred to in Article 11, first subparagraph, 1° and 3° of the aforementioned Royal Decree of 30 July 2018.]]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 86 (Entry into force: 15.08.2020)

## CHAPTER 2. – Powers and supervisory measures of the National Bank of Belgium

**Art. 91.** Without prejudice to the prerogatives granted to it to perform its other statutory supervisory tasks, the Bank can, for the purposes of exercising the supervisory powers conferred on it by or pursuant to this Law, request any information and any document, in any form, and in particular any information on the organisation, operation, situation and transactions of the obliged entities referred to in Article 5, § 1, 4° to 10°, including information about the relationship between an obliged entity and its customers.

The Bank can undertake on-site inspections and take cognizance of and copy, on the spot, any data and any document, file or record and have access to any computer system:

1° to verify compliance with the provisions of Book II of this Law and its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds and the due diligence requirements imposed by the binding provisions on financial embargoes;

2° to be able to verify the appropriate nature of the management structures, the administrative organisation, the internal control and the ML/FTP risk management policies.

The prerogatives referred to in the first and second subparagraphs also include access to the agendas and minutes of the meetings of the various bodies of the obliged entity and of their internal committees as well as to all associated documents and to the results of the internal and/or external opinions on the operation of the aforementioned bodies.

As part of its supervisory task and, in particular, of its inspections as referred to in the second subparagraph, the Bank's staff are authorised to obtain any information and explanation from the managers and staff of the obliged entity that they deem necessary for the exercise of their tasks and can request meetings to this end with the managers or staff of the obliged entity they indicate.

**Art. 91/1.** [<sup>1</sup> Inspection reports, and more generally all documents coming from the Bank, which it specifies are confidential, may not be disclosed by the obliged entities without the Bank's express authorisation.

Non-compliance with this obligation shall be punishable as determined in Article 458 of the Criminal Code.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 87 (Entry into force: 15.08.2020)

**Art. 91/2.** [<sup>1</sup> The Bank may task the statutory auditor or accredited auditor for the obliged entity with preparing special reports relating to compliance by the latter with the provisions of this Law or its implementing decrees and regulations, with the implementing measures of Directive 2015/849, with the European Regulation on transfers of funds, or with the due diligence requirements imposed by the binding provisions on financial embargoes and, in particular, with the enforcement of the orders referred to in Article 93, § 1. The costs of drawing up these reports shall be borne by the obliged entity concerned.

For obliged entities who do not have a statutory auditor or auditor who is an accredited auditor within the meaning of the Regulation of the National Bank of 21 December 2012 on the accreditation of auditors and audit firms, the Bank can appoint such an auditor in order to draw up the special reports referred to in the first subparagraph.

The accredited auditors referred to in the first and second subparagraphs shall act at their sole and exclusive responsibility and in accordance with the rules of the trade and the guidelines of the Bank.

The reports referred to in this Article may only be disseminated to third parties with the Bank's prior agreement, and on the Bank's terms. Communications that contravene this subparagraph are punishable as provided for by Article 458 of the Criminal Code.

The accredited auditors referred to in the first and second subparagraphs may perform the verifications necessary to be able to prepare special reports for branches of the obliged entity concerned abroad.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 88 (Entry into force: 15.08.2020)

**Art. 92.** Relations between the obliged entity and a particular customer do not come under the powers of the Bank, unless the supervision of the obliged entity so requires.

**Art. 93. § 1.** Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, the Bank may order an obliged entity referred to in Article 5, § 1, 4° to 10°, by a deadline it determines:

1° to comply with specific provisions of Book II of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds and the due diligence requirements imposed by the binding provisions on financial embargoes;

[<sup>1</sup> 1° /1 to comply with the requirement laid down by the Bank pursuant to the provisions of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European

Regulation on transfers of funds, and the due diligence requirements imposed by the binding provisions on financial embargoes;

1° /2 to comply with the requirements set out as conditions by the Bank for a decision to be made pursuant to the provisions of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds and the due diligence requirements imposed by the binding provisions on financial embargoes;]<sup>1</sup>

2° to make the necessary adjustments to its management structures, its administrative organisation, its internal control and its ML/FTP risk management policies; or

3° to replace the persons referred to in Article 9.

§ 2. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, where the obliged entity to which an order has been issued pursuant to paragraph 1, fails to comply with this order on the deadline set, and provided that the obliged entity has been able to defend its case, the Bank can:

1° publish the infringements found and the fact that the obliged entity has not complied with the order issued to it;

2° impose a penalty on it which may not be less than EUR 250 and not more than EUR 50 000 per calendar day and may not exceed EUR 2 500 000 in total.

The penalties imposed pursuant to the first subparagraph shall be collected by the administration of the FPS Finance responsible for collecting and recovering non-fiscal debts, in accordance with Article 3 et seq. of the Law on State Property of 22 December 1949.

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<sup>1</sup> Law 20.07.2020, Art. 89 (Entry into force: 15.08.2020)

**Art. 94.** Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions and by the prerogatives granted to the Bank to perform its other statutory supervisory tasks, where it finds that on the deadline set pursuant to Article 93, § 1, the situation has not been remedied, the Bank can:

1° appoint a special commissioner.

In such a case, the written, generic or specific authorisation of the special commissioner is required for all the actions and decisions of all the bodies of the obliged entity including its general meeting, and for the actions of the persons responsible for its management; the Bank may however limit the scope of the operations subject to the authorisation.

The special commissioner may submit any proposal he considers appropriate to all bodies of the obliged entity, including the general meeting.

The members of the management and governing bodies and the persons responsible for management who carry out actions or make decisions without having received the necessary authorisation from the special commissioner shall be jointly and severally liable for any loss arising therefrom incurred by the obliged entity or by a third party.

If the Bank has published the name of the special commissioner in the *Belgian Official Gazette* and has specified the actions and decisions that are subject to his authorisation, any actions or decisions made without the required authorisation shall be null and void unless ratified by the special commissioner.

Under the same conditions, any decision of the general meeting which has been made without the necessary authorisation of the special commissioner shall be null and void unless ratified by the special commissioner.

The remuneration of the special commissioner shall be set by the Bank and paid by the obliged entity.



The Bank may appoint a deputy commissioner;

2° order the replacement of all or part of the members of the statutory governing body of the obliged entity by a deadline it determines and, where no replacement occurs by this deadline, appoint one or more provisional managers or administrators to replace the management and governing bodies as a whole of the obliged entity, who alone or collegially, depending on the case, shall have the powers of the persons replaced. The Bank shall publish its decision in the *Belgian Official Gazette*.

With the authorisation of the Bank, the provisional manager(s) or administrator(s) may call a general meeting and draw up the agenda thereof.

The Bank may request, in accordance with the methods it determines, that the provisional manager(s) or administrator(s) provide a report on the measures taken in connection with their task.

The remuneration of the provisional manager(s) or administrator(s) shall be determined by the Bank and borne by the obliged entity.

The Bank may, at any time, replace the provisional manager(s) or administrator(s), either ex officio, or at the request of the majority of the shareholders or members if they can prove that the management by the parties concerned no longer offers the necessary guarantees;

3° suspend, for a period to be determined by the Bank, the direct or indirect exercise of all or part of the obliged entity's business or prohibit such business; such suspension may, to the extent determined by the Bank, imply the total or partial suspension of pending contracts.

The members of the management and governing bodies and the persons responsible for management who carry out actions or make decisions in violation of the suspension or prohibition order shall be jointly and severally liable for any loss arising therefrom incurred by the obliged entity or by a third party.

If the Bank has published the suspension or prohibition order in the *Belgian Official Gazette*, any actions or decisions contravening it shall be null and void;

4° withdraw the authorisation.

In the case of obliged entities which are credit institutions, the decision to withdraw the authorisation shall be taken in accordance with Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;

In urgent cases, [<sup>1</sup> or where the seriousness of the facts so justifies,]<sup>1</sup> the Bank may take the measures referred to in the first subparagraph without previously issuing an order, provided that the obliged entity has been able to defend its case.

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<sup>1</sup> Law 20.07.2020, Art. 90 (Entry into force: 15.08.2020)

**Art. 95.** [<sup>1</sup> For the application of Article 94, first subparagraph, 3°, where the obliged entity concerned is an obliged entity referred to in Article 5, § 1, 6°, d), or 7°, e), and where the seriousness of the facts so justifies, the measures referred to in Article 94, first subparagraph, 3° shall include the power to prohibit the obliged entity from providing services in Belgium via one or more agents or distributors in Belgium that the Bank indicates.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 91 (Entry into force: 15.08.2020)

**Art. 96.** When adopting measures pursuant to Article 93, § 2, 2°, the Bank shall take account inter alia of:

1° the seriousness and the duration of the breaches;

[<sup>1</sup> 1° /1 the degree of responsibility of the obliged entity concerned;]<sup>1</sup>

2° the financial strength of the obliged entity involved, as indicated in particular by its total turnover;

3° any benefits or profits derived from the breaches by the obliged entity involved, insofar as they can be determined;

4° any losses to third parties caused by the breaches, insofar as they can be determined;

5° the level of cooperation of the obliged entity involved with the Bank;

6° any previous breaches by the obliged entity involved.

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<sup>1</sup> Law 20.07.2020, Art. 92 (Entry into force: 15.08.2020)

**Art. 97.** The Bank shall inform the [<sup>1</sup>EBA]<sup>1</sup> of the measures it has taken pursuant to Articles 93, 94, 2° and 4°, and 95, and of any appeal in relation thereto and of the outcome thereof.

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<sup>1</sup> Law 11.07.2021, Art. 305 (Entry into force: 30.06.2021)

**Art. 98.** Where the Bank, in the context of its supervisory task and in particular of its inspections referred to in Article 91, second subparagraph, identifies a breach of the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy as soon as possible.

**Art. 98/1.** [<sup>1</sup> Article 135, § 3, applies to the measures laid down by the Bank pursuant to Articles 93 to 95.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 93 (Entry into force: 15.08.2020)

### CHAPTER 3. – *Powers and supervisory measures of the Financial Services and Markets Authority*

**Art. 99.** Without prejudice to the prerogatives granted to it to perform its other statutory supervisory tasks, the FSMA can, for the purposes of exercising the supervisory powers conferred on it by or pursuant to this Law, request any information and any document, in any form, and in particular any information on the organisation, operation, situation and transactions of the obliged entities [<sup>1</sup> that come under its supervision pursuant to Article 85, § 1, 4°]<sup>1</sup>, including information about the relationship between an obliged entity and its customers.

[<sup>1</sup> With a view to the FSMA's compliance with Article 87, § 1, third subparagraph, the obliged entities shall in particular provide the FSMA with the relevant information and documents it determines necessary to establish their risk profile. The FSMA may set out the methods, content and frequency for the provision of information and documents by way of a regulation, in which, if necessary, it may make a distinction depending on the type of obliged entity.]<sup>1</sup>

The FSMA can undertake on-site inspections and take cognizance of and copy, on the spot, any data and any document, file and record and have access to any computer system:

1° to verify compliance with the provisions of Book II of this Law and its implementing decrees and regulations, the implementing measures of Directive 2015/849 and the due diligence requirements imposed by the binding provisions on financial embargoes;

2° to be able to verify the appropriate nature of the management structures, the administrative organisation, the internal control and the ML/FTP risk management policies.

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<sup>1</sup> Law 20.07.2020, Art. 94 (Entry into force: 15.08.2020)

**Art. 99/1.** [<sup>1</sup> For the performance of its tasks as referred to in Article 85, and without prejudice to the prerogatives as referred to in Article 99, the FSMA may ask the accredited auditors tasked with auditing

obliged entities that come under its supervision under or pursuant to this Law, to provide special reports, at these entities' expense, on subjects it specifies.]]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 95 (Entry into force: 15.08.2020)

**Art. 100.** Relations between the obliged entity and a particular customer do not come under the powers of the FSMA unless the supervision of the obliged entity so requires.

**Art. 101.** § 1. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, the FSMA may order an entity [ <sup>1</sup> that comes under its supervision pursuant to Article 85, § 1, 4° ]<sup>1</sup>, by a deadline the FSMA determines:

1° to comply with specific provisions of Book II [ <sup>1</sup> or of Article 99 ]<sup>1</sup> of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849 or the due diligence requirements imposed by the binding provisions on financial embargoes;

2° to make the necessary adjustments to its ML/FTP organisation and policies;

3° to replace the persons referred to in Article 9.

§ 2. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, where the obliged entity to which an order has been issued pursuant to paragraph 1, fails to comply with this order on the deadline set, and provided that the obliged entity has been able to defend its case, the FSMA can:

1° publish the infringements found and the fact that the obliged entity has not complied with the order issued to it;

2° impose a penalty on it which may not be less than EUR 250 and not more than EUR 50 000 per calendar day and may not exceed EUR 2 500 000 in total.

The penalties imposed pursuant to the first subparagraph shall be collected by the administration of the FPS Finance which is responsible for collecting and recovering non-fiscal debts, in accordance with Article 3 et seq. of the Law on State Property of 22 December 1949.

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<sup>1</sup> Law 20.07.2020, Art. 96 (Entry into force: 15.08.2020)

**Art. 102.** Without prejudice to the other provisions prescribed by this Law or by other legal or regulatory provisions, where it finds that on the deadline set pursuant to Article 101, § 1, the situation has not been remedied, the FSMA can:

1° order the replacement of the managers or administrators concerned of the obliged entity by a deadline it determines. The FSMA shall publish its decision in the *Belgian Official Gazette*;

2° suspend, for a period to be determined by the FSMA, the direct or indirect exercise of all or part of the obliged entity's business or prohibit such business.

The members of the management and governing bodies and the persons responsible for management who carry out actions or make decisions in violation of the suspension or prohibition order shall be jointly and severally liable for any loss arising therefrom incurred by the obliged entity or by a third party.

If the FSMA has published the suspension or prohibition order in the *Belgian Official Gazette*, any actions or decisions contravening it shall be null and void;

[ <sup>1</sup> 2° /1 impose on any person with a management role in the obliged entity or any other natural person held responsible for the offence, a temporary ban on carrying out management positions at one or more obliged entities; ]<sup>1</sup>

3° withdraw the authorisation [<sup>1</sup> or strike them off the register]<sup>1</sup>.

In urgent cases, the FSMA may take the measures referred to in the first subparagraph without previously issuing an order, provided that the obliged entity has been able to defend its case.

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<sup>1</sup> Law 20.07.2020, Art. 97 (Entry into force: 15.08.2020)

**Art. 103.** When adopting measures pursuant to Articles 101 and 102, the FSMA shall take account inter alia of the circumstances set out in Article 96.

[<sup>1</sup> The measures taken by the FSMA pursuant to Articles 101 and 102 shall be published in accordance with Article 72, § 3, fourth to seventh subparagraphs of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, except where the fifth subparagraph of this Article refers to the stability of the financial system.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 98 (Entry into force: 15.08.2020)

**Art. 104.** Where the FSMA imposes a penalty pursuant to Article 101, the provisions of Chapter III, Section 5bis of the Law of 2 August 2002 on the supervision of the financial sector and on financial services shall apply.

**Art. 105.** The FSMA shall inform the [<sup>1</sup> EBA]<sup>1</sup> of the measures it has taken pursuant to Articles 101 and 102, and of any appeal in relation thereto and of the outcome thereof.

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<sup>1</sup> Law 11.07.2021, Art. 306 (Entry into force: 30.06.2021)

**Art. 106.** Where the FSMA, in the context of its supervisory task and in particular of its inspections referred to in Article 99, second subparagraph, identifies a breach of the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy as soon as possible.

#### CHAPTER 4. – *Supervisory powers and measures of the Federal Public Service Economy, SMEs, Self-employed and Energy*

*Section 1. – Supervisory powers and measures regarding the obliged entities referred to in Article 5, § 1, 21°, [<sup>2</sup> 25°/1]<sup>2</sup> and 29° [<sup>1</sup> to 31°/5]<sup>1</sup>*

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<sup>1</sup> Law 20.07.2020, Art. 99 (Entry into force: 15.08.2020)

<sup>2</sup> Law 23.06.2022, Art. 7 (Entry into force: 21.07.2022)

**Art. 107.** For the purpose of exercising the supervisory powers conferred on the Federal Public Service Economy, SMEs, Self-employed and Energy pursuant to Article 85, § 1, 5°, and § 3, 2°, b), the officials designated by the Minister of Economy pursuant to Article XV.2 of the Code of Economic Law have the powers to investigate and ascertain, referred to in Articles XV. 2, §§ 1 and 2, first subparagraph, XV.3 to XV.5, XV.10 and XV.32 to XV.34 of the aforementioned Code.

**Art. 108.** Without prejudice to other measures laid down in this Law or other legal provisions or regulations, the Minister of Economy [<sup>2</sup> or one of the public officials designated by the King in accordance with Article XV.60/4 of the Code of Economic Law]<sup>2</sup> can, when he finds that an obliged entity, referred to in Article 5, § 1, 21°, [<sup>2</sup> 25°/1]<sup>2</sup> and 29° [<sup>1</sup> to 31°/5]<sup>1</sup>, breached the provisions of Book II of this Law or its implementing Decrees and Regulations, or Article 66, § 2, second and third subparagraph, of this Law, or the implementing measures of Directive 2015/849, or the due diligence requirements laid down in the mandatory provisions on financial embargoes, take the following measures with regard to the obliged entity involved:

1° issue a public statement mentioning the identity of the natural or legal person and the nature of the offence;

2° issue an injunction that the natural or legal person ceases this behaviour and does not repeat it;

[<sup>2</sup> 3° withdraw or suspend the licence, registration, listing or any other type of recognition or authorisation when the obliged entity is subject to such an obligation]<sup>2</sup> ;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. The King determines the necessary rules of procedure for imposing the measures referred to in paragraph 1, as well as the remedies.

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<sup>1</sup> Law 20.07.2020, Art. 100 (Entry into force: 15.08.2020)

<sup>2</sup> Law 23.06.2022, Art. 8 (Entry into force: 21.07.2022)

## *Section 2. – Supervisory powers regarding the restriction of the use of cash*

**Art. 109.** For the purpose of exercising the supervisory powers conferred on the Federal Public Service Economy, SMEs, Self-employed and Energy pursuant to Article 85, §3, 1°, the officials designated by the Minister of Economy pursuant to Article XV.2 of the Code of Economic Law have the powers to investigate and ascertain, referred to in Articles XV.1 to XV.10 and XV.32 to XV.34 of the aforementioned Code.

### *CHAPTER 5. – Supervisory powers of the Administration of the Treasury and supervisory measures of the Minister of Finance and the Minister responsible for bpost*

**Art. 110.** Without prejudice to the prerogatives granted to the Administration of the Treasury for its other legal supervisory tasks, it can, for carrying out its supervisory powers laid down in or pursuant to this Law, request any information and any document, in any form, and in particular, any information with regard to the organisation, operations, position and transactions [<sup>1</sup> of the obliged entity]<sup>1</sup> referred to in Article 5, § 1, [<sup>1</sup> ...]<sup>1</sup> 3°, including the information regarding the relations between an obliged entity and its clients.

The Administration of the Treasury can carry out on-site inspections and consult and copy any information, any document, any file and any registration, and have access to any computer system, in order to:

1° check compliance with the provisions of Book II of this Law and its implementing Decrees and Regulations, the implementing measures of Directive 2015/849, the European Regulation regarding the transfers of funds and the due diligence requirements laid down in the mandatory provisions on financial embargoes;

2° verify the adequate nature of the management structures, the administrative organisation, the internal supervision and the ML/FTP risk management policy.

The prerogatives referred to in the first and second subparagraphs also cover access to the agendas and the minutes of the meetings of the different bodies of the obliged entity and its internal committees, as well as related documents and the results of the internal and/or external assessment of the operations of these bodies.

As part of its supervisory task and in particular the inspections referred to in subparagraph 2, the officials of the Administration of the Treasury are authorised to receive any information and explanation from managers and members of staff of the obliged entity they deem necessary to carry out their tasks and can, to that end, demand interviews with managers or members of staff of the obliged entity they specify.

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<sup>1</sup> Law 30.07.2018, Art. 117 (Entry into force: 20.08.2018)

**Art. 111.** The Administration of the Treasury is not informed of the relationships between the obliged entity and a specific client, unless required for the supervision of this obliged entity.

**Art. 112.** § 1. Without prejudice to other measures laid down in this Law or other legal provisions or regulations, [<sup>1</sup> the Minister responsible for bpost, with respect to the latter, when he finds]<sup>1</sup> that the obliged entity breached the provisions of Book II of this Law or its implementing Decrees and Regulations, or the implementing measures of Directive 2015/849 or the due diligence requirements laid down in the mandatory provisions on financial embargoes, can take the following measures with regard to the obliged entity involved:

1° issue a public statement mentioning the name of the obliged entity and the nature of the offence;

2° issue an injunction that the obliged entity ceases this behaviour and does not repeat it;

3° where appropriate, withdraw or suspend the authorisation;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. The measures referred to in paragraph 1 are imposed [<sup>1</sup> ...]<sup>1</sup> by the Minister responsible for bpost, after the obliged entity has been heard or at least duly convened.

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<sup>1</sup> Law 30.07.2018, Art. 118 (Entry into force: 20.08.2018)

**Art. 113.** When the Administration of the Treasury finds, in the framework of its supervisory task, and more in particular the inspections referred to in Article 110, second subparagraph, breached the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy of this as soon as possible.

#### CHAPTER 6. – *Supervisory powers and measures of the Gaming Commission*

**Art. 114.** The Gaming Commission can use all of its powers granted in accordance with Article 15, § 1, of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players, as part of its supervisory powers of the obliged entities referred to in Article 5, § 1, 33° of this Law.

**Art. 115.** § 1. Without prejudice to other measures laid down in this Law or other legal provisions or regulations, when the Gaming Commission finds that an obliged entity, referred to in Article 5, § 1, 33°, breached the provisions of Book II of this Law or its implementing Decrees and Regulations, or the implementing measures of Directive 2015/849 or the due diligence obligations laid down in due diligence requirements laid down in the mandatory provisions on financial embargoes, take the following measures with regard to the obliged entity involved:

1° issue a public statement mentioning the identity of the natural or legal person and the nature of the offence;

2° issue an injunction that the natural or legal person ceases this behaviour and does not repeat it;

3° withdraw or suspend the licence;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions with obliged entities.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. The Gaming Commission uses the procedure laid down in Article 15/4 to 15/6 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players for imposing the measures referred to in paragraph 1.

**Art. 116.** When the Gaming Commission finds, in the framework of its supervisory task, a breach of the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy of this as soon as possible.

CHAPTER 6/1. [<sup>1</sup> – *Supervisory powers and measures of the Belgian Audit Oversight College*]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 101 (Entry into force: 15.08.2020)

**Art. 116/1.** [<sup>1</sup> § 1. Without prejudice to the prerogatives granted to the Belgian Audit Oversight College to perform its other statutory supervisory tasks, it may, for the exercise of its supervisory powers determined by or pursuant to this Law, request any information and any document, in any form whatsoever, and in particular any information on the organisation, operation, situation and transactions of the obliged entities, as referred to in Article 5, § 1, 23°, including information about the relationship between an obliged entity and its customers.

The Belgian Audit Oversight College may conduct on-site inspections as well as examine, on-site, and make copies of any information, documents, data files and registrations, and access all IT systems to ascertain whether the provisions of Book II and IV of this Law and its implementing decrees and regulations, the implementing measures of Directive 2015/849, and the due diligence requirements imposed by the binding provisions on financial embargoes are complied with.

§ 2. Relations between the obliged entity and a particular client do not come under the powers of the Belgian Audit Oversight College unless the supervision of the obliged entity so requires.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 102 (Entry into force: 15.08.2020)

**Art. 116/2.** [<sup>1</sup> § 1. Without prejudice to the other measures established in this Law or in other legal or regulatory provisions, the Belgian Audit Oversight College may order an obliged entity as referred to in Article 5, § 1, 23°, to comply, within the period of time it determines, with specific provisions of Book II and IV of this Law or its implementing decrees and regulations, the implementing measures of Directive 2015/849, and the due diligence requirements imposed by the binding provisions on financial embargoes.

In urgent cases, the College may prohibit the obliged entity from exercising all or part of its activities for a specific period of time, and suspend its registration.

If the College rules on a prohibition within the meaning of the second subparagraph, it may, at the expense of the obliged entity, itself proceed with publishing the measures it imposes on the obliged entity, in the daily newspapers and publications of its choice and in the places and for the duration it determines. The College may also decide to publish these measures on the Internet, where applicable, in the manner as determined in Article 72, § 3, fourth to seventh subparagraph, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services.

In case of non-compliance by an obliged entity with a suspension referred to in the second subparagraph, a penalty, referred to in Article 57, § 1, third subparagraph, 2°, of the Law of 7 December 2016 on the organisation of the profession and the public supervision of auditors, and an administrative fine, referred to in Article 59, 1, 8°, of the same law shall be imposed. The penalties imposed pursuant to this subparagraph shall be recovered by the administration of the FPS Finance tasked with collection and recovery of non-fiscal debt in accordance with Articles 3 et seq. of the state law of 22 December 1949.

§ 2. Without prejudice to the other measures laid down in this Law or in other legal or regulatory provisions, if the obliged entity to which an order is directed by virtue of paragraph 1 remains in breach after the established period of time has elapsed, the College may, on condition that the obliged entity has been able to defend its case:

1° take one or more measures as referred to in Article 57, § 1, third subparagraph of the Law of 7 December 2016 on the organisation of the profession and the public supervision of auditors;

Where a penalty is imposed by the College by virtue of the applicable legal or regulatory provisions, the College shall publish its decision to impose the penalty and the motives for this decision, as well as the penalty itself on the Internet, in accordance with the methods and under the conditions referred to in Article 72, § 3, fourth to seventh subparagraph, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services;

In case of non-compliance by an obliged entity with an order referred to in Article 57, § 1, third subparagraph, 3° of the Law of 7 December 2016 on the organisation of the profession and the public supervision of auditors, to temporarily refrain from any professional provision of services or from the provision of certain services, a penalty, referred to in Article 57, § 1, third subparagraph, 2° of the same law, and an administrative fine, referred to in Article 59, § 1, 8° of the same law, shall be imposed;

2° transfer the dossier to the Sanctions Committee of the FSMA, in accordance with Articles 56, 58, 59, 60 and 61 of the Law of 7 December 2016 on the organisation of the profession and the public supervision of auditors.

If the College transfers the dossier to the Sanctions Committee of the FSMA in accordance with the first subparagraph, Articles 59 to 61 of the Law of 7 December 2016 on the organisation of the profession and the public supervision of auditors shall apply.

§ 3. If the College takes measures pursuant to paragraphs 1 and 2, it shall in particular take into consideration the circumstances as referred to in Article 96.

§ 4. Without prejudice to the other measures laid down in this Law or in other legal or regulatory provisions, where the facts that the obliged entity is accused of, albeit established, do not justify imposing a period of time referred to in § 1, first subparagraph, the College may reprimand the obliged entity.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 103 (Entry into force: 15.08.2020)

**Art. 116/3.** [<sup>1</sup> If the Belgian Audit Oversight College as part of its supervisory task and in particular as part of its inspections referred to in Article 116/1, identifies a breach of the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall inform the Federal Public Service Economy, SMEs, Self-employed and Energy thereof as soon as possible.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 104 (Entry into force: 15.08.2020)

#### CHAPTER 7. – *Supervisory powers and measures of other supervisory authorities*

**Art. 117.** [<sup>1</sup> § 1 Without prejudice to the prerogatives granted in accordance with or pursuant to other legal provisions or regulations, the supervisory authorities referred to in Article 85, § 1, 1°, and 7° to 12°, adopt a supervisory regime, in accordance with the provisions of Article 48, subparagraphs 1 and 2, of Directive 2015/849, in order to ensure compliance by the obliged entities referred to in Article 5, § 1, 1°, 23° to 28°, and 32°, with the provisions of Book II and of Article 66, § 2, second and third subparagraph, of this Law as well as its implementing Decrees and Regulations, and the implementing measures of Directive 2015/849.

In case the supervisory authorities referred to in the first paragraph fail to set up the mechanisms referred to in the same subparagraph or modify them in the future, the King can adopt or modify these mechanisms Himself.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 105 (Entry into force: 15.08.2020)

**Art. 118.** § 1. Without prejudice to other measures laid down in this Law or other legal provisions or regulations, when [<sup>1</sup> the supervisory authorities referred to in Article 85, § 1, 7° to 12°]<sup>1</sup>, or, where applicable, designated authorities designated by other legislation, when they find that an [<sup>1</sup> obliged entity for which they are responsible, referred to in Article 5, § 1, 1°, 23° to 28°, and 32°]<sup>1</sup>, breached the provisions of Book II of this Law or its implementing Decrees and Regulations, or Article 66, § 2, second and third subparagraph, of this Law, or the implementing measures of Directive 2015/849 or the due diligence requirements laid down in the



mandatory provisions on financial embargoes, take the following measures with regard to the obliged entity involved:

1° issue a public statement mentioning the identity of the natural or legal person and the nature of the offence;

2° issue an injunction that the natural or legal person ceases this behaviour and does not repeat it;

3° withdraw or suspend the licence, when the obliged entity needs a licence;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. [<sup>1</sup> The supervisory authorities referred to in Article 85, § 1, 7° to 11° and 14]<sup>1</sup>, each for their own powers, determine the necessary rules of procedure for imposing the measures referred to in paragraph 1, as well as the remedies.

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<sup>1</sup> Law 20.07.2020, Art. 106 (Entry into force: 15.08.2020)

**Art. 119.** For the entity referred to in Article 5, § 1, 1°, the measures referred to in Article 118 are imposed by the Minister of Finance, after the obliged entity or person involved has been heard or at least duly convened.

**Art. 120.** When [<sup>1</sup> the supervisory authorities referred to in Article 85, § 1, 7° to 12°]<sup>1</sup>, find, as part of their supervisory task, that the provisions of Article 66, § 2, first subparagraph, or of Article 67, have been breached, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy of this as soon as possible.

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<sup>1</sup> Law 20.07.2020, Art. 107 (Entry into force: 15.08.2020)

**Art. 120/1.** [<sup>1</sup> The supervisory authorities referred to in Article 85, § 1, 7° to 11° shall each publish a report every year with information on:

1° the measures taken and penalties imposed pursuant to Articles 118, 132, §§ 1 to 3 and 135, § 3;

2° where applicable, the number of breaches reported as referred to in Article 90;

3° as regards the supervisory authority referred to in Article 85, § 1, 11°, where applicable, the number of reports of suspicions received referred to in Article 52, first subparagraph;

4° where applicable, the number of reports of suspicions sent to CTIF-CFI in accordance with Article 47 [<sup>2</sup> and 52]<sup>2</sup>;

5° where applicable, the number and description of the measures taken pursuant to this Law and other legal and regulatory provisions to ensure compliance, by the obliged entities referred to in Article 5, § 1, 24° to 28°, with the provisions of Book II of this Law and its implementing decrees or regulations, as well as the implementing measures of Directive 2015/849.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 108 (Entry into force: 15.08.2020)

<sup>2</sup> Law 01.02.2022, Article 4 (Entry into force: 21.02.2022)

## **TITLE 5. [<sup>1</sup> – Professional secrecy and cooperation]<sup>1</sup>**

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<sup>1</sup> Law 20.07.2020, Art. 109 (Entry into force: 15.08.2020)

### **CHAPTER 1. [<sup>1</sup> – Common provisions]<sup>1</sup>**

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<sup>1</sup> Law 20.07.2020, Art. 110 (Entry into force: 15.08.2020)

**Art. 120/2.** [<sup>1</sup> For the purposes of this Title, the following definitions shall apply:

1° “financial supervisory authorities”: the supervisory authorities referred to in Article 85, § 1, 3°, 4° and 5°, in the context of their task of supervising credit institutions and financial institutions in accordance with or pursuant to this Law;

2° “financial institutions”: the obliged entities referred to in Article 5, § 1, 5° to 7°, 9° to 14° and 16° to 22°, the obliged entities referred to in Article 2, paragraph 1, point 2) of Directive 2015/849 and entities of the same nature governed by the law of a third country;

3° “credit institutions”: the obliged entities referred to in Article 5, § 1, 4°, the obliged entities referred to in Article 2, subparagraph 1, point 1) of Directive 2015/849 and entities of the same nature governed by the law of a third country;

4° “foreign supervisory authorities”: the supervisory authorities of a Member State and the supervisory authorities of a third country;

5° “supervisory authorities of a Member State”: the supervisory authorities governed by the law of a Member State and that exercise tasks of the same nature as supervisory authorities;

6° “supervisory authorities of a third country”: the supervisory authorities governed by the law of a third country and that exercise tasks of the same nature as the supervisory authorities;

7° “supervisors”: the authorities referred to in Article 85, § 1, 3°, 4° and 5°, in the context of their task of supervising compliance with European legislation and the laws and regulations on the supervision of credit institutions and financial institutions;

8° “foreign supervisors”: the supervisors of a Member State and the supervisors of a third country;

9° “supervisors of a Member State”: the supervisors governed by the law of a Member State and that exercise tasks of the same nature as supervisors, including the European Central Bank as regards the tasks conferred on it by Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;

10° “supervisors of a third country”: the supervisors governed by the law of a third country and that exercise tasks of the same nature as supervisors;

11° “authority tasked with supervision of the financial markets of a Member State”: the authorities governed by the law of a Member State and that exercise financial market supervision tasks.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 111 (Entry into force: 15.08.2020)

**Art. 120/3.** [<sup>1</sup> The financial supervisory authorities may only use the confidential information they become aware of in the course of their duties in that capacity, when performing their supervisory tasks under this Law, or for other tasks that they perform as supervisors, in administrative appeal proceedings against one of their decisions, or as part of a court appeal.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 112 (Entry into force: 15.08.2020)

## CHAPTER 2. [<sup>1</sup> – *National cooperation*]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 113 (Entry into force: 15.08.2020)

*Section 1* [<sup>1</sup> – National cooperation between supervisory authorities and between supervisory authorities and CTIF-CFI]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 114 (Entry into force: 15.08.2020)

**Art. 121.** § 1. The supervisory authorities shall cooperate and [<sup>1</sup> exchange all information useful for the exercise of their supervisory powers]<sup>1</sup> determined by or pursuant to this Law, in particular with respect to obliged entities which simultaneously fall within the competence of several supervisory authorities and with respect to obliged entities that are part of a group comprising subsidiaries or branches that fall within the competence of several supervisory authorities.

§ 2. CTIF-CFI and the supervisory authorities [<sup>1</sup> ...]<sup>1</sup> shall cooperate and [<sup>1</sup> exchange all information useful for the exercise of their supervisory powers]<sup>1</sup> laid down or pursuant to this Law.

§ 3. [<sup>1</sup> The fact that the authorities involved and CTIF-CFI are subject to the obligation of professional secrecy shall not prevent compliance with the obligation of cooperation referred to in this Article.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 115 (Entry into force: 15.08.2020)

*Section 2* [<sup>1</sup> – National cooperation between financial supervisory authorities and supervisors]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 116 (Entry into force: 15.08.2020)

**Art. 121/1.** [<sup>1</sup> § 1. The financial supervisory authorities and supervisors shall cooperate with each other. In this respect, they shall exchange all information that is useful for the exercise of their respective tasks.

§ 2. The fact that the authorities concerned are subject to professional secrecy shall not prevent compliance with the obligation of cooperation referred to in this Article.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 117 (Entry into force: 15.08.2020)

*Section 3* [<sup>1</sup> – National cooperation between supervisory authorities and the authority tasked with supervision of the financial markets]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 118 (Entry into force: 15.08.2020)

**Art. 121/2.** [<sup>1</sup> § 1. The supervisory authorities acting pursuant to the tasks conferred on them under Article 85, and the FSMA, in its capacity of authority responsible for supervision of the financial markets, shall cooperate with each other. In this respect, they shall exchange all information that is useful for the exercise of their respective supervisory tasks.

§ 2. The fact that the authorities concerned are subject to professional secrecy shall not prevent compliance with the obligation of cooperation referred to in this Article.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 119 (Entry into force: 15.08.2020)

**CHAPTER 3.** [<sup>1</sup> – *International cooperation*]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 120 (Entry into force: 15.08.2020)

*Section 1.* [<sup>1</sup> – *Cooperation of the Belgian Financial Intelligence Processing Unit with other financial intelligence units*]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 121 (Entry into force: 15.08.2020)

**Art. 122.** CTIF-CFI shall cooperate with and exchange information with other FIUs, to the largest extent possible [<sup>1</sup> and regardless of their organisational status, under the conditions laid down in this Section, as well as those laid down in Articles 66 to 70 of the Law of 30 July 2018.]<sup>1</sup>

[<sup>1</sup> The information and the documents received in accordance with this Section shall be used to carry out CTIF-CFI's tasks in accordance with this Law.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 122 (Entry into force: 15.08.2020)

**Art. 123.** § 1. CTIF-CFI shall exchange, spontaneously or upon request, any information that may be relevant for the processing or the analysis of information by the FIU related to money laundering or terrorist financing and the natural or legal person involved, [<sup>1</sup> irrespective of the type of associated predicate offence and]<sup>1</sup> even if at the time of the exchange the type of predicate offence has not been identified.

[<sup>2</sup> CTIF-CFI shall also be entitled to exchange financial information or financial analyses that may be relevant for the processing or analysis by another FIU of information related to terrorism or organised crime associated with terrorism.]<sup>2</sup>

§ 2. When CTIF-CFI requests information from another FIU, it shall describe the relevant facts and their background, explain its request, specify the degree of urgency of this request and indicate how the requested information will be used.

[<sup>1</sup> When CTIF-CFI receives information or documents from another FIU, and this FIU imposes restrictions or conditions for their use, CTIF-CFI shall comply with these.]<sup>1</sup>

§ 3. When CTIF-CFI receives a request from another FIU to provide information, it shall respond to this request as soon as possible, depending on the nature of the request and the degree of urgency, in compliance with the principle of free information exchange for analytical purposes and the use of all of its powers at its disposal and that it usually uses [<sup>1</sup> pursuant to this Law]<sup>1</sup> to receive and analyse suspicious transaction reports.

[<sup>1</sup> § 4. CTIF-CFI shall designate at least one person or point of contact responsible for receiving requests for information from other FIUs.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 123 (Entry into force: 15.08.2020)

<sup>2</sup> Law 15.05.2022, Art. 10 (Entry into force: 04.06.2022)

**Art. 124.** § 1. When CTIF-CFI receives a suspicious transaction report, drawn up by an obliged entity in accordance with Article 47 or 54, regarding another country, it shall send for analysis, all relevant information in the report to the FIU of the country in question, as soon as possible.

§ 2. When CTIF-CFI wants to obtain additional information from an obliged entity governed by the law of another Member State carrying out activities in Belgium, it shall send its request to the FIU of the Member State in question.

When CTIF-CFI receives such a request from another FIU, [<sup>1</sup> it shall use all of its powers at its disposal and that it usually uses pursuant to this Law to receive and analyse disclosures, and]<sup>1</sup> it shall send the requested information without delay.

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<sup>1</sup> Law 20.07.2020, Art. 124 (Entry into force: 15.08.2020)

**Art. 125.** § 1. Any document sent by CTIF-CFI to another FIU shall state that the information received may only be used for analytical purposes for which the information was requested or provided, and that any disclosure of this information to another authority, another agency or another department, or any use of this information for other purposes than those initially approved by CTIF-CFI requires prior consent from CTIF-CFI.

§ 2. CTIF-CFI shall give its prior consent, referred to in paragraph 1, without delay and to the greatest extent possible [<sup>1</sup>, irrespective of the type of associated predicate offence]<sup>1</sup>.

It shall refuse its consent for any disclosure beyond the scope of this Law that could hamper an [1 investigation]<sup>1</sup> [1 ...]<sup>1</sup> or would otherwise be contrary to the fundamental principles of Belgian law.

Each refusal for consent in accordance with the second subparagraph shall be explained. [1 These exceptions shall be specified in such a manner as to prevent any misuse or any unreasonable restrictions on the dissemination of information.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 125 (Entry into force: 15.08.2020)

**Art. 126.** § 1. CTIF-CFI shall exchange information with other FIUs via secure and reliable channels.

The exchange of information between FIUs of Member States shall take place via the “FIU.net” and other international exchanges via the “Egmont Secure Web” or other channels offering the same level of security, reliability and effectiveness that are at least equivalent to the ones mentioned above.

§ 2. In order to carry out its tasks, CTIF-CFI shall cooperate with other FIUs to use state-of-the-art technology to enable each FIU to anonymously, ensuring full protection of personal data, compare its data with the data of other FIUs, aimed at detecting individuals of interest to the FIU in other Member States and identify their proceeds and funds.

**Art. 127.** When CTIF-CFI receives a request for information from a foreign authority that is not an FIU, regarding information elements in the disclosure of suspicions in its possession, it shall send the response, if any, it decides to provide to this request to the FIU of the country involved.

When CTIF-CFI wants to obtain information for analytical purposes from a foreign authority that is not an FIU, it shall contact the FIU of the country involved.

**Art. 128.** Differences between national legal systems regarding the definition of [1 predicate offences related to money laundering, as referred to in Article 4, 23°, of this Law, shall not be an impediment for CTIF-CFI to use or exchange information or provide assistance to another FIU, in accordance with provisions of this Chapter.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 126 (Entry into force: 15.08.2020)

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*Section 2. [1 – Cooperation between supervisory authorities and their foreign counterparts]<sup>1</sup>*

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<sup>1</sup> Law 20.07.2020, Art. 127 (Entry into force: 15.08.2020)

**Art. 129.** [repealed]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 128 (Entry into force: 15.08.2020)

**Art. 130.** [1 § 1. The supervisory authorities shall cooperate with foreign supervisory authorities and exchange all information with them that is useful for the exercise of their respective supervisory powers provided for by or pursuant to this Law, Directive 2015/849 or equivalent provisions of their national law.

§ 2. The authorities with which information is exchanged and which are cooperated with, as referred to in the first subparagraph, are, in particular, the following:

1° supervisory authorities of a Member State or of a third country where the Belgian obliged entities are branches, subsidiaries or other forms of establishment of obliged entities governed by the law of that Member State or that third country;

2° foreign supervisory authorities that supervise compliance with policies and procedures as referred to in Article 45, subparagraph 1 of Directive 2015/849, or in equivalent provisions of their national law, at the level of the group to which a Belgian obliged entity belongs;

3° where the group to which the Belgian obliged entity belongs has other branches abroad, the foreign supervisory authorities that supervise these branches; the objective of this cooperation is, in particular, to exercise efficient supervision of compliance by the Belgian obliged entity with Articles 13 and 14, and also implies that all information is exchanged that is useful to determine whether the conditions for the application of Article 43, § 2, second subparagraph, are fulfilled.

4° where the Bank wishes to take a measure as referred to in Article 95, the supervisory authority of the Member State that governs the obliged entity; the objective of this cooperation is, in particular, to end any serious breaches identified as soon as possible;

5° foreign supervisory authorities that wish to exercise their power to impose penalties and measures against obliged entities that come under their competence as referred to in Articles 58 to 60 of Directive 2015/849 or in equivalent provisions of their national law.

§ 3. The professional secrecy to which supervisory authorities are subject shall not prevent compliance with the obligation of cooperation referred to in this Article.

§ 4. The supervisory authorities may not evade the obligation of cooperation and sharing of information with the supervisory authorities of a Member State on the grounds that:

1° the request for cooperation relates to fiscal matters;

2° the request relates to information that comes under an obligation of privacy or confidentiality to which the obliged entities concerned are subject, unless, as regards the obliged entities referred to in Article 5, § 1, 23° to 28°, it is information as referred to in Article 53 of this Law.

3° legal or administrative proceedings have already been initiated in Belgium for the same facts and/or against the same persons, unless the request concerned may harm this investigation or proceedings. To this end, the supervisory authority that has received the request shall take the necessary steps with the authorities tasked with the investigation or proceedings and ask these authorities for prior permission to disclose the information concerned;

4° the legal status of the foreign supervisory authority differs from that of the supervisory authority that has received the request.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 129 (Entry into force: 15.08.2020)

**Art. 131.** [<sup>1</sup> § 1. The cooperation and exchanging of confidential information pursuant to Article 130 are dependent on compliance with the following conditions:

1° in accordance with the provisions of their national law subject to a professional secrecy regulation that is at least equivalent to the one to which the supervisory authority concerned is subject;

2° the reciprocal nature of the information exchange;

3° the prohibition of using the information provided for purposes other than supervision of compliance with the obligations for preventing ML/FTP, except with prior written permission from the authority providing this information; this permission may not be granted if this objective is not compatible with the supervision of compliance with the obligations for preventing ML/FTP;

4° the prohibition of disseminating the information received to any third party whatsoever, except with prior written permission from the authority that provides this information. In the event of cooperation between the financial supervisory authorities and their equivalents of a Member State, this requirement to obtain prior permission does not apply where the information is provided to other financial supervisory authorities of a Member State;

5° the foreign supervisory authority has signed a Memorandum of Understanding with the supervisory authority, which provides for the exchange of information and complies with the conditions referred to in points 1° to 4° of this Article. In the event of cooperation between the financial supervisory authorities and their equivalents of a Member State, this requirement does not apply.

§ 2. Where the information to be provided originates from a supervisory authority of a Member State, it is only disclosed to the supervisory authorities of a third country if the authority of that Member State expressly agrees with such disclosure and, where applicable, if the information is disclosed only for the objectives permitted by this authority.

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<sup>1</sup> Law 20.07.2020, Art. 130 (Entry into force: 15.08.2020)

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*Section 3. [1 – International cooperation between financial supervisory authorities and supervisors]<sup>1</sup>*

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<sup>1</sup> Law 20.07.2020, Art. 131 (Entry into force: 15.08.2020)

**Art. 131/1.** [1 § 1. The financial supervisory authorities shall cooperate with foreign supervisory authorities and exchange all information with them that is useful for the exercise of their respective supervisory powers.

The financial supervisory authorities shall use their legal prerogatives to assist the supervisory authorities of other Member States in conducting investigations.

§ 2. The supervisors shall cooperate and exchange information with foreign financial supervisory authorities under the same conditions as those referred to in paragraph 1. The supervisors may only use the collected information for the performance of their supervisory tasks, including imposing penalties, and as part of appeal proceedings or a court appeal lodged against a decision.

§ 3. The professional secrecy to which the financial supervisory authorities or supervisors are subject shall not prevent compliance with the obligation of cooperation referred to in this Article.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 132 (Entry into force: 15.08.2020)

**Art. 131/2.** [1 § 1. The cooperation and the exchange of confidential information pursuant to Article 131/1 are dependent on compliance with the following conditions:

1° the foreign supervisor or the foreign financial supervisory authority is, in accordance with the provisions of their national law, subject to a professional secrecy regulation that is at least equivalent to the one to which the supervisory authorities or supervisors concerned are subject;

2° the reciprocal nature of the information exchange;

3° the prohibition of using the information provided for purposes other than exercising the statutory tasks of the foreign financial supervisory authority or the foreign supervisor, except with prior written permission from the authority that provides this information; this permission may not be granted if such a purpose is incompatible with the supervision of compliance with the obligations of preventing ML/FTP;

4° the prohibition of disseminating the information received to any third party whatsoever, except with prior written permission from the authority that provides this information. In the event of cooperation between the financial supervisory authorities and supervisors of a Member State, or between the supervisors and financial supervisory authorities of a Member State, this requirement does not apply where the information is disclosed to the financial supervisory authorities or the supervisors of another Member State;

5° unless the European directives provide for the obligation of professional secrecy for the foreign authorities concerned, the foreign financial supervisory authority or the foreign supervisor has signed a Memorandum of Understanding that provides for the exchange of information and complies with the conditions referred to in points 1° to 4°.

§ 2. Where the information that has to be provided originates from a financial supervisory authority or a supervisor of a Member State, it is disclosed only to the authorities of a third country if the authority of that Member State expressly agrees with such disclosure and, where applicable, if the information is disclosed only for the objectives permitted by this authority.

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<sup>1</sup> Law 20.07.2020, Art. 133 (Entry into force: 15.08.2020)

*Section 4* [<sup>1</sup> – International cooperation between supervisory authorities and authorities tasked with supervision of the financial markets]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 134 (Entry into force: 15.08.2020)

**Art. 131/3.** [<sup>1</sup> § 1. The supervisory authorities shall cooperate with the authorities tasked with supervision of the financial markets of a Member State, and exchange all information with them that is useful for the exercise of their respective supervisory tasks.

§ 2. As the authority tasked with supervision of the financial markets, the FSMA cooperates with the supervisory authorities of a Member State and exchanges all useful information with them every time this is necessary for them to exercise their respective supervisory tasks.

§ 3. The fact that the authorities referred to in this article are subject to professional secrecy shall not prevent compliance with the obligation of cooperation referred to in this Article.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 135 (Entry into force: 15.08.2020)

**Art. 131/4.** [<sup>1</sup> The cooperation and the exchange of confidential information referred to in Article 131/3 are dependent on compliance with the following conditions:

1° depending on the circumstances, the supervisory authority of a Member State or the authority tasked with supervision of the financial markets of a Member State is, in accordance with the provisions of their national law, subject to a professional secrecy regulation that is at least equivalent to the one to which the FSMA, as the authority tasked with supervision of the financial markets, or the supervisory authorities, are subject.

2° the reciprocal nature of the information exchange;

3° the prohibition of using the information provided for purposes other than exercising the statutory tasks of the supervisor of a Member State or of the authority tasked with supervision of the financial markets of a Member State, except with prior written permission from the authority that provides this information;

4° the prohibition of disseminating the information received to any third party whatsoever, except with prior written permission from the authority that provides this information. In the event of cooperation between the FSMA, which acts as the authority tasked with supervision of the financial markets, and the supervisory authorities of a Member State, or between the supervisory authorities of a Member State and the authorities of that Member State tasked with supervision of the financial markets, this requirement does not apply where the information concerned is handed over to the supervisory authorities or the authorities tasked with supervision of the financial markets of another Member State;

5° unless the European directives provide for the obligation of professional secrecy for the authorities concerned of a Member State, the supervisor of a Member State or the authority tasked with supervision of the financial markets of a Member State, has signed a Memorandum of Understanding that provides for the exchange of information and complies with the conditions referred to in points 1° to 4°.

§ 2. Where the information that has to be provided originates from a supervisory authority of a Member State or the authority of that Member State that is tasked with supervision of the financial markets, it is disclosed only to the authorities of a third country if the authority of that Member State expressly agrees with such disclosure and, where applicable, if the information is disclosed only for the objectives permitted by this authority.]<sup>1</sup>



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<sup>1</sup> Law 20.07.2020, Art. 136 (Entry into force: 15.08.2020)

*Section 5* [<sup>1; 2</sup> – International cooperation between the supervisory authorities and the EBA]<sup>1; 2</sup>

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<sup>1</sup> Law 20.07.2020, Art. 137 (Entry into force: 15.08.2020)

<sup>2</sup> Law 11.07.2021, Art. 307 (Entry into force: 30.06.2021)

**Art. 131/5.** [<sup>1; 2</sup> The supervisory authorities referred to in Article 85, § 1, 3° and 4°, act as a point of contact for the EBA.

These supervisory authorities shall inform the EBA of cases in which, pursuant to Article 13, § 3, third subparagraph, it is communicated to them that according to the law of a third country, the application of the aforementioned policies and procedures is not permitted due to legal restrictions, in particular with regard to secrecy, data protection and other restrictions limiting the exchange of information.

These authorities shall provide all information to the EBA that it requires to carry out its tasks pursuant to Directive 2015/849/EC.<sup>1; 2</sup>

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<sup>1</sup> Law 20.07.2020, Art. 138 (Entry into force: 15.08.2020)

<sup>2</sup> Law 11.07.2021, Art. 308 (Entry into force: 30.06.2021)

## **BOOK V. – SANCTIONS**

### **TITLE I. – *Administrative sanctions***

**Art. 132.** § 1. [<sup>2</sup> Without prejudice to other measures prescribed by this Law or by other legal or regulatory provisions, the supervisory authorities referred to in Article 85 or, where applicable, the authorities designated by other laws, may, when they identify:

1° a breach of the provisions of this Law or its implementing decrees and regulations, the implementing measures of Directive 2015/849, of the European Regulation on transfers of funds, or of the due diligence measures referred to in the binding provisions on financial embargoes, under their competence.

2° non-compliance with a requirement imposed by the supervisory authorities referred to in Article 85 or, where applicable, by authorities designated by other laws in accordance with the provisions referred to in 1°;

3° non-compliance with requirements determined by the supervisory authorities referred to in Article 85 or, where applicable, by the authorities designated by other laws, as conditions for a decision taken in accordance with the provisions referred to in 1°, impose an administrative fine on the obliged entities under their competence and, where applicable, on one or more members of the statutory governing body of these entities, their management board and the people who, in the absence of a management board, take part in the actual management, who are responsible for the breach identified.]<sup>2</sup>

§ 2. [<sup>2</sup> If the breach referred to in paragraph 1 was committed by one of the obliged entities referred to in Article 5, § 1, 1° to 22°, the administrative fine, for the same fact or for the same set of facts, shall be:

1° a maximum of EUR 5 000 000 or, if this amount is higher, ten percent of the annual net turnover of the previous financial year, in case of a legal person;

2° a maximum of EUR 5 000 000, in case of a natural person;

If the breach referred to in paragraph 1 was committed by one of the obliged entities referred to in Article 5, § 1, 23° to 33°, the administrative fine referred to in the same paragraph 1, for the same fact or for the same set of facts, shall be a maximum of EUR 1 250 000.

Without prejudice to the maximum amounts for fines laid down in the first and second subparagraph, the maximum amount of the administrative fine may be increased to twice the amount of this profit or loss when the breach resulted in a profit for the obliged entity or when it was able to avoid a loss.

The first subparagraph, 2°, and the second and third subparagraph shall be applicable when an administrative fine is imposed on one or more members of the statutory governing body of an obliged entity, its management board or the people who, in the absence of a management board, take part in the actual management of the entity, in accordance with paragraph 1.]<sup>2</sup>

§ 3. The amount of the administrative fine referred to in paragraph 1 is determined in accordance with paragraph 2, taking into account all relevant circumstances, and in particular:

1° the seriousness and the duration of the breaches;

2° the degree of responsibility of the person involved;

3° the financial strength of the person involved, as indicated in particular by the total turnover of the legal person involved or the annual income of the natural person involved;

4° any benefit or profit derived from the breaches by the person involved, provided these can be determined;

5° any losses to third parties caused by the breaches, provided these can be determined;

6° the level of cooperation of the person involved with the competent authorities;

7° any previous breaches committed by the person involved.

[<sup>2</sup> 8° the extent to which the individual involved took into account the guidance for the risk-based approach developed by the supervisory authority on the basis of Article 86, § 2, if any.]<sup>2</sup>

§ 4. By way of derogation from paragraph 1, the authority competent to impose an administrative fine shall be, in respect of [<sup>1</sup> the obliged entity]<sup>1</sup> referred to in Article 5, § 1, 1° [<sup>1</sup> ...]<sup>1</sup>, the Minister of Finance and, in respect of bpost, the Minister responsible for the latter.

§ 5. The Minister of Finance may impose an administrative fine in accordance with paragraphs 2 and 3 in respect of persons who benefit from the exemption referred to in Article 5, § 3 and who fail to comply with the conditions for exemption. However, where the supervisory authority competent for the category of obliged entities to which the person involved belongs, is, in accordance with Article 85, a federal public service, the administrative fine may be imposed by the minister responsible for this federal public service.

§ 6. Without prejudice to other measures prescribed by this Law or by other legal or regulatory provisions, the Minister of Finance [<sup>3</sup> or his delegate]<sup>3</sup> may, when he identifies a breach of [<sup>2</sup> Article 1 :35 of the Code of companies and associations]<sup>2</sup>, or of the quality of the data supplied, referred in [<sup>2</sup> the aforementioned Article]<sup>2</sup>, impose an administrative fine on the administrators referred to in [<sup>2</sup> the same Article]<sup>2</sup>, and, where appropriate, on one or more members of the statutory governing body of these entities, of their management board and the people who, in the absence of a management board, take part in the actual management of the entity, who are responsible for the breach identified.

The administrative fine referred to in the first subparagraph shall be at least EUR 250 and at most EUR 50 000.

The amount of the administrative fine referred to in the first subparagraph shall be determined, in accordance with the second subparagraph, taking into account all relevant circumstances set out in paragraph 3, 1° to 7°.

[<sup>2</sup> § 7. For the purposes of paragraph 2, first subparagraph, 1°, the annual net turnover shall be determined on the basis of the most recent annual account produced by the management board or the government body of the obliged entity. In case the obliged entity involved does not generate turnover, the “total annual turnover” shall mean the type of income corresponding to turnover, either in accordance with applicable European

accounting directives, or, if not applicable to the legal person involved, the national law of the Member State where the legal person is established.

In case the legal person is a parent company or a subsidiary of a parent company required to produce consolidated accounts, “annual net turnover” shall mean the annual net turnover based on the most recent consolidated accounts produced by the management board or the government body of the ultimate parent company.

§ 8. Legal persons, even if they are not subject to the law, shall be liable under civil law for the administrative fines that can be imposed on the obliged natural persons who carry out their activities with them as manager or active partner or on the basis of a company contract or mandate.]<sup>2</sup>

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<sup>1</sup> Law 30.07.2018, Art. 119 (Entry into force: 20.08.2018)

<sup>2</sup> Law 20.07.2020, Art. 139 (Entry into force: 15.08.2020)

<sup>3</sup> Law 02.06.2021, Art. 50 (Entry into force: 28.06.2021)

**Art. 133.** § 1. Where the FSMA imposes an administrative fine pursuant to Article 132, § 1, the provisions of Chapter III, Section 5, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services shall apply.

§ 2. Where the Gaming Commission imposes an administrative fine pursuant to Article 132, § 1, the provisions of Articles 15/4 to 15/7 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players shall apply.

[<sup>1</sup> § 2/1. The administrative fine for the obliged entities referred to in Article 5, § 1, 23°, shall be imposed in accordance with the provisions of Article 56 and 58 to 60 of the Law of 7 December 2016 on the organisation of the profession and the public supervision of auditors.]<sup>1</sup>

§ 3. The administrative fine referred to in Article 132, §§ 1 and 6 shall be imposed by the supervisory authorities referred to in Article 85 or, where appropriate, the authorities designated by other laws, the Minister of Finance or the Minister responsible for bpost, pursuant to Article 132, §§ 4 and 6, after the obliged entity or person involved has been heard or at least duly convened.

[<sup>1</sup> For the application of Article 132, § 6, hearings or convening referred to in the first subparagraph occur through the Treasury Administration [<sup>2</sup> within a period of thirty days from receipt of the notification that an administrative fine may be imposed]<sup>2</sup> and preferably electronically in writing. The entity or person concerned may at any time request to be heard orally. For the application of this subparagraph, the King may determine additional methods and procedural rules.]<sup>1</sup>

§ 4. [<sup>1</sup> The supervisory authorities referred to in Article 85, § 1, 5° and 7° to 12°]<sup>1</sup>, or, where appropriate, the authorities designated by other laws shall lay down the procedural rules necessary for the imposition of an administrative fine pursuant to Article 132 in respect of [<sup>1</sup> the obliged entities referred to in Article 5, § 1, 21°, 24° to 32°]<sup>1</sup>, as well as the legal remedies against such a sanction.

The rules of procedure and remedies referred to in the first subparagraph shall take effect only after their approval by the King. If the supervisory authorities concerned fail to lay down such rules of procedure and remedies or fail to amend them in the future, the King shall be empowered to enact such rules or remedies Himself or to amend them.

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<sup>1</sup> Law 20.07.2020, Art. 140 (Entry into force: 15.08.2020)

<sup>2</sup> Law 05.07.2022, Art. 72 (Entry into force: 15.07.2022)

**Art. 134.** The administrative fines imposed pursuant to this Title shall be collected by the administration of FPS Finance responsible for collecting and recovering non-fiscal debts, in accordance with Article 3 et seq. of the Law on State Property of 22 December 1949.

**Art. 135.** § 1. The supervisory authorities or, where appropriate, the authorities designated by other laws, the Minister of Finance and the Minister responsible for bpost shall inform CTIF-CFI of the administrative fines they have imposed pursuant to this Title and of any appeal in relation thereto and of the outcome thereof.

§ 2. The supervisory authorities referred to in Article 85, § 1, 3° to 5° shall inform the [² EBA]² of the administrative fines they have imposed pursuant to this Title to the obliged entities referred to in Article 5, § 1, 4° to 21°, [¹ including, where applicable, agreed settlements they may reach,]¹ and of any appeal in relation thereto and of the outcome thereof.

§ 3. The supervisory authorities referred to in Article 85, § 1, 1° and 5° to 13° or, where appropriate, the authorities designated by other laws, the Minister of Finance and the Minister responsible for bpost, shall nominatively publish on their official website their decisions concerning the imposition of an administrative sanction under this Title or of a supervisory measure as referred to in Chapters 4 to 7 of Title 4 immediately after the persons concerned have been informed of the decisions.

The publication must contain at least information on the type and nature of the breach and the identity of the natural or legal persons responsible.

Where the publication of the identity of the persons responsible referred to in the second subparagraph or the personal data of such persons is deemed disproportionate by the supervisory authorities referred to in the first subparagraph, the Minister of Finance or the Minister responsible for bpost, after a case-by-case assessment of the proportionality of the publication of such data, or where such publication would jeopardise the stability of the financial markets or an ongoing investigation, the aforementioned supervisory authorities, the Minister of Finance and the Minister responsible for bpost shall proceed as follows:

1° postponement of the publication of the decision until the reasons for non-publication cease to exist;

2° anonymous publication of the decision, if such an anonymous publication guarantees the effective protection of the personal data in question; in such a case, the publication of the relevant data may be postponed for a reasonable period of time if it is expected that at the end of this period the reasons for an anonymous publication will have ceased to exist;

3° non-publication if the possibilities referred to in 1° and 2° are considered insufficient to ensure that:

a) the stability of the financial markets will not be compromised; or

b) that the publication of the decision is proportionate to the supervisory measures, which are considered to be minor in nature.

If the decision is appealed against, such information and any subsequent information relating to the outcome of that appeal shall be published immediately on the official website referred to in the first subparagraph. Any decision cancelling a previous decision must also be published.

Any information published in accordance with this subparagraph shall remain on the official website referred to in the first subparagraph for a period of five years after publication.

However, the personal data mentioned in the publication on the official website referred to in the first subparagraph shall not be kept longer than necessary, in accordance with the applicable rules on the protection of personal data.

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<sup>1</sup> Law [20.07.2020](#), Art. 141 (Entry into force: 15.08.2020)

<sup>2</sup> Law [11.07.2021](#), Art. 309 (Entry into force: 30.06.2021)

## **TITLE II. – *Criminal sanctions***

**Art. 136.** For the purposes of [¹ this Law and its implementing Decrees]¹ and Regulations, those who hamper inspections and checks that supervisory authorities are required to carry out in the country or abroad of those

who refuse to give information they are required to provide in accordance with this law or those who intentionally provide inaccurate or incomplete information, shall be punished:

1° for the obliged entities referred to in Article 5, § 1, [2 4° to 10° ]<sup>2</sup>, with the penalties referred to in Article 36/20, § 1, of the Law of 22 February 1998 determining the organic statute of the National Bank of Belgium;

2° for the obliged entities referred to in Article 5, § 1, [2 11° to 20° ]<sup>2</sup>, with the penalties referred to in Article 87, § 1, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services;

3° for the obliged entities referred to in Article 5, § 1, [2 1° to 3°, and 21° to 33°]<sup>2</sup>, with a fine between EUR 150 and EUR 5 000.

[2 Shall be punished with a prison sentence of one month to one year and with a fine of EUR 50 to 10 000, or with only one of these penalties, those who carry out the activity of the provider of exchange services between virtual currencies and fiat currencies or of the provider of custodian wallets without being registered in accordance with the provisions adopted for the implementation of Article 5, § 1, fourth subparagraph, or after having renounced this registration, or after this registration has been cancelled, as well as those breaching Article 5, § 1, third subparagraph. ]<sup>2</sup>

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<sup>1</sup> Law 20.07.2020, Art. 142 (Entry into force: 15.08.2020)

<sup>2</sup> Law 01.02.2022, Article 5 (Entry into force: 21.02.2022)

**Art. 137.** Shall be punished with a fine between EUR 250 and EUR 225 000:

1° those who breach the provisions of Article 66, § 2, first subparagraph, or of Article 67. The fine may however not exceed ten percent of the payment or gift;

2° By way of derogation from Article 136, those who intentionally impede or hinder the mission of police officials or officials designated in accordance with Article XV.2 of the Code of Economic Law when acting within the supervisory powers conferred on the Federal Public Service Economy, SMEs, Self-employed and Energy by Article 85, § 3, of this Law.

[1 3° those who, without being registered to that end in accordance with the procedure determined by the King, carry out one of the activities [2 referred to in Article 5, § 1, thirteenth subparagraph]<sup>2</sup>.]<sup>1</sup>

The officials designated by the Minister of Economy in accordance with Article XV.2 of the Code of Economic Law can send a warning to the offender, in accordance with Article XV.31 of the same Code or ask the offender to pay an amount barring further prosecution, in accordance with Article XV.61 of the aforementioned Code.

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<sup>1</sup> Law 02.06.2021, Art. 51 (Entry into force: 28.06.2021)

<sup>2</sup> Law 01.02.2022, Article 5 (Entry into force: 21.02.2022)

**Art. 138.** § 1. The provisions of Book I of the Criminal Code, including Chapter VII and Article 85, shall be applicable to the offences punishable in accordance with this Title.

§ 2. Legal persons shall be civilly liable for the criminal fines imposed on the members of their legal administrative body, the persons in charge of the actual management or their agents in accordance with this Title.

§ 3. Any investigation as a result of an offence defined in this Title shall be reported to the competent supervisory authority in accordance with Article 85, by the judicial or administrative authority in charge of this investigation.

Any criminal proceedings as a result of an offence referred to in this Title shall be reported by the Public Prosecutor's Office to the competent supervisory authority in accordance with Article 85.

§ 4. The competent supervisory authority in accordance with Article 85 is empowered to intervene at any stage of the procedure before the criminal courts dealing with an offence punished by this Title, without having to demonstrate any harm. The intervention shall take place in accordance with the rules applicable to the civil party.

## **BOOK VI. – MISCELLANEOUS PROVISIONS, AMENDING, REPEAL AND TRANSITIONAL PROVISIONS**

### **TITLE 1. – *Miscellaneous provisions***

**Art. 139.** To carry out its tasks regarding the implementation of this Law, the Royal Decrees, regulations, and other measures adopted for the implementation of this Law, to implement the financial sanctions in accordance with the Regulations of the Council of the European Union, to implement the financial sanctions referred to in the Resolutions adopted by the United Nations Security Council in the framework of Chapter VII of the Charter of the United Nations and without prejudice to other legal provisions, the Administration of the Treasury, can, upon specific and duly substantiated request, request information from the Central Point of Contact of the National Bank of Belgium.

The request for consulting the Central Point of Contact referred to in the first subparagraph is carried out by an official of at least grade Advisor-General A4 or by the Administrator-General of the Administration of the Treasury, after having checked the reasons for the request.

### **TITLE 2. – *Amending provisions***

#### **CHAPTER 1. – *Amendments to the Code of Criminal Procedure***

**Art. 140.** In Article 46*quater*, § 1, second subparagraph, of the Code of Criminal Procedure, inserted by the Programme Law of 1 July 2016 the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 141.** In Article 464/12, first subparagraph, of the same Code, inserted by the Law of 11 February 2014, the words “Article 2, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 5, § 1, 1° to 22°, 29° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

#### **CHAPTER 2. – *Amendments to the Law of 27 June 1921 on non-profit organisations and foundations, European political parties and foundations***

**Art. 142.** In the Law of 27 June 1921 on non-profit organisations and foundations, European political parties and foundations, a Title III*quinquies* shall be inserted as follows: “Title III*quinquies*. The beneficial owner”.

**Art. 143.** In Title III*quinquies* of the same Law, inserted by Article 142, an Article 58/11 shall be inserted as follows:

“Art 58/11. This Article shall be applicable to associations regulated by Titles I and III, as well as foundations regulated by Title II. The legal persons mentioned under Titles III*ter* and III*quater* shall be excluded.

Shall be considered to be beneficial owners, the persons referred to in Article 4, first subparagraph, 27°, c), of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.

Associations and foundations shall obtain and hold adequate, accurate and current information about who their beneficial owners are. The information shall include at least the name, date of birth, nationality and address of the beneficial owner.

The managers shall provide the information on the persons or categories of persons referred to in Article 4, first subparagraph, 27°, c), v) and vi), of the aforementioned Law, within one month, from the moment the information regarding the beneficial owner is known or has changed, by electronic means to the Register of beneficial owners (UBO), created by Article 73 of the same Law, as laid down in Article 75 of this Law.

The information on the beneficial owner, referred to in the second and third subparagraph, shall be provided, in addition to the information on the legal owner, to the obliged entities, referred to in Article 5, § 1, of the aforementioned Law, when these entities take customer due diligence measures, in accordance with Book II, Title 3, of the same Law.”.

**Art 144.** In Title III *quinquies* of the same Law, inserted by Article 142, an Article 58/12 shall be inserted as follows:

“Art. 58/12. Shall be punished with a fine between EUR 50 and EUR 5 000, the managers who fail to carry out the formalities referred to in Article 58/11, third and fourth subparagraph, within the period set in this Article.”

#### CHAPTER 3. – *Amendments to the Law of 20 March 1991 on the accreditation of contractors*

**Art 145.** In Article 4, § 1, 4°, a), fifth dash, of the Law of 20 March 1991 on the accreditation of contractors, replaced by the Law of 5 August 2011, the words “Article 3 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 5, § 1, 23° to 28° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

#### CHAPTER 4. – *Amendments to the Law of 8 December 1992 on the protection of privacy in relation to the processing of personal data*

**Art 146.** In Article 3, § 5, 4°, of the Law of 8 December 1992 on the protection of privacy in relation to the processing of personal data, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

#### CHAPTER 5. – *Amendments to the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium*

**Art. 147.** In the introductory sentence of Article 35/1, § 1, 1°, of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium, inserted by the Law of 13 March 2016, the words “Article 39 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 85, § 1, 3°, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 148.** In Article 35/1, § 1, 1°, a), of the same Law, inserted by the law of 13 March 2016, the words “Article 39 of the aforementioned Law of 11 January 1993” shall be replaced by the words “Article 85 of the aforementioned Law of 18 September 2017”.

**Art. 149.** Article 36/2 of the same Law, the current text of which will become paragraph 1, shall be completed by the following paragraph 2:

“§ 2. In accordance with Article 12*bis* and the provisions of this chapter, and to the extent stipulated in the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the Bank’s mission shall also be to verify compliance by the financial institutions referred to in § 1, first subparagraph with the legal and regulatory provisions and with the provisions of European law that aim to prevent the use of the financial system for purposes of money laundering and terrorist financing and to prevent the financing of the proliferation of weapons of mass destruction.”.

#### CHAPTER 6. – *Amendments to the Law of 30 November 1998 on the intelligence and security services*

**Art 150.** In Article 14, third subparagraph, of the Law of 30 November 1998 on the intelligence and security services, replaced by the Law of 4 February 2010, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

*CHAPTER 7. – Amendments to the Law of 22 April 1999 on accounting and fiscal professions*

**Art. 151.** In Article 4, third subparagraph, of the Law of 22 April 1999 on accounting and fiscal professions, inserted by the Royal Decree of 19 November 2009, the second dash shall be replaced by “- Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that their content is not contrary to the aforementioned Law of 18 September 2017”.

*CHAPTER 8. – Amendments to the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players*

**Art 152.** In Article 20 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players, the third subparagraph shall be repealed.

*CHAPTER 9. – Amendments to the Companies Code*

**Art. 153.** In Book I, Title II, Chapter II, of the Companies Code, a section shall be inserted as follows: “Section V. – The beneficial owner”.

**Art. 154.** In Section V of the same Code, inserted by Article 153, an Article 14/1 shall be inserted as follows:

“Article 14/1. Shall be considered to be beneficial owners, the persons referred to in Article 4, first subparagraph, 27°, a), of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.

Companies shall obtain and hold adequate, accurate and current information about who their beneficial owners are, including detailed data on the economic interests held by the beneficial owners. The information shall include at least the name, date of birth, nationality and address of the beneficial owner, as well as the nature and the scope of the economic interest held by the beneficial owner.

The managers shall provide the information on the persons or categories of persons referred to in the aforementioned Article, within one month, from the moment the information regarding the beneficial owner is known or has changed, by electronic means to the Register of beneficial owners (UBO), created by Article 73 of the aforementioned Law, as laid down in Article 75 of the same Law.

The information on the beneficial owner, referred to in the second subparagraph, shall be provided, in addition to the information on the legal owner, to the obliged entities, referred to in Article 5, § 1, of the aforementioned Law, when these entities take customer due diligence measures, in accordance with Book II, Title 3, of the same Law.”.

**Art 155.** In Section V of the same Code, inserted by Article 153, an Article 14/2 shall be inserted as follows:

“Art. 14/12. Shall be punished with a fine between EUR 50 and EUR 5 000, the managers who fail to carry out the formalities referred to in Article 14/1, second and third subparagraph, within the period set in this Article.”.

**Art. 156.** In Article 265, § 1, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the



Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 157.** In Article 265, § 2, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 158.** In Article 409, § 1, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 159.** In Article 409, § 2, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 160.** In Article 515*bis*, first subparagraph, of the same Code, inserted by the Law of 18 January 2010, the words “directly or indirectly” shall be inserted between the words “natural person or legal person that” and “gets securities that grant voting rights”.

**Art. 161.** In Article 530, § 1, third subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 162.** In Article 530, § 2, third subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 163.** In Article 921, third subparagraph, of the same Code, inserted by the Royal Decree of 1 September 2004 and amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 164.** In Article 986, third subparagraph, of the same Code, inserted by the Royal Decree of 28 November 2006 and amended by the Law of 15 July 2013, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

*CHAPTER 10. – Amendments to the Law of 28 February 2002 on compiling the balance of payments, the external asset position and the international trade statistics of services and Belgium’s direct foreign investments and on amending the Decree Law of 6 October 1944 on exchange control and various legal provisions*

**Art. 165.** In Article 4, § 5, of the Law of 28 February 2002 on compiling the balance of payments, the external asset position and the international trade statistics of services and Belgium’s direct foreign investments and on amending the Decree Law of 6 October 1944 on exchange control and various legal provisions the words

“Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

CHAPTER 11. – *Amendments to the Law of 2 August 2002 on the supervision of the financial sector and financial services*

**Art. 166.** In Article 40*bis*, § 2, third subparagraph, 2°, of the Law of 2 August 2002 on the supervision of the financial sector and financial services, inserted by the Law of 31 July 2017, the words “Article 2 and 3 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, pursuant to Articles 23 to 27 and 33, first subparagraph to sixth subparagraph of the same Law” shall be replaced by the words “Article 5, § 1, 1° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, pursuant to Book II, Title 4, Chapter 2, Section 1 and Book IV, Title 3, Chapter 2, of the same Law”.

**Art. 167.** In Article 121, § 1, 4°, of the same Law, as last amended by the Law of 13 March 2016, the words “Article 22 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Book IV, Title 3, Chapter 1, and Article 79, §§ 1 to 3, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

CHAPTER 12. – *Amendments to the Law of 26 March 2003 on the creation of a Central Office for Seizure and Confiscation and provisions on managing the value of seized goods and implementing specific asset sanctions*

**Art. 168.** In Article 15, § 3, of the Law of 26 March 2003 on the creation of a Central Office for Seizure and Confiscation and provisions on managing the value of seized goods and implementing specific asset sanctions, replaced by the Law of 11 February 2014, the words “Article 2 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 5, § 1, 1° to 22°, 29° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 169.** In Article 15*bis*, § 1, of the same Law, replaced by the Law of 11 February 2014, the words “Article 2 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 5, § 1, 1° to 22°, 29° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

CHAPTER 13. – *Amendments to the Law of 19 November 2004 introducing a levy on the exchange of currency, bank notes and coins*

**Art. 170.** In Article 9, 1°, of the Law of 19 November 2004 introducing a levy on the exchange of currency, bank notes and coins, the words “Article 4 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 5, § 1, 33°, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

CHAPTER 14. – *Amendments to the Law of 22 March 2006 on the intermediation in banking and financial services and the distribution of financial instruments*

**Art. 171.** In Article 8, first subparagraph, of the Law of 22 March 2006 on the intermediation in banking and financial services and the distribution of financial instruments, inserted by the Law of 31 July 2009, 11° shall be replaced as follows:

“11° comply with the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that this legislation is applicable to the intermediary in question and in so far that

the content of the implementation decrees is not contrary to the aforementioned Law of 18 September 2017.”.

#### CHAPTER 15. – *Amendments to the Law of 20 July 2006 on miscellaneous provisions*

**Art. 172.** In Article 102, § 2, 7°, of the Law of 20 July 2006 on miscellaneous provisions, the words “Article 22 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Book IV, Title 3, Chapter 1, and Article 79, §§ 1 to 3, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash” and the words “Articles 4 to 19” shall be replaced by the words “Articles 2 and 3, Article 4, 23°, Article 5, § 1, 33°, and Book II, Titles 1 to 4, Chapters 1 and 2, Section 4”.

#### CHAPTER 16. – *Amendments to the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, access to the activity of issuing electronic money and access to payment systems*

**Art. 173.** In Article 7, first subparagraph, 6°, of the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, access to the activity of issuing electronic money and access to payment systems, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 174.** In Article 20, § 1, second subparagraph, *d)*, of the same Law, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 175.** In Article 48, § 3, 4°, of the same Law, replaced by the Law of 27 November 2012, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 176.** In Article 62, § 1, 6°, of the same Law, inserted by the Law of 27 November 2012, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 177.** In Article 105, § 3, 6°, of the same Law, inserted by the Law of 27 November 2012, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

#### CHAPTER 17. – *Amendments to the Law of 11 February 2013 on the organisation of the profession of estate agent*

**Art. 178.** In Article 5, § 1, of the Law of 11 February 2013 on the organisation of the profession of estate agent, a first subparagraph shall be inserted as follows:

“No-one can practise the profession of estate agent if he has been deprived of his civil and political rights or if he has been declared bankrupt without being granted a pardon or if his criminal record shows, at the time of requesting access, that, in Belgium or another Member State of the European Union, he has been given:

1° a criminal sentence;

2° an unsuspended prison sentence of at least one year for one of the offences mentioned in Article 1 of the Royal Decree number 22 of 24 October 1934 banning certain individuals that have been sentenced or declared

bankrupt from carrying out certain duties, professions or activities and granting commercial courts the power to impose such a ban;

3° a criminal fine of at least EUR 2 500, prior to applying the additional 10% surcharges, for infringing the legislation on the prevention of money laundering and terrorist financing.”.

**Art. 179.** In Article 10, § 1, of the same Law, 4° shall be completed as follows: “and in so far that these natural persons or the beneficial owners of these legal persons have not been sentenced to any of the sentences referred to in Article 5, § 1, first subparagraph;”.

#### CHAPTER 18. – *Amendments to the Code of Economic Law*

**Art. 180.** In Article VII.40, § 2, of the Code of Economic Law, inserted by the Law of 19 April 2014, the words “Article 12 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 19, § 2, second subparagraph, and Book II, Title 3, Chapter 2, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 181.** In Article VII.79, second subparagraph, of the same Code, inserted by the Law of 19 April 2014, the words “Article 12 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 19, § 2, second subparagraph, and Book II, Title 3, Chapter 2, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 182.** In Article VII.137, second subparagraph, of the same Code, replaced by the Law of 22 April 2016, the words “Article 12 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 19, § 2, second subparagraph, and Book II, Title 3, Chapter 2, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

#### CHAPTER 19. – *Amendments to the Law of 4 April 2014 on insurance*

**Art. 183.** In Article 268, § 1, 9°, of the Law of 4 April 2014 on insurance, the provision under 9° shall be replaced as follows:

“9° comply with the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that this legislation is applicable to the intermediary in question and in so far that the content of the implementation decrees is not contrary to the aforementioned Law of 18 September 2017.”.

**Art. 184.** In Article 270, § 1, 1°, A, e), of the same Law the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

#### CHAPTER 20 – *Amendments to the Law of 25 April 2014 on the status and the supervision of credit institutions and stockbroking firms*

**Art. 185.** In Article 20, § 1, 3°, b), of the Law of 25 April 2014 on the status and the supervision of credit institutions and stockbroking firms, the words “Article 40 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 132 of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

*CHAPTER 21 – Amendments to the Law of 25 April 2014 on the status and the supervision of independent financial planners and providing advice on financial planning by regulated companies and amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and financial services*

**Art. 186.** In Article 19 of the Law of 25 April 2014 on the status and the supervision of independent financial planners and providing advice on financial planning by regulated companies and amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and financial services the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing and its implementation decrees” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that their content is not contrary to the aforementioned Law of 18 September 2017”.

*CHAPTER 22. – Amendments to the Law of 21 July 2016 on introducing a permanent system regarding fiscal and social regularisation*

**Art. 187.** In Article 2, 9°, of the Law of 21 July 2016 on introducing a permanent system regarding fiscal and social regularisation, the words “the Articles 2 and 3 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 5, § 1, 1° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

**Art. 188.** In Article 6, 2°, of the same Law, the words “Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, except for the offence referred to in Article 5, § 3, 1°, eleventh dash of the same Law” shall be replaced by the words “Article 4, 23°, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, except for the offence referred to in Article 4, 23°, k), of the same Law”.

**Art. 189.** In Article 7, eighth subparagraph of the same Law, the words “Law of 11 January 1993” shall be replaced by the words “Law of 18 September 2017”.

**TITLE 3. – Repeal provisions**

**Art. 190.** The Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, as last amended by the Law of 1 July 2016, shall be repealed.

**Art. 191.** Articles 69 to 71 of the Law of 29 December 2010 on miscellaneous provisions (I), as amended by the Law of 15 July 2013, shall be repealed.

**TITLE 4. – Transitional provisions**

**Art. 192.** The Royal Decrees, regulations and any other regulatory acts adopted for the implementation of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing shall remain applicable in so far as the provisions of this Law lay down general or specific legal authorisation required for these regulatory acts and that their content is not contrary to this Law.

**ANNEXES**

The annexes to this Law form an integral part of the Law. They consist of articles. When articles from an annex are referred to, it is explicitly stated.

**ANNEX I**

**Article 1.** When conducting their overall risk assessment pursuant to Article 16, second subparagraph, the obliged entities shall at least consider the following variables:

- 1° the purpose of an account or a relationship;
- 2° the level of assets to be deposited by a customer or the size of transactions undertaken;
- 3° the regularity or duration of the business relationship.

## ANNEX II

**Article 1.** The factors that are indicative of a potentially lower risk, as referred to in Articles 16, second subparagraph and 19, § 2, are the following:

1° customer risk factors:

a) public companies listed on a regulated market and subject to disclosure requirements (either by regulated market rules or through laws or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership;

b) public administrations or enterprises;

c) customers that are resident in geographical areas of lower risk as set out under 3°;

2° product, service, transaction or delivery channel risk factors:

a) life insurance policies for which the premium is low;

b) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;

c) a [<sup>1</sup> supplementary]<sup>1</sup> pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme;

d) financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes;

e) products where the ML/FT risks are managed by other factors such as purse limits or transparency of ownership (e.g. certain types of electronic money);

3° [<sup>1</sup> geographical risk factors – registration, establishment or residence in:]<sup>1</sup>

a) Member States;

b) third countries having effective AML/CFT systems;

c) third countries identified by credible sources as having a low level of corruption or other criminal activity;

d) third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have AML/CFT requirements consistent with the revised FATF Recommendations and effectively implement those requirements.

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<sup>1</sup> Law 20.07.2020, Art. 143 (Entry into force: 15.08.2020)

## ANNEX III

**Article 1.** The factors that are indicative of a potentially higher risk, as referred to in Articles 16, second subparagraph and 19, § 2, are the following:

1° customer risk factors:

- a) the business relationship is conducted in unusual circumstances;
- b) customers that are resident in geographical areas of higher risk as set out under 3°;
- c) legal persons or arrangements that are personal asset-holding vehicles;
- d) companies that have nominee shareholders or shares in bearer form;
- e) businesses that are cash-intensive;
- f) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business;
- [<sup>1</sup> g) the client is a third-country national who requests rights of residence or citizenship in exchange for capital transfers, the purchase of real property or government bonds or investments in companies in a Member State;]<sup>1</sup>

2° product, service, transaction or delivery channel risk factors:

- a) private banking services;
- b) products or transactions that might favour anonymity;
- c) [<sup>1</sup> non-face-to-face business relationships or transactions, without certain safeguards such as electronic means of identification or relevant trust services as defined in Regulation (EU) No 910/2014 or any other secure identification process, take place electronically or remotely and are regulated, recognised, approved or accepted by the relevant national authorities;]<sup>1</sup>
- d) payment received from unknown or unassociated third parties;
- e) new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products;
- [<sup>1</sup> f) transactions relating to oil, weapons, precious metals, tobacco products, cultural artefacts and other articles of archaeological, historical, cultural and religious significance or with great scientific value, as well as ivory and protected species.]<sup>1</sup>

3° geographical risk factors:

- a) without prejudice to Article 38, countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems;
- b) countries identified by credible sources as having significant levels of corruption or other criminal activity;
- c) countries subject to sanctions, embargoes or similar measures issued by, for example, the European Union or the United Nations;
- d) countries providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.

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<sup>1</sup> Law 20.07.2020, Art. 144 (Entry into force: 15.08.2020)

#### ANNEX IV

[<sup>1</sup> List of functions designated as a prominent public function in accordance with Article 41, § 4, first subparagraph

**Article 1.** The following functions are prominent public functions as referred to in Article 4, 28°:

1° heads of state, heads of government, ministers and secretaries of state:

a) the King;

b) the Prime Minister, Minister-President, Vice Prime Ministers, Vice Minister-Presidents, Ministers and secretaries of state;

2° members of parliament or members of similar legislative bodies;

a) Chamber President, President of the Senate, Chair of the parliament, members of parliament, senators, co-opted senators, commission presidents and commission members;

3° members of governance bodies of political parties:

a) members of the party leadership, the political council, the party council, the management committee, the day-to-day management and the party secretariat;

4° members of supreme courts, of constitutional courts or of other high-level judicial bodies, including administrative judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances:

a) judge of the Supreme Court (including the first president, president and section presidents);

b) counsellor of the Court of Appeal (including the first president and chamber presidents);

c) counsellor of the Labour Court (including the first president and chamber presidents);

d) substitute counsellors of these three courts;

e) the first president, presidents, chamber presidents, state counsellors, assessors and auditors at the Council of State;

[<sup>2</sup> f) judges of the Constitutional Court (including the presidents);]<sup>2</sup>

5° members of courts of auditors or of the boards of central banks:

a) the Governor and members of the Management Committee and of the Council of Regency of the National Bank of Belgium;

b) the first president, presidents and counsellors of the Belgian Court of Audit;

6° ambassadors, consuls, *chargés d'affaires* and high-ranking officers in the armed forces:

a) ambassadors, consuls and *chargés d'affaires*;

b) officers with the rank of general or admiral designated for a specific function by the King;

c) officers with the rank of lieutenant general or vice-admiral who, as the case may be, are appointed by the King or the Minister of Defence;



*d)* officers with the rank of major general or division admiral who, as the case may be, are appointed by the King or the Minister of Defence;

*e)* officers with the rank of brigadier general or flotilla admiral designated for a specific function by the King;

7° members of the administrative, management or supervisory bodies of public enterprises:

*a)* the Chief Executive Officer, Executive or Managing Director, Chair, directors and members of the board of directors, the Chair and members of the management committee and executive committee, government commissioners;

*b)* directors, deputy directors and members of the board of directors or those who have an equivalent function at an international organisation established on the Belgian territory.]<sup>1</sup>

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<sup>1</sup> Law 20.07.2020, Art. 145 (Entry into force: 15.08.2020)

<sup>2</sup> Law 27.06.2021, Art. 114 (Entry into force: 10.07.2021)

We hereby promulgate this Law and command that the Seal of the State be appended to it and that it be published in the Belgian Official Gazette.

Done at Brussels, 18 September 2017.

PHILIPPE

For the King:

The Prime Minister,  
Ch. MICHEL

The Minister of Economy and Consumers,  
K. PEETERS

The Minister of the Interior,  
J. JAMBON

The Minister of Post,  
A. DE CROO

The Minister of Justice,  
K. GEENS

The Minister of Finance,  
J. VAN OVERTVELDT

Sealed with the seal of the State:

The Minister of Justice,  
K. GEENS

## Laws

Law of 4 February 2018 on the tasks and the composition of the Central Office for Seizure and Confiscation (Belgian Official Gazette of [26.02.2018](#))

Law of 29 March 2018 on the registration of company service providers (1) (Belgian Official Gazette of [02.05.2018](#))

Law of 30 July 2018 on miscellaneous financial provisions (Belgian Official Gazette of [10.08.2018](#))

Law of 2 May 2019 on miscellaneous financial provisions (1) (Belgian Official Gazette of [21.05.2019](#))

Law of 5 May 2019 on various provisions with regard to criminal cases and with regard to worship services, and amending the Law of 28 May 2002 regarding euthanasia and the Social Criminal Code (1) (Belgian Official Gazette of [24.05.2019](#))

Law of 20 July 2020 on miscellaneous provisions on the prevention of money laundering and terrorist financing and on the restriction of the use of cash (Belgian Official Gazette of [05.08.2020](#))

Law of 2 June 2021 on miscellaneous financial provisions regarding fraud prevention (1) (Belgian Official Gazette of [18.06.2021](#))

Law of 27 June 2021 on miscellaneous fiscal provisions and amending Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash (1) (Belgian Official Gazette of [30.06.2021](#))

Law of 11 July 2021 transposing Directive 2019/878 of the European Parliament and of the Council of 20 May 2019, of Directive 2019/879 of the European Parliament and of the Council of 20 May 2019, of Directive 2019/2034 of the European Parliament and of the Council of 27 November 2019, of Directive 2019/2177 of the European Parliament and of the Council of 19 December 2019, of Directive 2021/338 of the European Parliament and of the Council of 16 February 2021 and on miscellaneous provisions (1) (Belgian Official Gazette of [23.07.2021](#))

Law of 1 February 2022 amending the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash to introduce provisions on the status and the supervision of providers of exchange services between virtual currencies and fiat currencies and custodian wallet providers (1) (Belgian Official Gazette of [11.02.2022](#)).

Law of 23 February 2022 implementing Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 and transposing Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis (II) (1) (Belgian Official Gazette of [04.04.2022](#)).

Law of 15 May 2022 transposing Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (1) (Belgian Official Gazette of [25.05.2022](#))

Law of 23 June 2022 on miscellaneous urgent provisions regarding the fight against money laundering and on provisions on the exceptions on the obligation of secrecy of company auditors and certified accountants (Belgian Official Gazette of 11.07.2022)

Law of 5 July 2022 on miscellaneous financial provisions (1) (Belgian Official Gazette of 15.07.2022)