SECURITIES COMMISSION

OF THE REPUBLIC OF SERBIA

GUIDELINES ON THE APPLICATION OF THE LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM FOR PERSONS SUPERVISED BY THE SECURITIES COMMISION

Belgrade, 26 November 2009

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Pursuant to the Law on Prevention of Money Laundering and Financing of Terrorism (Official Gazette of RS, No 20/200920/2009 and 72/2009) within the scope of its authority under this Law, Article 84, paragraph 2, at its 646th session dated 26 November 2009, the Securities Commission hereby adopts

GUIDELINES ON THE APPLICATION OF THE LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM FOR PERSONS SUPERVISED BY THE SECURITIES COMMISION

Objective of the Guidelines

The Securities Commission (hereinafter referred to as: the Commission) within the scope of its authority under the Law on Prevention of Money Laundering and Financing of Terrorism (hereinafter: the Law) Article 87 is authorized to independently draw up guidelines for the implementation of the provisions of the Law (hereinafter: the Guidelines), for the uniform application of provisions of the Law by:

1) Investment fund management companies licensed to perform the investment management activities stipulated by the Law on Investment Funds;

2) Broker-dealer companies and authorized banks – authorized to perform the activities of intermediaries in purchase and sale of securities and other financial instruments – brokers, market maker, portfolio managers, agents, underwriters, investment advisers and other activities stipulated by the Law on Securities Market and Other Financial Instruments;

3) Custody banks authorized to perform transactions of keeping securities accounts on behalf of clients and to act upon clients' orders, as well as to perform other transactions set forth in the Law on Securities Market and Other Financial Instruments

(Hereinafter referred to as: obligors).

What is a suspicious transaction?

The Law defines suspicious transactions as transactions for which an obligor and/or a competent authority establish that there are reasons for suspicion of money laundering or terrorism financing regarding a person or transaction, i.e. that a transaction includes illicit money. Pursuant to the provisions of the Law, it can be construed that suspicious transactions are those which according to their nature, scale, complexity or relatedness are unusual, i.e. which have no apparent economic or visible lawful purpose, or transactions that are inconsistent, disproportionate to the usual or expected business operations of a customer and other circumstances pertaining to the status or other characteristics of a customer. Certain transactions and business relations of a customer can be regarded as suspicious. Determining how suspicious a customer, transaction or a business relation is, is founded on criteria set in the List of Indicators developed for the recognition of persons and transactions with respect to which there are reasons for suspicion of money laundering and terrorism financing. Lists of Indicators represent a starting point for employees/authorized persons when recognizing suspicious circumstances with respect to a customer, transactions of the customer or business relations it concludes. Therefore all employees of an obligor must be familiar with the indicators in order to use them in their work. When determining a suspicious transaction, an authorized person shall provide all technical assistance to employees.

CORE PRINCIPLES IN COMBATING MONEY LAUNDERING AND FINANCING OF TERRORISM

Implementation of the Law and standards

When performing their registered activities, obligors shall act in conformity with the Law and stipulated obligations governing the detection and prevention of money laundering and terrorism financing and shall ensure adherence to statutory measures and activities of obligors at all levels, so that entire business operations of an obligor are carried out in accordance with the Law.

Identifying and verifying the identity of a customer

Prior to establishing business relations or executing a transaction exceeding the amount provided for by the Law or in other cases set forth in the Law (the designated threshold), an obligor shall obtain the necessary information about the customer in order to identify and verify its identity. It is possible to properly identify and verify the identity of a customer exclusively by inspection of valid, independent and objective sources, such as the official identification document or other official document proving the

identity of a customer (personal document, official identification document, original or certified documents from a register, obtaining information directly from the customer, identifying and verifying the identity of representative, procura holder and empowered representative and establishing and verifying the identity of a natural person by a qualified electronic certificate, based on the written statement on the authenticity of obtained information.

In cases when the identity of a customer is not possible to establish or verify and when it is not possible to determine who the beneficial owner of the customer is and when it is not possible to obtain information about the purpose and intended nature of a business relation or a transaction or other information in accordance with the Law, an obligor must refuse to establish a business relation and refuse to participate in such transaction and to terminate the existing business relations with the customer (Article 8, paragraph 2 of the Law).

Cooperation with the Administration for Prevention of Money Laundering and the Commission

Within their statutory authority, obligors must ensure full cooperation with the competent authorities – the Commission and the Administration for the Prevention of Money Laundering (hereinafter: APML). Cooperation between obligors and supervisory authorities is obligatory especially in cases of submitting documentation and requested information with respect to customers and transactions when there is suspicion of money laundering and terrorism financing. The cooperation is also vital when reporting on all activities and circumstances which might be or have been connected with money laundering or terrorism financing.

Adoption of internal policies, procedures and internal controls

Obligors must carry out risk-based analysis of money laundering and terrorism financing in line with the Guidelines. The risk analysis must contain the appraisal of risk for each group and type of customer, business relation, service the obligor provides in the scope of its activities.

Obligors must establish internal procedures – risk analysis of each group and type of customer, business relation, service the obligor provides within its activity or transaction especially concerning:

- Determining the identity of a customer, verification of identity based on documents, data or information obtained from reliable and credible sources;

- Determining the identity of the beneficial owner and verification of identity in cases specified by the Law;

Obtaining information on the purpose and intended nature of a business relationship or transaction, and other information in accordance with the Law;

- Regular monitoring of customer business transactions and checking the consistency of the customer's activities with the nature of the business relationship and the usual scope and type of the customer's business transactions.

It is of special importance that all employees be acquainted with the procedures, act according the procedures and use them when carrying out their activities. The internal procedures of obligors shall include: Regular trainings, on-the-job/professional development and capacity building of employees, internal control mechanisms, detection and notification procedures on suspicious transactions, responsibility of employees for the implementation of measures for detection and prevention of money laundering and terrorism financing.

Regular professional education of employees

An obligor shall appoint a compliance officer and a deputy compliance officer to carry out actions and measures for the prevention of money laundering and terrorism financing in accordance with the Law, except when an obligor has less than four employees.

An obligor who has less than four employees has no obligation to appoint a compliance officer and carry out internal control in accordance with the Law (Article 39, paragraph 2 of the Law).

The compliance officer and his deputy must meet the requirements set forth in Article 40 of the Law and carry out the activities stipulated by Article 41 of the Law.

Obligors must ensure that their compliance officers have all resources stipulated by Article 42 of the Law.

Obligors must send to the APML information on the personal name and name of the position of the compliance officer and deputy compliance officer including any changes thereof, within 8 days following the appointment.

Obligors must ensure regular professional education, trainings and capacity building of all employees who directly or indirectly carry out the activities of detection, prevention of money laundering and terrorism financing and who perform activities that entail higher risk with respect to money laundering and terrorism financing and of persons authorized by the obligor to perform activities based on a contract or decisions.

At the AMPL's proposal, the Minister shall specify the procedure for internal control, information storage and protection, record-keeping and professional education, trainings and capacity building of obligor's employees in accordance with the Law.

RISK ASSESSMENTS AND ANALYSIS

1. The purpose of risk analysis

Pursuant to the Law, the risk of money laundering or terrorism financing is a risk that the customer will abuse the securities market of the Republic of Serbia to launder money or finance terrorism i.e., that a business relation, a service an obligor provides or a transaction will be used directly or indirectly for money laundering and terrorism financing.

In order to prevent exposure to adverse effects of money laundering and terrorism financing, an obligor must carry out a risk analysis containing the risk assessment of each group or type of customer, business relation, service the obligor provides within its activity or transaction (Article 7, paragraph 1 of the Law).

The risk analysis determines the level of exposure (risk assessment) for each group and type of customer, business relation, service the obligor provides within its activity or transaction to money laundering and terrorism financing risk.

The preparation of the risk analysis is a precondition for the implementation of the customer due diligence. Depending on the classification of customer, business relation or transaction into a risk group, the obligor shall carry out the type of risk-based analysis in accordance with the Law (customer due diligence, enhanced due diligence and simplified due diligence for the low risk group).

The Minister in charge of financial affairs (hereinafter referred to as: the Minister) shall specify the criteria based on which the obligor classify a customer, business relation, service or transaction into a low-risk group in terms of money laundering and terrorism financing except for the cases specified by this Law and in accordance with the technical criteria stipulated by the recognized international standards.

2. Risk management policy and risk analysis

If it is necessary for the implementation of provisions of the Law, APML Rulebook and Guidelines, an obligor, i.e. the obligor's management, may embrace an adequate risk management policy for money laundering and terrorism financing prior to preparation of the risk analysis. The primary goal of such policy is to set the areas of business which pose less or more risk considering the potential for money laundering and terrorism financing, i.e that the obligor independently determines and establishes

the main risks in the areas and measures for their elimination.

3. Preparation of risk-based analysis

Risk-based analysis is a procedure where an obligor defines:

- The probability that the operations might be used for money laundering or terrorism financing;

- Criteria based on which a customer, business relation, service the obligor provides within its activity or transaction will be classified as entailing more or less risk with respect to money laundering and terrorism financing;

- Determining consequences and measures for efficient management of such risks.

When preparing risk analyses, the following criteria shall be taken into account:

1. An obligor shall derive the category of risk from the risk criteria determined in the Guidelines, based on which it places a customer, business relation or service it provides or a transaction by application of due diligence into a risk category in accordance with the Guidelines.

2. When determining the risk category with respect to risk criteria set by the Guidelines and in accordance with their risk management policy, obligors may classify by themselves a customer, business relation, service or transaction as highly risky in terms of money laundering and terrorism financing (ML/FT) and carry out the enhanced due diligence,

3. When determining the risk category of a customer, business relation, service or transaction determined as high risk by the Law and the Guidelines, an obligor should not classify those as medium or low risk. Furthermore, an obligor is not allowed in contravention of the Law and by-laws or Guidelines to broaden the list of low-risk customers, business relations, products or transactions.

Within the meaning of the Guidelines, the risk assessment should cover at least the following four risk categories: Country risk, customer risk, transaction risk and service risk. In cases when other types of risk are identified and depending on the specific nature of business – the mandatory risk assessment should cover those categories of risk as well.

4. Country Risk

Country risk (or sometimes referred to as geographic risk) means the estimate of ML/TF risk depending on the area/country of origin of the customer, country of origin of the majority founder i.e. the owner of the customer or person controlling the management of the customer and its operations as well as the country of origin of the person with which the customer executes transactions.

Factors that may result in determination that a country poses a higher ML/FT risk include:

1) Countries subject to sanctions, embargoes or similar measures issued by the United Nations, Council of Europe or other international organizations;

2) Countries identified by credible institutions (Financial Action Task Force-FATF, Council of Europe and other) as lacking appropriate AML/CFT laws, regulations and measures;

3) Countries identified by international organizations (such as the World Bank, IMF) as lacking the adequate AML/CTF measures;

4) Countries identified by competent international organizations as having significant levels of corruption: Corruption, illicit arms trafficking, trafficking in human beings and violation of human rights;

5) Countries identified by credible institutions as providing funding or support for terrorist activities or organizations;

Countries identified by an international organization (FATF, Council of Europe and other) as non-cooperative countries or territories (countries or areas identified by FATF having a weak AML/CFT regulatory regime, there is no or there is inadequate state supervision over the financial institutions, foundation or operation of financial institutions is possible without the authorization or registration with a competent government authority, the country favors anonymity in opening accounts and other anonymous financial instruments, the system of detection and reporting of suspicious transactions is faulty, the legislation does not recognize the obligation of determining beneficial ownership, international cooperation is inefficient or does not exist at all). Based on the authority given by the law governing prevention of money laundering and terrorism financing, the Minister of Finance adopts a list of countries that apply AML/CTF international standards, at least the level of the European Union (the white list), as well as the list of countries that do not apply any standards in the area (black list). Obligors use these lists to assess risk a customer on the lists might entail.

The assessment and appraisal of risk depends on the location of an obligor and its organizational units. Therefore, it is different when it comes to obligors located in areas where there are a lot of tourists than those located in rural areas where all customers know each other. Increased risk is possible at places where there are a lot of foreigners concentrated or where there are numerous transactions executed with foreigners.

Transactions executed on off-shore destinations also entail increased ML/FT risk.

Customers from the region might entail less risk than the customers outside of the region or the country with which we do not have any business relations at all.

5. Customer risk

The **customer risk** is determined based on an obligor's own criteria and following the generally accepted principles and own experience. Categories of customers whose activities may indicate a higher risk include:

1) Customers conducting their business relationship or transactions in unusual circumstances such as:

   - Customer who travels unexplained distances to locations to conduct transaction or establish a business relationship,
   - Frequent and unexplained establishment of business relations of similar kind with multiple obligors without an economic purpose, such as opening accounts with multiple obligors, conclusion of several membership contracts over a short period of time and similar,
   - Frequent transfers from a fund to a fund,
   - Termination of membership immediately after the conclusion of a membership contract;
   - Request to transfer funds accumulated on the individual account of a fund member to a current account of a third person, or to an account in the country that does not apply strict AML standards,
   - Insisting on the secrecy of a transaction and similar;

2) Customer where (owing to the structure, legal form or complex and unclear relations) the nature of the relationship or transactions makes it difficult to identify the beneficial owners or controlling persons, such as off-shore legal persons with unclear ownership structure not founded by the company from a country that adheres to the AML/CFT standards comparable to the standards stipulated by the Law;

3) Customers performing activities including higher volumes and cash payments (such as goods and passenger transportation services);

4) Foreign arms dealers and weapon manufacturers;

5) Non-residents and foreigners;

6) Foreign financial institutions of countries not adhering to AML/CFT standards, except those founded by the groups from the white list countries;

7) Customers who represent persons (lawyers, accountants or other professional representatives) especially when an obligor has contacts with representatives only;

8) Sporting companies;

9) Construction firms;

10) Companies with a low number of employees compared to their scope of work, companies that do not have their infrastructure, business premises etc.;

11) Private investment funds;

12) Persons whose offer to establish a business relationship was rejected by another obligor, regardless of the manner in which the fact was learned of, i.e. disreputable persons;

13) Customers with unknown or unclear sources of funds, and/or funds whose source the client cannot prove;

14) Customers for which there is a suspicion that the client does not act for itself, and/or that it follows the instructions of a third party;

15) Customers who have delegated the customer due diligence to a third person;

16) Customers (natural and legal persons) on the list of persons against which the United Nations or the Council of Europe have introduced measures in force;

17) Customers with residence or registered office in entities not recognized internationally as states (the entities provide options for fictitious registration of a legal persons, facilitate issuance of fictitious identification documents and similar).

18) A customer that is a foreign official, i.e. a person who has been discharging a public function in a foreign state or international organization, the function including:

- The post of a head of a state and/or government and his deputy or assistant,
- Elected representative of a legislative authority,
- Judges of supreme court, constitutional court or other high judicial authority, whose decision is irrevocable except in extraordinary, special cases,
- Members of the Court of Auditors, i.e. Supreme Audit Institution and the Council of the Central Bank,
- Ambassadors, chargés d'affaires and military attaché,
- Member of a board of directors and supervisory board of a legal entity in the majority ownership of the state,
- A customer that is an immediate family member of a foreign official: spouse or common-law

partners, parents, brothers, sisters and their spouses or common-law partners,

- A customer that is a close associate of a foreign official, and/or any natural person that has profited from the property/assets or established a business relation or has any other close business relations with the foreign official,

19) Customer is a foreign legal person not performing or prohibited from engaging in trading, production or another activity in the state where it is registered (this is the case of a legal person headquartered in the state known as an off-shore financial center and for which certain restrictions apply regarding the performance of registered activity in the state);

20) Customer is a fiduciary or other similar legal arrangement with unknown or concealed owners or directors (a legal arrangement offering representation services to a third person, i.e. company, founded by a concluded contract between the founder and the manager that manages the assets of the founder, to the benefit of certain persons of the beneficiary or for other specific purposes);

21) Customer has a complex status structure or a complex ownership chain (complex ownership structure or a complex ownership chain hindering determination of customer's real owner, and/or person that indirectly provides assets based on which it can exercise supervision and which can be directed, or in other ways significantly influence the directors' decision-making process considering finances and operations);

22) Customer is a financial organization which is not required to be licensed by a relevant supervisory authority for performance of its activities, and/or pursuant to the national legislation is not subjected to AML and CFT measures;

23) Customer is a non-profit organization (institution, company or other legal person, i.e. established entity not performing economic activities) and meeting one of the following conditions:

- Registered in the state known as an off-shore financial center,
- Registered in the state known as a financial or tax haven,
- Registered in the state that is not a signatory to the Treaty on European Union,
- There is a natural or legal person among its directors or founders, resident in any of the states listed in the previous point,

24) Customer is a foreign legal person established using bearer shares.

6. Transaction risk

The **transaction risk** understands the following transactions:

1) Transactions are outside the normal course of business of the customer;

2) Transactions with no economic justification (e.g. frequent trading in securities, when purchases are performed by placing cash on special purpose accounts, and then soon sold at lower prices – securities trading with a planned loss,

3) Transactions implemented in a way avoiding standard and usual control methods,

4) Transactions encompassing several participants, without an apparent economic purpose, several mutually connected transactions executed over a short period of time or in several consecutive intervals under the designated thresholds for transactions reported to the APML;

5) Loans to legal persons and especially loans from founders from a foreign country to a legal person in the country;

6) Transactions where it is obvious that the customer is trying to conceal the true cause and reason for the transaction;

7) Payments for services for which there is no comparable price or value;

8) Transactions where the customer refuses to submit documentation;

9) Transactions where the documentation does not match the manner of execution of the transaction;

10) Transactions where the source of funds is not clear or their connection to the operations of the customer cannot be established;

11) Announced block transactions in shares, especially when including newly-formed companies or companies registered in off-shore destinations;

12) Trading in shares on a regulated market, which were the subject of lien following the loans to share owners – acquisition of shares through simulated stock exchange transaction;

13) Service payments to customer's partners coming from the off-shore destinations and where the documentation clearly shows that the goods come from the countries in the region;

14) Transactions intended for persons, i.e. entities against which there are measures in force introduced by the United Nations or the Counsel of Europe;

15) Transactions which a customer would execute for and on behalf of the person or entity against which there are measures in force introduced by the United Nations or the Counsel of Europe;

16) Business relations established in favor of the person or entity on the list of persons or entities against which there are measures in force introduced by the United Nations or the Counsel of Europe;

17) Business relations including constant or large payments of money from and/or to the customer's account opened with a credit or financial institution of a non-EU country, i.e. business relations established by a foreign credit/financial or other fiduciary institution headquartered in a non-EU state, on its own behalf and for the account of the customer,

18) Business relations established in the absence of the customer at the obligor's, where simplified due diligence was not performed.

Some other transactions entailing high risk of money laundering and terrorism financing include:

- Payments and withdrawals of money from/to the customer's account, other than the customer's account stated when the customer was identified, i.e. it usual business account (especially when involving international payments – transactions);
- Transactions intended for persons domiciled or registered in a state known as a financial or tax haven,
- Transactions intended for persons domiciled or registered in a state known as an off-shore financial center,
- Transactions intended for non-profit organizations headquartered in: A country known as an off-shore financial center, or a state known as a financial or tax haven.

7. Service Risk

Determining the risks of products and services should include consideration of the following factors:

1) Services new on the market, which were not previously offered in the financial sector and must be monitored separately to determine the actual risk level;

2) Electronic placement of orders for trading in securities in cases established by obligor's procedures;

3) Provision of services to persons where there is no prior established business relation within the meaning of the Law, the services entailing high risk level as estimated by an employee of the obligor;

4) Provision of services by opening an omnibus account the assets credited to which come from different sources, belong to several clients but are recorded to one account in the account-provider's name;

5) Advance payment of a service where it is not certain the service will be provided;

6) Services entailing high ML/FT risk include all bearer negotiable instruments, but also negotiable instruments that are either in bearer form, made out to a fictitious payee, endorsed without restriction, or otherwise in such form that title thereto passes upon delivery and all other incomplete instruments signed, but with the payee's name omitted.

When determining the risk level of a customer, business relation, service or transaction in addition to the listed criteria and depending on specific features of their business operations, obligors should take into account the following types of risk and criteria such as:

- The size, structure and activity of the obligor, including the scope, structure and complexity of operations the obligor carries out on the market;
- The status and ownership structure of the customer;
- Non face-to-face customer, i.e. when the customer is absent at the conclusion of a business relation or transaction;
- The source of assets in a business relation or transaction of a customer that is a politically exposed person (according to the definition from the Law);
- The purpose of establishing a business relation, service or transaction;
- Knowing a customer, its experience and knowledge in the area;
- Other information indicating that a customer, business relation, service or a transaction could entail higher risk.

CUSTOMER DUE DILIGENCE

Depending on the ML/FT risk level entailed, the international standards and the Law enable obligors to execute three types of customer due diligence – general, simplified and enhanced customer due diligence.

Considering the experience of obligors, the customers entailing high risk of money laundering and terrorism financing include:

1. Persons for which the APML has instructed the obligor to monitor all of its transactions and persons for which there is reasonable suspicion that ML and FT is involved and persons instructed to submit information pursuant to provisions of Article 57 of the Law,

2. Persons for which the APML has instructed the obligor to suspend the execution of a transaction (Article 56 of the Law),

3. Persons for which the APML has instructed the obligor to continue to monitor the transactions or persons (Article 56 of the Law),

4. Persons for whom the obligor has submitted information to the APML because considering the person or the transaction of the person there were reasons to suspect ML and/or FT.

8. Customer Due Diligence

Customer due diligence represents a key preventive element in detecting and preventing money laundering and terrorism financing. The purpose of executing due diligence is to identify and verify the real identity of a customer and it encompasses: Identification of a customer and verification of its identity, identification of the beneficial owner of the customer, if the customer is a legal person, obtaining information about the intended purpose and nature of the business relation, service or transaction and other information in accordance with the provisions of Article 8 of the Law.

An obligor applies customer due diligence actions and measures referred to in Article 8 of the Law in the following circumstances: When establishing a business relation; when carrying out transactions above the applicable designated threshold of EUR 15000 or more in dinar equivalent at the National Bank of Serbia official middle exchange rate valid on the day of transaction (hereinafter: in dinar equivalent) irrespective of whether the transaction is carried out in one or more than one connected operations; when there are reasons for suspicion of money laundering or terrorism financing with respect to a customer or transaction, and when there are doubts about the veracity or adequacy of previously obtained information about a customer or beneficial owner (Article 9, paragraph 1, point 1) and 2) of the Law.

An obligor identifies and verifies the identity of a customer based on credible, independent and objective sources by inspecting a relevant identification document which is an official document, original or a certified copy of the decision of the company register, directly in the presence of the customer or its legal representative or an empowered representative (only when the customer is a legal person) at the obligor's or through a third person.

The Law is based on an assumption that some customers, business relations, products or transactions entail higher risk and some lower risk of money laundering and/or terrorism financing. Therefore, in some cases the Law requires strict due diligence procedures or however, allows simplified due diligence. In addition to the regular due diligence the law stipulates two other ways to conduct due diligence, as follows: Enhanced due diligence of a customer where there is high risk of money laundering

and terrorism financing and simplified customer due diligence allowed in cases when there is inconsiderable risk of money laundering and terrorism financing.

It shall be unlawful to establish a business relation or execute a transaction in cases set forth in Article 26 of the Law.

It shall be unlawful to establish a business relationship or execute a transaction in cases when the identity of the customer is not possible to establish, or when an obligor suspects the veracity of information or documents provided, furthermore, in situations when the customer is not ready or willing to cooperate with the obligor in determining the true and complete information required within the customer due diligence. In such cases, a business relation must not be established and an already existing relationship or a transaction must be terminated and the APML notified thereof.

9. Simplified Customer Due Diligence

The Law provides that an obligor can conduct simplified or reduced due diligence measures in cases referred to in Article 9 paragraph 1 and 2 of the Law and in cases when the risk of money laundering and terrorism financing is inconsiderable, when the information about the customer – a legal person or its beneficial owner are transparent and readily available or when there is adequate government supervision of the entity. Therefore, an obligor identifies and verifies the identity of its customer, but the procedure is reduced and less complex than with the general customer due diligence measures or enhanced customer due diligence measures.

In cases when it is lawful to apply simplified due diligence, the obligor must determine whether the customer really meets the conditions and in accordance with the Guidelines it poses inconsiderable risk of money laundering and terrorism financing.

An obligor must not establish a business relationship or execute a transaction prior to establishing all the facts required to determine whether it is the case of simplified customer due diligence. Simplified customer due diligence is not allowed when there is suspicion of money laundering and terrorism financing regarding a customer or a transaction, i.e. if a customer has been placed in the high risk category (Article 9, paragraph 1, item 3) and 4) of the Law).

An obligor may apply reduced customer due diligence measures only exceptionally in cases and under the conditions stipulated by Article 32 and 33 of the Law. Obligors must comply with the exceptions referred to in Article 32 of the Law, if there are reasons to suspect money laundering or terrorism financing with respect to a customer or a transaction.

10. Customer Due Diligence

An obligor shall apply the customer due diligence in the following cases:

1) When establishing a business relationship with a customer (business relationship is any business or other contractual relationship of a customer established and concluded with the obligor and which pertains to the business activity of the obligor, e.g. contract on provision of investment services, contract on opening and keeping a securities account, contract on securities brokerage services, contract on management of financial instruments). There is an exception here – joining another fund of the same management company is not treated as establishment of a new business relation. When carrying out transactions above the applicable designated threshold of EUR 15000 or more in RSD equivalent, irrespective of whether the transaction is single or multiple transactions which appear connected. When carrying out transactions above the applicable designated threshold of EUR 15000 or more in RSD equivalent, irrespective of whether the transaction is single or there are multiple transactions which appear connected Transactions which are connected understand: Two or more consecutive separate transactions which, when aggregated, amount to EUR 15000 or more in RSD equivalent, a customer performs on behalf of a third person with the same purpose, two or more transactions amounting to EUR 15000 or more in RSD equivalent performed by several persons related by consanguinity or capital and on behalf of a third person with the same purpose.

2) When there is suspicion of veracity or adequacy of previously obtained customer or beneficial owner identification data.

3) Always when there are reasons to suspect money laundering or terrorism financing, regardless of the value of the transaction.

11. Enhanced Customer Due Diligence

In cases when a customer, business relation, service or transaction are categorized as high ML/FT risk, enhanced customer due diligence should be applied. The Law stipulates that the following should be considered to entail high money laundering or terrorism financing risk: Business relations established with a politically exposed person and cases when the identity of a customer was not established and verified in its presence or if the identity of a customer was established and verified by a third person. In those cases, the Law provides for the special scope of due diligence with special focus and application of additional measures.

12. Enhanced due diligence – politically exposed person, a foreign official

Pursuant to the Law, a foreign official as a politically exposed person represents a high risk customer. Therefore, obligors must apply enhanced due diligence in all cases when such a person is a

customer defined as the politically exposed person, prior to establishing a business relation or executing a transaction.

Enhanced due diligence, in addition to the ongoing due diligence measures referred to in Article 8, paragraph 1 of the Law implies application of additional measures referred o in Article 30 of the Law, as follows:

1) Obtaining the information about the origin of funds and property that is the subject of business relation or transaction from documents submitted by the customer. If it is not possible to obtain the information as described, the obligor shall take a statement of origin directly from its customer,

2) Mandatory written consent from the supervisor in charge, prior to establishing a business relation with such customer,

3) Special and meticulous monitoring of transactions and other business activities of a politically exposed person after establishing a business relationship.

Obligors obtain information about whether the person in question is a politically exposed person or not, from a special signed written statement which the customer must complete before establishing a business relation or execution of a transaction. The written statement must be drawn up in Serbian and English and obligors shall suggest signing its every page (the customer is a natural person domiciled in a foreign country).

The written statement shall contain at least:

1. Full name, permanent residence, date and place of birth of the customer establishing a business relation or ordering a transaction, the number, type and issuer of the valid identity document,

2. A statement whether the person is a politically exposed person or not – pursuant to the criteria set in the Law,

3. Information about the type of the political exposure (a person which has been in a prominent public position for the last year or longer, or a member of family of a politically exposed person or a close associate,

4. Information about the time period of discharging the function, if the customer is a person which has been in a prominent public position in a foreign country for the last year or longer,

5. Information about the type of the public function a person has been performing for the last year (or longer) such as the president of a state, prime minister, ambassador etc,

6. Information about family relations, if the customer is a member of the family of a politically exposed person who has been occupying a prominent public position in a foreign state for the last year (or longer),

7. Information about the type and manner of business cooperation, if the customer is a close associate of

a person who has been occupying a prominent public position in a foreign state for the last year (or longer),

8. Provision according to which, in order to establish the veracity of information, the customer permits the obligor to check the information about the customer by inspection of public or other available sources of information, i.e. to acquire such information directly from the competent authorities of another state, consular representative office or embassy of the state in the Republic of Serbia or the Ministry of Foreign Affairs of the Republic of Serbia,

9. Personal signature of the customer.

When there is a suspicion regarding the veracity of information obtained in the statement, obligors may check the information by inspection of public and other available information (obligors determine to what degree they will consider the publicly available information about politically exposed persons accurate and relevant), and the information can be validated with the following authorities: Competent sate authorities of foreign countries, consular representative offices or embassies of foreign states in the Republic of Serbia i.e. the Ministry of Foreign Affairs of the Republic of Serbia.

As opposed to the establishment of a business relationship with customers domiciled abroad, when establishing a business relationship with customers domiciled in the Republic of Serbia, an obligor is not under the obligation to obtain a special statement of political exposure. However, the obligor determines independently based on the obtained information and publicly available information whether a customer is a politically exposed person.

13. Identifying and verifying the identity of a customer, non-face-to-face customer

In the course of identification and verification of identity, obligors shall apply enhanced customer due diligence measures in cases when a customer or its legal representative are not present at the obligor's premises or if the identity of the customer was established by a third person.

The enhanced due diligence, in addition to the ongoing due diligence measures referred to in Article 8, paragraph 1 of the Law implies application of at least one of the additional measures referred o in Article 31 of the Law, and as follows:

1. Obtaining documents, information or data based on which an obligor may check and verify the veracity of identification documents and information based on which the identity of the customer was established (copies of cards of current accounts, giro accounts and foreign currency accounts),

2. Additional scrutiny of obtained information about the customer in public and other available data bases,

3. Acquiring relevant references from financial institutions the customer has established business relations with;

4. Additional scrutiny of data and information about the customer in the state of residence of the

customer or of its headquarters,

5. Establishing direct contact with a customer by telephone or by a visit of an authorized person of the obligor at home or headquarters of the customer.

In the course of establishing a business relation in customer's absence, when the identification and verification of identity was carried out by a third person, obligors shall ensure that the third person who was delegated to apply enhanced customer due diligence measures, has established and verified the identity of the customer in its presence.

When establishing a business relation in the absence of a customer, pursuant to the Law, an obligor shall apply measures prior to the execution of a transaction, ensuring that the customer has made the first payment from an account opened by the customer in its own name or by its legal representative on behalf of the customer, with a bank headquartered in the Republic of Serbia licensed by the National Bank of Serbia to carry out banking activities.

An obligor shall pay special attention to any money laundering and/or terrorism financing risk which might arise from the application of new technologies that facilitate anonymity (such as, for example, e-banking) and develop policies and introduce measures for prevention of the usage of new technologies for money laundering and terrorism financing. The policies and procedures of an obligor concerning risks entailed by a business relation or a transaction with an absent customer shall be applied in doing business with customers by means of new technologies, adhering to the provisions of Article 31 of the Law.

14. Other high-risk customers

The Law stipulates in Article 28, paragraph 2 that enhanced due diligence measures referred to in Articles 29-31 can be applied in other cases of a high risk customer, business relation, service or a transaction when an obligor estimates that there might be a high level of ML/FT risk. The following measures are stipulated:

1. Mandatory prior written approval of establishing a business relation or execution of a transaction by a person in charge,

2. Mandatory application of one of the following measures:

   a) Obtaining documents, information or data based on which an obligor may additionally check and verify the veracity of identification documents and information based on which the identity of the customer was established and verified,

b) Additional scrutiny of obtained information about the customer in public and other available data bases,

c) Acquiring relevant references from relevant institutions the customer has established business relations with;

d) Additional scrutiny of data and information about the customer with the competent state authorities or other competent institutions in the state of residence of the customer or of its headquarters,

e) Establishing direct contact with a customer by telephone or by a visit of an authorized person of the obligor at home or headquarters of the customer,

3. Mandatory monitoring of transactions or other business activities a customer carries out at the obligor's.

15. Obtaining information and documents from a third person

When establishing a business relation, under the conditions laid down by the Law an obligor may delegate the due diligence measures referred to in Article 8, paragraph 1, to third persons whereby it must check first whether the third person meets the conditions (Article 25 of the Law).

A third person shall promptly deliver to the obligor, at its request, the copies of identification documents or other documentation of customer due diligence measures it has applied. The obligor shall keep the copies of identification documents and documentation as stipulated by the Law.

If a third person has conducted customer due diligence on behalf of an obligor, it shall be responsible for adhering to the Law, including the obligation of suspicious transaction reporting and the obligation to keep the information and documents.

If an obligor suspects the authenticity of applied customer due diligence measures or identification documents or veracity of obtained customer information it shall request from the third person to submit a written statement on the authenticity of applied customer due diligence and obtained information.

If a third person conducts customer due diligence instead of an obligor, the obligor shall still be liable for the applied customer due diligence measures.

16. Implementation of measures for detection and prevention of money laundering and financing of terrorism in business units

Obligors must establish a system introducing measures for detection and prevention of money laundering and financing of terrorism in business units. To that end, obligors must ensure that stipulated measures for detection and prevention of money laundering and terrorism financing concerning customer due diligence, suspicious transaction reporting, record keeping, internal controls, keeping information and other relevant circumstances with respect to detection and prevention of money laundering and terrorism financing are applied uniformly across all business units (Article 38 of the Law).

The management of the obligor shall ensure that:

- All business units are acquainted with the policy of implementation of measures for detection and prevention of money laundering and financing of terrorism,

- Internal processes of detection and prevention of money laundering and terrorism financing adopted pursuant to the Law, Regulation of the Administration for Prevention of Money Laundering and the Guidelines are introduced in the business processes of units through managers of business units,

- Constant supervision is exercised and efficiency of implementation of measures for detection and prevention of money laundering and financing of terrorism ensured in business units.

MONITORING CUSTOMER BUSINESS TRANSACTIONS

17. The purpose of monitoring customer business transactions

Regular monitoring of customer business transactions represents a key element in establishing the efficiency of implementation of stipulated measures for detecting and preventing money laundering and terrorism financing. The purpose of monitoring customer business transactions is to determine compliance with the law and with the intended nature and purpose of a business relation of a customer and its normal scope of business. Monitoring of customer business transactions entails 4 segments of business operations of a customer with the obligor:

- Monitoring and ensuring that customer business transactions are consistent with the intended nature and purpose of the business relation,

- Monitoring and ensuring that the source of funds of the customer is consistent with the source of funds the customer has stated at the establishment of a business relation with the obligor,

- Monitoring and ensuring that customer business transactions are consistent with its normal scope of business,

- Monitoring and updating documents and information obtained about the costumer.

18. Customer monitoring measures, updating and preparing new appraisal of customer risk level

The following measures are used in monitoring and ensuring that customer business transactions are consistent with the intended nature and purpose of the business relation established with the obligor:

- Analysis of information about the purchase and/or sale of securities and other financial instruments i.e. other transactions, for a period of time, determining whether there are elements for suspicion of money laundering or terrorism financing regarding a purchase or sale of securities/financial instruments or other transactions. Determining how suspicious a customer, transaction or a business relation is, is founded on suspicion criteria set in the List of Indicators developed for the recognition of persons and transactions with respect to which there are reasons for suspicion of money laundering and terrorism financing.

- Updating the previous appraisal of the customer risk level i.e. preparation of a new appraisal of the customer risk level.

When monitoring and ensuring that customer business transactions are consistent with its normal scope of business the following is taken into account:

- Monitoring the value of purchase or sale of securities/financial instruments, i.e. other transactions exceeding a set amount – (obligors decide for themselves what the amount is) for each customer separately considering its risk category (for implementation of this measure an obligor may establish appropriate IT system support),

- Analysis of purchase or sale of securities/financial instruments i.e. other transactions searching for elements of money laundering or terrorism financing, when the total sale or purchase exceeds a certain value. Analyzing how suspicious a purchase or sale of securities/financial instruments or other transactions are, is founded on suspicion criteria set in the List of Indicators developed for the recognition of persons and transactions with respect to which there are reasons for suspicion of money laundering and terrorism financing.

- When monitoring and updating documents and information obtained about a costumer, obligors shall undertake the following measures:

- The repeated annual customer due diligence, one of the measures of customer due diligence is applied pursuant to Article 27 of the Law,
- When there is suspicion of veracity or adequacy of previously obtained identification data about a customer or its beneficial owner (if the customer is a legal person) – the repeated customer due diligence.
- Checking information about the customer or its legal representative in a public register,
- Checking obtained information directly with the customer or its representative or empowered representative,
- Checking the lists of persons, states and other entities against which there are measures in force introduced by the United Nations or the European Union;

19. The scope of monitoring customer business activities

How often and to what extent a customer's activities will be monitored depends on the level of risk a customer entails, i.e. its risk category appraisal. The appropriate level of business activities of a customer understands stipulated measures for monitoring business activities of a customer in a continuous manner and considering services and transactions that the obligor provides and executes for the customer.

It is not necessary to implement measures of monitoring customer business activities if the customer has had no business activities (meaning the purchase and sale of securities, financial instruments and other transactions) at the time of establishing of the business relation. The measures of monitoring business activities of a customer categorized in accordance with the Guidelines will be applied at the first subsequent purchase or sale of securities/financial instruments or at some other transaction.

In accordance with its ML/FT risk management policy, an obligor may opt for more frequent monitoring of business activities of certain categories of customers and adopt additional scope of measures for the monitoring of customer business activities and determining compliance of its operations.

REPORTING

20. Sending information, data, and documentation to the APML

When a customer carries out a cash transaction amounting to EUR 15000 or more in RSD equivalent, obligors must submit the information about the transaction to the APML immediately upon

such transaction and not later than three days of the day of transaction (Article 37, paragraph 1 of the Law).

In accordance with the Law, obligors must provide the APML with information about certain categories of customers, in cases stipulated by Article 37 of the Law, as follows:

- To submit to the APML information from Article 81, paragraph 1 of the Law whenever there is suspicion regarding a transaction or a customer that there is money laundering or terrorism financing, prior to the execution of the transaction and to state in such report the time period within which the transaction should be carried out. In case of emergency, the notification may be provided by telephone. However, the written report must be submitted subsequently to the APML not later than the following day – the obligation of transaction reporting includes a planned transaction too, irrespective of the fact whether it has been carried out,

- If due to the nature of a transaction, because the transaction has not been completed or because of other justifiable reasons an obligor is not able to submit the information referred to in Article 81, paragraph 1 of the Law to the APML, the obligor must immediately upon learning of reasons for suspicion of money laundering or terrorism financing submit the information to the APML and elaborate in writing on the reasons that prevented the obligor to act as stipulated.

Obligors have the duty of reporting in cases when an obligor is not able to identify or verify the identity of a customer at conclusion of a business relation or execution of a transaction as stipulated by the Law, i.e. when the identity of a beneficial owner is not possible to determine or to obtain information about the purpose and intended nature of the business relation or transaction and other information stipulated by the Law and the Regulation promulgated by the Administration for Prevention of Money Laundering.

The report on a suspicious transaction must be submitted to the APML in the manner, form and within the time period stipulated by the Regulation of the Administration for Prevention of Money Laundering.

The Minister shall prescribe the conditions when obligors are not under the obligation to report to the APML cash transactions amounting to EUR 15000 or more in RSD equivalent.

21. Suspicious Transaction Reporting

An employee of an obligor who finds that there are reasons to suspect money laundering or terrorism financing must notify thereof the compliance officer and his deputy. Obligors must organize a procedure for suspicion transaction reporting between all organizational units and authorized persons in accordance with the following instructions:

– Regulate in detail the manner in which reporting is conducted (by telephone, fax, secured electronic reporting etc.),

– Determine the type of information reported (information about the customer, reasons to suspect money laundering etc.),

– Determine the manner of cooperation of organizational units with the compliance officer,

– Determine the customer handling procedure in cases of suspension of a transaction by the APML,

– Determine the role of the obligor's person in charge when reporting a suspicious transaction,

– Prohibit tipping off/disclosing that information, datum or a document will be submitted to the APML,

– Determine measures regarding the continuation of cooperation with the customer (suspension of operation, termination of business relation, enhanced due diligence measures and know-your-client procedures and monitoring future business activities of the customer and similar).

INDICATORS FOR SUSPECTING MONEY LAUNDERING AND TERRORISM FINANCING

22. Mandatory set of indicators and their application

Pursuant to the Law, obligors must develop a set/list of indicators for the identification of persons and transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing (Article 50 of the Law);

When developing a set of indicators for the identification of persons and transactions, suspicious transactions are those which according to their nature, scope, complexity or relatedness are unusual, i.e. without clear economic or legal purpose, or transactions that are disproportionate with the usual or expected business operations of a customer and other circumstances pertaining to the status or other characteristics of the customer.

When determining whether there is reasonable doubt about money laundering or terrorism financing, obligors must apply their list of indicators.

The Minister may prescribe mandatory indicators on the list of indicators for the identification of persons and transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing.

EDUCATION AND PROFESSIONAL DEVELOPMENT

23. The obligation of regular professional development

Pursuant to provisions of Article 43 of the Law, obligors must ensure regular professional education, trainings and capacity building of all employees performing AMLFT activities, and those who directly or indirectly carry out the activities of detection, prevention of money laundering and terrorism financing, those who perform activities that entail higher risk with respect to money laundering and terrorism financing and of outsourced persons and contracted persons delegated to perform such activities, except when they are independent obligors who apply measures for detection and prevention of money laundering and terrorism financing, pursuant to Article 4 of the Law.

Every calendar year and not later than March of the current year, the HR staff of an obligor in cooperation with the compliance officer shall develop an annual program of professional, on-the-job-development, trainings and capacity building for employees tasked with prevention of money laundering and detection of terrorism financing.

The program shall provide:

1. The contents and scope of the education program,
2. The goal of the education program,
3. The method for implementation of the education program (lectures, workshops, trainings etc.),
4. The circle of employees the program was intended for,
5. The duration of the education program.

Obligors must include in the program of professional development all new employees as well. To that end, obligors shall organize a special separate program of professional education and development for detection and prevention of money laundering and terrorism financing. The program must include at least the provisions on customer due diligence, ML/FT risk assessment, reporting to the Administration for the Prevention of Money Laundering and Terrorism Financing, requirements regarding safety and

storage of information and procedures for the implementation of the Law, Regulation of the APML and the Guidelines and internal bylaws and instructions.

The regular professional education, capacity building and trainings of an obligor can be implemented by the compliance officer, deputy compliance officer or some other capable professional appointed by the management at the proposal of the compliance officer.

INTERNAL CONTROL

24. Mandatory Regular Internal Controls

Pursuant to Article 44 of the Law, obligors must incorporate regular and systematic internal controls of regularity and efficiency of application of the stipulated measures for the detection and prevention of money laundering and terrorism financing. The purpose of the internal controls is to find and eliminate deficiencies in measures for detection and prevention of money laundering and terrorism financing and to advance the system for detecting transactions or customers with respect to which there are reasons to suspect money laundering and terrorism financing.

Obligors should exercise internal controls of regularity and efficiency of application of the stipulated measures for the detection and prevention of money laundering and terrorism financing by regular or extraordinary supervision, in the course of internal control procedures pursuant to the Regulation of the Administration for the Prevention of Money Laundering.

The Minister shall specify the method of the internal control procedure, information storage and protection, record keeping and professional education, trainings and capacity building of obligor's employees.

CONFIDENTIALITY OF INFORMATION

25. Protection of information, confidentiality of information and liability

Obligors shall keep confidential the obtained information and shall treat them in accordance with the Law, the law governing confidentiality of information and as determined in the Regulation of the Administration for Prevention of Money Laundering. All employees and other persons privy to the information shall ensure the information remain confidential.

Notwithstanding the above, pursuant to the law obligors shall treat as business secret or confidential information (information that must not be disclosed to customers or third parties) the following:

– Information that there are reasons for suspicion of money laundering or terrorism financing concerning a customer or a transaction and that the information are submitted to the APML,

– Information on suspension of a transaction and the details thereof,

– Information about the APML instruction to monitor financial operations of a customer,

– Information concerning the fact that investigation might be or is initiated concerning a customer or a third person about money laundering and terrorism financing.

The duty of keeping the information confidential shall not apply in circumstances when: The information is required as evidence in the course of law, if the information is required in writing i.e. as instructed by the competent court or if the information is required by the APML or the Commission in order to supervise the implementation of the Law.

The exception from the obligation to keep information confidential applies in cases when an obligor, in accordance with the Law, is under obligation to submit information to the Administration for Prevention of Money Laundering, when obligor's employees are not liable for damages to customers or third persons and in cases set forth in Article 75 of the Law.

The access to information classified as confidential or a business secret must be limited. Obligors must internally regulate the conditions and the way the information is accessed, taking into account the following:

1. Information and documentation should be archived in the manner and form preventing unauthorized access (in adequate technical or physically secure archiving premises, locked cabinets and similar).

2. Only members of the board of directors and supervisory board of the obligor, compliance officer and deputy compliance officer, general managers of business units of the obligor and other persons authorized by the management shall have the right to inspect information about customers and transactions with respect to which there are reasons to suspect money laundering and terrorism financing,

3. The documentation with such information shall not be photocopied, written down, edited or published or in any other way reproduced without a prior written authorization by the competent person,

4. In cases when the documentation is photocopied, obligors must ensure that copies clearly indicate from which documentation or part of the documentation it has been made, it must be conspicuously indicated that it is a photocopy, the number of photocopies and a signature of the person who has made the photocopies,

5. An obligor's employees shall enter passwords when logging in and log out at the end of data processing and by doing so preventing unauthorized access to documents,

6. A system monitoring data access and processing must be established,

7. Data transmission shall be allowed only in ways preventing unauthorized access to information either by own courier service or in a sealed envelope via registered mail with postal confirmation and similar, and in cases of electronic delivery a system of safe electronic data transmission should be utilized (data encryption etc.),

8. Employees of an obligor shall apply consistently the laws governing safety of personal information and laws governing confidentiality of information.

KEEPING INFORMATION

26. The period during which obligors keep information

With respect to keeping information obligors shall act pursuant to Article 77 of the Law and:

- Information and documentation considering a customer, established business relation or executed transaction obtained in accordance with the Law, regulation of the Administration for the Prevention of Money Laundering and the Guidelines and shall keep them for at least ten years of the date of completion of the business relation or executed transaction.

- Information and documentation about the compliance officer, deputy compliance officer, employee capacity building and executed internal controls shall be kept for at least five years from the day of termination of duty of the compliance officer, conducted capacity building and executed internal controls.

RECORDS

27. Record keeping

Obligors shall keep records on customers, business relations and transactions referred to in Article 9 of the Law.

The content of records on customers, business relations and transactions is laid down in Article 81 of the Law.

MONEY LAUNDERING AND TERRORISM FINANCING COMPLIANCE OFFICER

28. Compliance officer

Obligors shall have a compliance officer and one or more deputy compliance officer in charge of prevention of money laundering and terrorism financing as set forth in the Law. Obligors shall ensure that compliance officers in discharge of their duties adhere to the following:

1. Provide technical assistance to employees in implementation of measures for detection and prevention of money laundering and financing of terrorism,

2. Provide advice to management regarding formulation of the ML/FT risk policy,

3. Regularly informs the management of the obligor regarding ML/FT activities,

4. Participates with other obligors in formulation of the ML/FT risk policy.

THE LEGAL NATURE AND APPLICATION

The Guidelines are promulgated on the basis of Article 87 of the Law and shall be binding on all obligors stated in article 84, paragraph 2 of the Law.

Pursuant to Article 84 of the Law the Securities Commission shall enforce the Law, Regulation of the Administration for the Prevention of Money Laundering and the Guidelines on the obligors.

Obligors shall align their operations with the Guidelines and draw up their internal regulations pursuant to the Law by 31st December 2009.

The Guidelines shall come into force on 5 December 2009 and shall become applicable on 31 December 2009.

Reference: 2/0-03-104/15-09

Belgrade, 26 November 2009