



## *EU anti-money laundering laws from experience to proposal for action*

Zakon o preprečevanju pranja denarja in financiranja terorizma  
Prevention of money laundering and terrorist financing act  
(Official Gazette of the Republic of Slovenia, No. 60. 60/07, 19/10 in 77/11)

## Tasks and obligations of notaries

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This project is co-funded  
by the European Commission  
D.G. Justice



A project implemented by  
Fondazione Italiana del Notariato

## Article 47 - Tasks and obligations of lawyers, law firms and notaries

Unless otherwise provided in this Chapter, notary shall act in accordance with the provisions of this Act governing tasks and obligations of organisations in applying the measures for detecting and preventing money laundering and terrorist financing when:

1. assisting in planning or executing transactions for a client concerning:
  - a) buying or selling real property or a company;
  - b) managing client money, securities or other assets;
  - c) opening or managing bank, savings or securities accounts;
  - d) raising funds required to establish, operate or manage a company;
  - e) establishing, operating or managing foundations, trusts, companies or similar legal organisational forms;
2. or conducting a financial or real estate transaction on behalf and for the account of the client.

## Article 7 - Customer due diligence elements

If not otherwise provided by this Act, customer due diligence shall comprise:

1. establishing the customer's identity and verifying the customer's identity on the basis of authentic, independent and objective sources;
2. determining the beneficial owner of the customer;
3. obtaining data on the purpose and intended nature of the business relationship or transaction, as well as other data pursuant to this Act;
4. regularly monitoring business activities undertaken by the customer through the organisation.

The organisation shall define procedures for the implementation of the measures referred to in paragraph above in its internal regulations.

## Article 48 - Client due diligence

- (1) Within the client due diligence referred to in point 1 of paragraph 1 of Article 8 of this Act, notary shall obtain the data from points 1, 2, 3, 4, 5, 6 and 11 of paragraph 3 of Article 83 of this Act.
- (2) Within the client due diligence referred to in point 2 of paragraph 1 of Article 8 of this Act, notary shall obtain the data from points 1, 2, 3, 4, 7, 8, 9, 10 and 11 of paragraph 3 of Article 83 of this Act.
- (3) Within the client due diligence referred to in points 3 and 4 of paragraph 1 of Article 8 of this Act notary shall obtain the data from paragraph 3 of Article 83 of this Act.
- (4) A notary shall determine and verify the identity of the client or his/her statutory representative or authorised person and shall obtain the data referred to in points 1, 2 and 3 of paragraph 3 of Article 83 of this Act by examining the client's official personal identification document in his/her presence or by inspecting the original or certified documentation from the court or other public register, which shall not be older than three months.
- (5) A notary shall determine the beneficial owner of a client who is a legal entity or similar foreign legal entity by obtaining the data referred to in point 4 of paragraph 3 of Article 83 of this Act by inspecting the original or certified documentation from the court or other public register, which shall not be older than three months. When all the data cannot be obtained from such register, the missing data shall be obtained by inspecting the original and certified documents and other business records submitted by the legal entity's statutory representative or agent.
- (6) The notary shall obtain the other data referred to in paragraph 3 of Article 83 of this Act by inspecting the original or certified documents and other business records.
- (7) When all the data cannot be obtained in the manner prescribed in this Article, the missing data, other than those referred to in points 12, 13 and 14 of paragraph 3 of Article 83 of this Act, shall be obtained directly from the client's written statement.

## Article 83/3 - Content of records

In the records managed by notaries of customers, business relationships and transactions, the following data shall be processed for the purpose of implementing the provisions of Article 8 of this Act:

1. personal name, permanent address, date and place of birth of the natural person, sole proprietor or self-employed person, or the company, address and registered office and registration number of the legal entity, sole proprietor or self-employed person for whom the lawyer, law company or notary performs services;
2. personal name, permanent address, date and place of birth of the statutory representative who establishes the permanent business relationship or carries out the transaction for the person referred to in point 1 of this paragraph;
3. personal name, permanent address, date and place of birth of the authorised person who carries out the transaction for the person referred to in point 1 of this paragraph;
4. data from point 15 of paragraph 1 of this Article in connection with the legal entity for which a lawyer, law firm or notary performs services;
5. purpose and intended nature of the business relationship, including information about the activity of the customer;
6. date of establishing the business relationship;

## Article 83/3 - Content of records

7. date of the transaction;
8. amount of the transaction and currency in which the transaction is being carried out;
9. purpose of the transaction and the personal name and address, or the company and registered office of the person to whom the transaction is directed;
10. manner of executing the transaction;
11. information about the source of assets or property that is or will be the subject of the business relationship or transaction;
12. personal name, date and place of birth, permanent address, or name of the company, address and registered office of the person in respect of whom there are grounds to suspect money laundering or terrorist financing;
13. data about the transaction in respect of which there are grounds for suspicion of money laundering or terrorist financing (amount, currency, date or period of execution of transaction);
14. grounds to suspect money laundering or terrorist financing.

## **Article 49 - Reporting data on clients and transactions in respect of which reasonable grounds to suspect money laundering or terrorist financing exist**

- (1) When, in carrying out business referred to in Article 47 of this Act, reasons for suspicion of money laundering or terrorist financing exist in connection with the client or transaction, notary shall report such suspicion prior to effecting the transaction and shall state the time limit in which the transaction is to be carried out. Such report may also be submitted by telephone; however, the written report shall be sent to the office the next working day at the latest.
- (2) The reporting obligation concerning the transactions referred to in the preceding paragraph shall also apply to an intended transaction, irrespective of whether it is effected at a later date or not.
- (3) If, in cases referred to in paragraphs 1 and 2 of this Article and due to the nature of the transaction, or because the transaction was not completed or due to other justified reasons, notary cannot follow the described procedure, they shall furnish the data to the office as soon as is practicable or immediately after the suspicion of money laundering or terrorist financing is raised. The notary shall explain in the report the reasons for not acting in accordance with the described procedure.
- (4) The notary shall report all cases where the client seeks advice for money laundering or terrorist financing purposes to the office immediately or not later than within three business days of seeking such advice.
- (5) The notary shall forward to the office the data referred to in paragraph 3 of Article 83 in the manner prescribed in the rules issued by the minister competent for finance.

## Article 51 - Obligation to compile and use the list of indicators

- (1) Notaries shall be obliged to compile a list of indicators for the identification of customers and transactions in respect of which reasonable grounds to suspect money laundering or terrorist financing exist.
- (2) In compiling the list of indicators referred to in paragraph 1 of this Article, notaries shall take into account in particular the complexity and scope of implementing the transactions, unusual patterns, value or relation of transactions which have no apparent economic or visible lawful purpose and/or are not in compliance or are in disproportion with the usual or expected business of a customer, as well as other circumstances related to the status and other characteristics of the customer.
- (3) Notaries shall be obliged to use the list of indicators referred to in paragraph 1 hereof when determining the grounds to suspect money laundering or terrorist financing or other circumstances relating thereto.
- (4) The minister responsible for finance may prescribe obligatory inclusion of individual indicators on the list of indicators for the identification of customers and transactions in respect of which reasonable grounds to suspect money laundering or terrorist financing exist.



## **Article 79 - Retention period of data with notary**

A notary shall keep the data obtained on the basis of paragraph 1 of Article 48 and the corresponding documentation for 10 years after the identification of the customer.

A notary shall keep the data and corresponding documentation on the professional training of staff for four years after the completion of professional training.