

**LAW ON THE PREVENTION OF  
MONEY LAUNDERING  
IN THE BRCKO DISTRICT OF BOSNIA AND  
HERZEGOVINA**

Pursuant to Article 23 of the Statute of the Brcko District of Bosnia and Herzegovina (Official Gazette of the Brcko District of BiH, No. 1/00) the Brcko District Assembly, in its extraordinary session held on July 10, 2003, adopted the following

## **LAW ON THE PREVENTION OF MONEY LAUNDERING IN THE BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA**

### **I - GENERAL PROVISIONS**

#### **Article 1**

This Law shall prescribe the measures and actions in banking, money and other types of transactions needed to be undertaken in order to discover and prevent money laundering in the Brcko District of Bosnia and Herzegovina (hereinafter: the District).

#### **1. Money Laundering and Taking Measures**

#### **Article 2**

For the purpose of this Law, money laundering shall be understood to mean:

- 1) Conversion or transfer of property originating from criminal actions, or participation in criminal activities aimed at disguising or covering up illegal sources of this property, or assisting a person involved in activities arranged so to avoid legal consequence of the above-mentioned criminal actions.
- 2) Disguising or covering-up the true nature of property, source of location, allocation, movement, property ownership or connection to it when comprehended that this property originates from a criminal activity.
- 3) Acquisition, possession or usage of property if in time of receipt comprehended that this property originates from a criminal action.
- 4) Involvement and association aimed at performing or attempt to perform, or assistance, facilitation and advising in the performance of any activity referred to in Items 1, 2, 3 and 6 of this Article.
- 5) Cognition, intention or objective needed as an element in the performance of activities under Item 1, 2, 3, 4 and 6 of this Article, which may be derived from objective facts and conditions referring to these activities.
- 6) Disguising illegally acquired property or capital gained in the ownership transformation process (privatisation of social or state capital).

#### **Article 3**

Property, for the purpose of this Law, shall be understood to mean movables and immovables, rights, money (domestic and foreign currency), securities and other means of payment, as well as legally valid documents based on which the ownership right and other rights are established.

#### **Article 4**

Actions necessary for discovery and prevention of money laundering, for the purpose of this Law, shall be undertaken if following transactions take place:

- 1) investing money,
- 2) taking over, exchanging, allocating and distributing money,

- 3) legal transactions aimed at acquiring the property,
- 4) other types of disposing of money and other property that may serve money laundering purpose.

Transactions, for the purpose of this Law, shall be understood to mean actions and conducts stipulated under Item 1 through 4, Paragraph 1 of this Article.

## **2. Persons Obligated to Carry out the Measures**

### **Article 5**

- 1) Legal persons and responsible persons in a legal party, as well as natural entities obligated to take the measures and actions aimed at discovery and prevention of money laundering in accordance with this Law (hereinafter: persons under obligation) shall be understood to mean:
  - banks as defined in the Law on Banks of the Brcko District of Bosnia and Herzegovina (hereinafter: the banks) savings banks and savings and loan cooperatives;
  - investment funds and societies, as well as other financial institutions;
  - privatisation agency;
  - insurance companies;
  - stock exchanges and other financial institutions authorised for dealing with securities;
  - exchange offices;
  - pawnbroker's shops
  - casinos, slot machine clubs, organisers of raffle games, occasional gift/money lottery, lotto and other games of chance.
- 2) For the purpose of this Law, persons under obligation shall be understood to mean also the other legal persons, traders, craftsmen and natural persons if carrying out an activity related to transactions referring to receipt of monetary deposits, sale and purchase of debits and credits, management over property of a third party, issuance of credit cards, transactions with credit cards, leasing, travel agencies, trade in real estate, works of art, antiquities and other highly valued commodities, as well as tasks of processing the precious metals, precious stones and trade in them.

## **II - MEASURES, ACTIONS AND CONDUCTS UNDERTAKEN BY PERSONS UNDER OBLIGATION FOR THE PURPOSE OF DISCOVERING MONEY LAUNDERING**

### **1. Identification of a Party**

#### **Article 6**

Persons under obligation shall identify the party on the occasion of opening all kinds of bank accounts and other forms of establishing the partnership with the party.

Persons under obligation shall identify the party on the occasion of all transactions carried out with cash, foreign currency, securities, precious metals and stones, wherein the value of transaction amounts to KM 30,000.00 or is higher.

Persons under obligation shall identify the party also on the occasion of related transactions wherein a joint amount exceeds the value referred to in Paragraph 2 of this Article.

In addition to identification in the cases referred to in Paragraph 2 and 3 of this Article, the party also must be identified on the occasion of all other cash or non-cash transactions if money laundering suspected.

## **Article 7**

Identification of the party shall not be required when carrying out the following:

- 1) Transactions between banks, savings banks and savings and loan cooperatives, insurance companies and agencies in charge of payment transactions;
- 2) Transactions between banks and exchange offices related to purchase of foreign cash and cheques, or taking over foreign cheques in order to cash them;
- 3) Transactions between banks related to transfer of cash or cheques, over the borders of Bosnia and Herzegovina if a bank has been permitted by the competent financial institution for such a transfer;
- 4) Transactions in banks, savings banks and savings and loan cooperatives or agencies in charge of payment transactions and when transactions refer to cash drawings by cheques from the current account of domestic legal and natural persons, and when a cheque originates from sale of goods or services to foreign legal persons or foreign entrepreneurs or craftsmen;
- 5) Transactions in banks, savings banks and savings and loan cooperatives or agencies in charge of payment transactions and when transactions refer to cash withdrawals from the current account of domestic legal and natural persons using cheques aimed at depositing on savings account of this party, or for the benefit of this party, or for the purpose of purchasing foreign currency in relation with a concurrent deposit on a foreign exchange account or foreign currency savings books of this party;
- 6) Transactions of cash withdrawal from current accounts and drawing accounts of citizens, as well as from savings books and accounts of citizens.

## **Article 8**

The person under obligation shall identify a natural person who requested transaction by inspecting the identification documents of the latter (identification card, passport or other public document).

If the person under obligation carries out the transaction on behalf of a legal person, the former shall identify the person who claimed the transaction on behalf of the legal person pursuant to Paragraph 1 of this Article, and the name, seat and identification number of the legal person who claims the transaction.

When identifying a foreigner, the person under obligation shall obtain personal data from the foreigner's passport or other public documents.

In the course of transactions referred to in Article 4, Items 2, 3 and 4 of this Law, the person under obligation must request a statement from the party clarifying whether the latter claims the transactions on his/her own behalf or as a proxy.

The person under obligation must request the authorisation from the party if the latter requests a transaction as a proxy.

In the course of transactions referred to in Article 4, Items 2, 3 and 4 of this Law, the identity of the party shall be established in accordance with Article 6, Paragraph 3 of this Law.

## **III - ORGANISATION OF ACTIVITIES AIMED AT PREVENTION OF MONEY LAUNDERING AND PROCEDURE RELATED TO NOTIFICATION OF TRANSACTION**

## **Article 9**

Administrative and technical tasks aimed at prevention of money laundering will be conducted within the District Tax Administration (hereinafter: the Tax Administration).

### **1. Collecting the Data about Transactions**

#### **Article 10**

A person under obligation must, in the cases referred to in Article 6, Paragraph 2, 3, and 4 of this Law, collect the data on a transaction. The data on transaction to be collected shall be as follows:

- the name, seat and identification number of the legal person, as well as the name, address and personal identification number of a citizen - a natural person the transaction has been referred to,
- the purpose of the transaction,
- the date and time of the transaction,
- the amount of transaction,
- the method of and currency used in execution of the transaction.

The party, in the event of transactions referred to in Article 6, Paragraph 2, 3, and 4 of this Law, may individually fill in the statement and provide the person under obligation with all the data which the latter is obliged to inform the Tax Administration about, in accordance with this Law.

If a transaction is run based on a contract, then in the course of each individual transaction the following items must be recorded: the transaction amount as well as the method of execution of transactions.

When depositing in a 24- hour safe-deposit box, the person under obligation shall identify the party.

#### **Article 11**

If the person under obligation distrusts the accuracy of data, a written statement may be requested from the party.

The person under obligation shall reject a transaction referred to in Article 6, Paragraphs 2, 3 and 4 of this Law if incapable to establish the data referred to in Articles 8 and 10 of this Law, or a person in the capacity of proxy failed to render a valid authorization.

### **2. Informing the Tax Administration and Submitting the Data in Case of Suspicion of Money Laundering**

#### **Article 12**

Persons under obligation must keep the Tax Administration informed about all transactions referred to in Article 6, Paragraphs 2, 3 and 4 of this Law, in the manner and deadlines foreseen in this Law and the regulations founded therein, by submitting the data referred to in Articles 8 and 10 of this Law.

Persons under obligation must keep the Tax Administration also informed about transactions that they rejected to execute in accordance with Article 11 of this Law. In such case they must submit all the collected data pertaining to those transactions along with the notification.

Persons under obligation must inform by telephone, fax or in some other appropriate way the Tax Administration pursuant to Paragraph 1 of this Article, before they execute transactions, and also indicate the deadline for the execution of transactions. If the notification is not submitted in writing, they shall do it subsequently no later than three days from the day of the transaction execution. If the notification has not been

submitted in writing, the person under obligation and the Tax Administration must take down the note that the notification has not been submitted in writing.

If it is impossible to inform the Tax Administration about a transaction before its execution, due to the nature of a transaction, persons under obligation must do so no later than three days after the execution of the transaction.

The method of and the deadlines for notifying as well as of keeping records of the data collected as referred to in Articles 6, 8 and 9 of this Law shall be prescribed by the Mayor of the Brcko District of BiH (hereinafter: the Mayor).

### **Article 13**

The Customs Administration of the Brcko District shall be obligated to send a notification to the Tax Administration, within three days from the moment of discovery of a transfer or an attempt of a transfer of cash or cheques in local or foreign currency amounting to KM 10,000.00 or higher across the border of Bosnia and Herzegovina.

The notification referred to in Paragraph 1 of this Article must contain the data about a person who, on his/her own behalf or someone else's behalf, transfers or intends to illegally transfer cash or cheques across the border of Bosnia and Herzegovina, the border crossing point, the time and the information on the purpose of cash or cheques.

### **Article 14**

The Tax Administration shall confirm the receipt of the notification referred to in Article 12 of this Law, immediately or within 24 hours at latest, to the person under obligation.

The Tax Administration may by telephone, fax or in some other way order the person under obligation to temporarily cease the execution of transaction, for not more than two working days, in case of the verification of the data from the notification, or if the Tax Administration finds there is a justified suspicion of money laundering.

### **Article 15**

If there is a suspicion of money laundering, the Tax Administration may request from the person under obligation more information on the transaction and the parties than covered by Article 12, Paragraph 1 of this Law, which are available to the person under obligation, and determine the deadline for their submission.

Persons under obligation shall be obligated to submit the data, information and documentation referred to in Paragraph 1 of this Article to the Tax Administration without delay, at latest within 15 days from the receipt of the request.

Due to the volume of documentation or for other justified reasons, the Tax Administration may extend the deadline referred to in Paragraph 2 of this Article or check, on the spot, the documentation with persons under obligation.

### **Article 16**

If the Tax Administration, within the deadline referred to in Article 14, Paragraph 2 of this Law, finds no reason for a suspicion of money laundering, it shall inform thereof persons under obligation who may immediately execute the transaction.

If the Tax Administration, within the deadline referred to in Article 14, Paragraph 2 of this Law, has taken no measures, persons under obligation may execute the transaction.

### **3. Notifying the Competent Bodies**

#### **Article 17**

If the Tax Administration, in the course of carrying out duties under its competence, finds evidence on a justified suspicion of a misdemeanour or a criminal act, it shall notify the Prosecutor in accordance with Law on Criminal Procedure or shall submit the request for instituting the misdemeanour procedure to the competent court.

The Prosecutor shall inform the Tax Administration about measures undertaken upon the notification received from the Tax Administration and shall establish co-operation with the Tax Administration.

### **4. Notifying of Criminal and Misdemeanour Proceedings**

#### **Article 18**

The Prosecutor shall inform the Tax Administration about instituting investigations and results of criminal proceedings in the cases of criminal acts related to money laundering and disguising illegally obtained money.

The Court shall inform the Tax Administration about instituting misdemeanour proceedings and results of misdemeanour proceedings in the cases of misdemeanours related to money laundering and disguising illegally obtained money.

## **IV - KEEPING AND PROTECTING THE DATA**

#### **Article 19**

All the data collected on the basis of this Law shall be confidential and secret and may be used only for the purposes prescribed hereunder.

The Book of Rules on Internal Organization and Systematization of the Tax Administration, passed by the Mayor, shall further regulate the receipt, storage and use of the data received in accordance with this law.

#### **Article 20**

Persons under obligation must keep the data collected on the basis of the Law and documentation based on which a transaction took place, at least for five years from the execution of transaction or from the time of the last transaction in a series of transactions forming an entity, unless otherwise provided by the Law.

The data on the party contracted in a permanent business pursuant to Article 6, Paragraph 1 of this Law must be kept at least for five years following the termination of the business contract, unless otherwise provided by the law.

#### **Article 21**

The Tax Administration and person under obligation shall not be obligated to inform a person about the collected data pertaining to him/her or about the activities taken in accordance with the provisions of this Law.

The Tax Administration shall release the data referred to in Paragraph 1 of this Article only upon request of the bodies and the institutions referred to in Article 17 of this Law.

The Tax Administration shall keep the collected data for 10 years.

Following the expiry of the period referred to in Paragraph 3 of this Article, the data shall be stored and may be used only upon request of the bodies and the institutions referred to in Article 17 of this Law or of the person whom the data refer to.

The data shall be destroyed upon the expiry of one year from the date they were stored pursuant to Paragraph 4 of this Article.

## **V - MISDEMEANOURS**

### **1. Penal Provisions**

#### **Article 22**

A fine of KM 10,000.00 to 50,000.00 shall be imposed on the person under obligation referred to in Article 5 of this Law for a misdemeanour if s/he does the following:

- does not collect the data on transactions, that is does not obtain authorization in accordance with Article 8 of this Law,
- does not inform the Tax Administration about a transaction and submits the data referred to in Article 12 of this Law or does not submit the data referred to in Article 15, Paragraph 1 of this Law, within the deadlines and in the way foreseen under this Law and regulations founded hereupon.

A fine of KM 1,000.00 to 5,000.00 shall be imposed on a responsible person in legal party who committed a misdemeanour referred to in Paragraph 1 of this Article.

If the misdemeanour referred to in Paragraph 1 of this Article was committed concerning a transaction valued at KM 300,000.00 or higher, the person under obligation shall be, proportionally to the degree of unfulfilled responsibility or committed offence, imposed to a maximum fine amounted to ten times the value of unfulfilled responsibility, the damage caused or the value of stock or other things, whereas a responsible person in legal party who committed a misdemeanour shall be fined from KM 1,000.00 to 5,000.00.

#### **Article 23**

A person under obligation who conducts a transaction contravening the order by the Tax Administration (Article 14, Paragraph 2) shall be fined from KM 10,000.00 to 50,000.00 for the commission of a misdemeanour.

A fine of KM 1,000.00 to 5,000.00 shall be imposed on a responsible person in legal party who committed the misdemeanour referred to in Paragraph 1 of this Article.

If the misdemeanour referred to in Paragraph 1 of this Article was committed concerning a transaction valued at KM 300,000.00 or higher, the person under obligation shall be, proportionally to the degree of unfulfilled responsibility, the damage caused or the value of stock of other things, imposed to a maximum fine amounted to ten times the value of unfulfilled responsibility, whereas a responsible person in legal party who committed a misdemeanour shall be imposed to a fine of KM 1,000.00 to 5,000.00.



#### **Article 24**

A fine of KM 10,000.00 to 50,000.00 for a misdemeanour shall be imposed on the person under obligation referred to in Article 5 of this Law who acquires, possesses or uses a property of illegal nature.

A fine of KM 1,000.00 to 5,000.00 shall be imposed on a responsible person in legal party who committed the misdemeanour referred to in Paragraph 1 of this Article.

The responsible person in legal party referred to in the preceding Paragraph of this Article who has been found guilty by a final decision for a criminal act with characteristics of this misdemeanour shall not be penalized for a misdemeanour.

#### **Article 25**

The person under obligation - a legal person who committed a transaction with property illegally acquired, contravening the provisions of this Law, shall be penalized for a misdemeanour with a fine of KM 10,000.00 to 50,000.00.

The person under obligation - a natural person if committed a misdemeanour referred to in Paragraph 1 of this Article shall be fined from KM 1,000.00 to 5,000.00.

#### **Article 26**

A fine of KM 1,000.00 to 5,000.00 for misdemeanour shall be imposed on a person under obligation referred to in Article 5 of this Law if s/he fails to identify the party in accordance with Article 6 of this Law.

A fine of KM 100,00 to 3000,00 shall be imposed on a responsible person in legal party who committed misdemeanour referred to in Paragraph 1 of this Article.

#### **Article 27**

The person under obligation who does not keep records of data in the prescribed manner (Article 20, Paragraph 1) and does not store the data and documentation pursuant to Article 21 of this Law shall fined from KM 1,000.00 to 5,000.00 for the misdemeanour.

A fine of KM 300,00 to 1,000.00 shall be imposed on a responsible person in legal party who committed the misdemeanour referred to in Paragraph 1 of this Article.

#### **Article 28**

A proceeding for offences foreseen under this Law shall be initiated by the Tax Administration pursuant to the Law on Misdemeanours of the Brcko District of Bosnia and Herzegovina (Official Gazette of the Brcko District 8/2000; 1/01).

## **2. Supervision**

#### **Article 29**

Supervision over the implementation of this Law shall be carried out by the Tax Administration and the Prosecutor, each within the frame of the respective competence.

## **VI - TRANSITIONAL AND FINAL PROVISIONS**

### **Article 30**

The Mayor shall pass the regulations referred to in Article 12, Paragraph 5 of this Law within 30 days from the day this Law becomes effective.

### **Article 31**

This Law shall become effective on the eighth day from the date of publishing in the Official Gazette of the Brcko District of Bosnia and Herzegovina.

Bosnia and Herzegovina  
BRCKO DISTRICT  
OF BOSNIA AND HERZEGOVINA  
BRCKO DISTRICT ASSEMBLY

No. 0-02-022-212/03  
Brcko, July 10, 2003-07-24

**PRESIDENT OF THE BRCKO DISTRICT ASSEMBLY**

Mirsad Djapo, graduate lawyer