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

18 SEPTEMBER 2017. – Law on the prevention of money laundering and terrorist financing and on the restriction of the use of cash[1]

(Belgian Official Gazette, 6 October 2017)

PHILIPPE, King of the Belgians,
To all present and future citizens, greetings.

The Chamber of Representatives has adopted and We endorse the following

BOOK I. – GENERAL PROVISIONS

TITLE 1 – *Subject, scope and definitions*

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

§ 2. This Law is mainly aimed at preventing use of the financial system for purposes of money laundering and terrorist financing, as well as the financing of the proliferation of weapons of mass destruction. It ensures the transposition of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

Art. 2. For the purposes of this Law and its implementing Decrees and Regulations shall be regarded as "money laundering":

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

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

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

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

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

Article 4. For the purposes of this Law and its implementing decrees and regulations, the following definitions shall apply:

1° "(A)ML/(C)FT": (anti-)money laundering and (countering the) financing of terrorism;

2° "(A)ML/(C)FTP": (anti-)money laundering, (countering the) financing of terrorism and (countering the) financing of the proliferation of weapons of mass destruction;

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

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

5° "European Regulation on transfers of funds":

a) until 25 June 2017, Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds;

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

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

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

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

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

10° "Financial Action Task Force" or "FATF": intergovernmental body tasked with developing international standards on AML/FTP;

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

12° "Ministerial Committee tasked with coordinating the fight against the laundering of money of illicit origin": the Ministerial Committee established by the Royal Decree of 23 July 2013 establishing the Ministerial Committee and College tasked with coordinating the fight against the laundering of money of illicit origin,

which is responsible for establishing and coordinating the general policy on combating the laundering of money of illicit origin and for determining the priorities of the services involved in that combat;

13° "National Security Council": the National Council created by the Royal Decree of 25 January 2015 establishing the National Security Council, which is responsible for coordinating the fight against terrorist financing and the proliferation of weapons of mass destruction;

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

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

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

17° " supervisory authorities": the authorities referred to in Article 85;

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

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

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

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

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

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

a) terrorism or terrorist financing;

b) organised crime;

c) illicit drug trafficking;

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

e) smuggling in human beings;

f) trafficking in human beings;

g) exploitation of prostitution;

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

i) illicit trafficking in human organs or tissues;

j) fraud detrimental to the financial interests of the European Union;

k) serious fiscal fraud, whether organised or not;

l) social fraud;

m) embezzlement by public officials and corruption;

n) serious environmental crime;

o) counterfeiting currency or bank notes;

p) counterfeiting products;

q) piracy;

r) stock market-related offence;

s) an improper public offering of securities;

t) the provision of banking services, financial services, insurance services or funds transfer services, or currency trading, or any other regulated activity, without having the required licence for these activities or meeting the conditions to carry out these activities;

u) fraud;

v) breach of trust;

w) misappropriation of corporate assets;

x) hostage-taking;

y) theft;

z) extortion;

aa) the state of bankruptcy;

bb) computer fraud;

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

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

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

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

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

a) in the case of corporate entities:

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

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

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

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

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

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

b) in the case of *fiducies* or trusts:

i) the settlor;

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

iii) the protector, if any;

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

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

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

i) the persons, respectively referred to in Article 13, first subparagraph, Article 34, §, 1 and Article 49, second subparagraph, of the Law of 27 June 1921 on non-profit organisations and foundations, European political parties and foundations, which are members of the management board;

ii) the persons who are authorised to represent the association in accordance with Article 13, fourth subparagraph, of the same Law.

iii) the persons in charge of the daily management of the (international) association or foundation, referred to respectively in Article 13*bis*, first subparagraph, Article 35, first subparagraph, and Article 49, second subparagraph, of the same Law;

iv) founders of a foundations, referred to in Article 27, first subparagraph, of the same Law;

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

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

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

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

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

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

b) members of parliament or of similar legislative bodies;

c) members of the governing bodies of political parties;

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

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

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

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

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

29° "family member":

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

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

c) the parents;

30° "persons known to be close associates":

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

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

31° "senior management": an officer or an employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure, without necessarily being a member of the legal management body;

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

33° "business relationship": a professional or commercial relationship with a client which is expected to have an element of duration:

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

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

34° "correspondent relationship":

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

b) business relationships which are similar in nature to those referred to in *a)* between the obliged entities referred to in Article 5, § 1, 1°, 3° and 4° ("correspondent institution") and financial institutions within the meaning of Article 3(2) of Directive 2015/849 ("respondent institution") or governed by the law of a third country, and which may include, inter alia, carrying out securities transactions or funds transfers;

35° "electronic money": electronic money within the meaning of Article 4, 33° of the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, access to the activity of issuing electronic money, and access to payment systems;

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

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

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

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

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

Art. 5. § 1. The provisions of this Law shall apply to the following obliged entities, acting in the exercise of their professional activities:

1° the National Bank of Belgium;

2° **[…]**;
§ 1, 2° repealed by Article 111, 1° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

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

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

b) branches in Belgium of credit institutions as defined in Article 1, § 3, first subparagraph, of the same Law, which are governed by the law of another Member State or of a third country;
[c) credit institutions as referred to in Article 1, § 3, first subparagraph, of the same Law, which are governed by the law of another Member State and rely on a tied agent established in Belgium in order to perform investment services and/or activities within the meaning of Article 2, 1°, of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies as well as ancillary services within the meaning of Article 2, 2°, of the same Law, in Belgium;**]**

§ 1, 4°, c) inserted by Article 111, 2° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

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

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

6° *a)* payment institutions governed by Belgian law as referred to in Book II, Title II, Chapter 1 of the Law of 11 March 2018 on the legal status and supervision of payment institutions and electronic money institutions,

access to the activity of payment service provider and to the activity of issuing electronic money, and access to payment systems;

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

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

d) payment institutions as referred to in point (4) of Article 4 of Directive 2015/2366/EU of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC, governed by the law of another Member State and offering payment services in Belgium through one or more persons established in Belgium who represent the institution for that purpose;
§ 1, 6° replaced by Article 101 of the Law of 2 May 2019 – Belgian Official Gazette of 21 May 2019

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

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

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

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

e) electronic money institutions as referred to in point 1 of Article 2 of Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, governed by the law of another Member State and distributing electronic money in Belgium through one or more persons established in Belgium who represent the institution for that purpose;
§ 1, 7° replaced by Article 101 of the Law of 2 May 2019 – Belgian Official Gazette of 21 May 2019
8° [*settlement institutions as referred to in Article 36/26, § 1, 3° and 4° of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium;*]

§ 1, 8° repealed by Article 111, 3° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018 (entry into force on the date set by the King and no later than 1 January 2020)
[8°/1 central securities depositories as defined in Article 36/26/1 of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium;**]**

§ 1, 8°/1 inserted by Article 111, 4° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

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

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

b) branches in Belgium of stockbroking firms as referred to in Article 1, § 3, second subparagraph, of the same Law which are governed by the law of another Member State or of a third country;
[c) stockbroking firms as referred to in Article 1, § 3, second subparagraph, of the same Law, which are governed by the law of another Member State and rely on a tied agent established in Belgium in order to perform investment services and/or activities within the meaning of Article 2, 1°, of the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies as well as ancillary services within the meaning of Article 2, 2°, of the same Law, in Belgium;**]**

§ 1, 10°, c) inserted by Article 111, 5° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

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

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

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

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

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

d) branches in Belgium of management companies of foreign alternative investment funds as referred to in Articles 114, 117, 163 and 166 of the aforementioned Law of 19 April 2014;

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

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

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

14° alternative funding platforms as referred to in the Law of 18 December 2016 regulating the recognition and definition of crowdfunding and containing various provisions relating to finance;

[15° market operators as referred to in Article 3, 3° of the Law of 21 November 2017 on infrastructures for markets in financial instruments and transposing Directive 2014/65/EU, organising the Belgian regulated markets, except for their public tasks;]
§ 1, 15° replaced by Article 111, 6° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

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

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

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

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

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

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

22° natural or legal persons, other than those referred to in points 4° to 21°, that are engaged in Belgium in at least one of the activities referred to in Article 4, first subparagraph, 2) to 12), 14) and 15) of the Law of 25 April 2014 on the legal status and supervision of credit institutions and investment firms, and branches in Belgium of persons engaged in equivalent activities that are governed by the law of another Member State and that are designated by the King;

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

25° natural or legal persons on the list of external chartered accountants and on the list of external tax consultants referred to in Article 44, fifth subparagraph, of the aforementioned Law of 22 April 1999, as well as natural or legal persons on the list of trainee external chartered accountants (*experts-comptables*) and trainee external tax consultants referred to in the same Article of the aforementioned Law of 22 April 1999;

26° notaries;

27° bailiffs;

28° lawyers:

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

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

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

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

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

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

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

29° company service providers referred to in Article 3, 1°, of the [Law of 29 March 2018 on the registration of company service providers];
§ 1, 29° modified by Article 12 of the Law of 29 March 2018 – Belgian Official Gazette of 2 May 2018

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

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

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

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

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

The risk assessment referred to the first subparagraph will take into account the degree of vulnerability of the transactions involved, in particular with regard to the payment methods used.

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

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

1° the financial activity is limited in absolute terms;

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

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

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

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

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

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

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

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

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

The competent minister informs the European Commission of any decision taken in accordance with the first subparagraph.

§ 4. The King may, by Decree deliberated in the Council of Ministers, upon the advice of the coordinating bodies and taking into account the national risk assessment referred to in Article 68, extend the implementation

of all or some of the provisions of book II to categories of entities not referred to in paragraph 1 and whose activities could be used for money laundering or terrorist financing purposes.

The competent minister informs the European Commission of the extension of the scope of this Law in accordance with the first subparagraph.

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

Art. 6. The restrictions on cash payments referred to in Article 66, § 2, first subparagraph, and Article 67, are also applicable to any natural person or legal person making payments or donations referred to in these provisions.

TITLE 2. – *Risk-based approach*

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

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

TITLE 1. – Organisation and internal control

CHAPTER 1. – Organisation and internal control within obliged entities

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1° the professional reliability needed to perform their functions with integrity;

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

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

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

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

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

They shall ensure that the persons referred to in the first subparagraph know and understand the policies, procedures and internal control measures in force within the obliged entity in accordance with Article 8, § 1.

They shall also ensure that these persons possess the required knowledge of the methods and criteria to be applied in order to identify possible ML/FT related transactions, of the course of action to be taken in such a chase, and of the manner in which the obligations referred to in Article 8, § 1, 2° and 3°, should be fulfilled.

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

§ 2. The measures referred to in paragraph 1 shall include the participation of the persons referred to in the first paragraph in special ongoing training programmes. They can be determined taking into account the functions performed by these persons within the obliged entity, as well as the ML/FT risks to which they might be exposed by performing these functions.

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

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

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

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

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

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

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

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

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

They may neither directly or indirectly acquire or create a subsidiary operating as an obliged entity that is domiciled, registered or established in the aforementioned country or territory.

Art. 15. The obliged entities referred to in Article 5, § 1, 6°, *d)*, and 7°, *e)*, shall, under the conditions set by the National Bank of Belgium through a regulation adopted in accordance with the implementing measures of Directive 2015/849 referred to in Article 45(10) of the said Directive, appoint a central contact point situated in Belgium that is charged with ensuring, on behalf of the appointing obliged entity, compliance with the provisions of this Law and its implementing decrees and regulations, as well as facilitating the National Bank of Belgium's performance of its supervisory tasks, particularly by providing this authority with all documents and information requested by it.

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

TITLE 2. – *Overall risk assessment*

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

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

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

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

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

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

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

TITLE 3. – *Due diligence towards customers and transactions*

CHAPTER 1. – *General due diligence requirements*

Section 1. – General provisions

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

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

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

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

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

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

Art. 20.

Section 2. – Identification and identity verification obligations

Subsection 1. – Persons to be identified

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

1° who establish a business relationship with them;

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

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

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

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

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

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

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

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

3° in the case of the operators of games of chance referred to in Article 5, § 1, 33°, without prejudice to 5° and 6°, who perform a transaction which consists of the wagering of a stake or, if the customer has yet to be identified and his identity yet to be verified, the collection of winnings amounting to EUR 2 000 or more, regardless of whether the transaction is performed in a single operation or in several operations that appear to be linked;

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

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

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

§ 3. On the advice of the supervisory authorities competent pursuant to Article 85, the King may, by Decree deliberated in the Council of Ministers, set a lower threshold than that referred to in paragraph 1, 2°, a), for

certain types of transactions and/or certain obliged entities, particularly taking into account the risk assessment conducted by the supervisory authorities competent by virtue of Article 87, § 1.

Art. 22..

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

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

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

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

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

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

1° the payment instrument is not reloadable or can only be used in Belgium to make payments up to a maximum monthly limit of EUR 250;

2° the maximum amount stored electronically does not exceed EUR 250;

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

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

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

However, the electronic money issuer shall identify and verify the identity of every person to whom he redeems the monetary value of the electronic money for an amount exceeding EUR 100 in cash, or who withdraws such an amount in cash.

Subsection 2. – Object of the identification and identity verification

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

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

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

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

3° where the identification obligation pertains to a trust or a similar legal arrangement: its corporate name, the information referred to in 1° or in 2° regarding its trustee(s), its founder(s) and, where appropriate, its protector(s), as well as the provisions governing the power to make binding agreements on behalf of the trust or similar legal arrangement.

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

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

2° where the identification obligation pertains to natural persons in their capacity as beneficial owners of a foundation, a(n) (international) non-profit organisation, a *fiducie* or a trust or a similar legal arrangement that appoints its beneficiaries based on their special characteristics or the specific category to which they belong, the obliged entity shall collect sufficient information on the characteristics or category concerned in order to be able to identify the natural persons who are beneficial owners at the time of the exercise of their vested rights or at the time of the pay-out.
By way of derogation from the first subparagraph, 1° to 3°, if the identification obligation pertains to the beneficiary of a life insurance policy:

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

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

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

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

Art. 27. § 1. In order to fulfil their obligation to verify the identity of the persons referred to in Articles 21 to 24, obliged entities shall check all or part of the identification data collected pursuant to Article 26 against one or more supporting documents or reliable and independent sources of information which enable them to confirm this data, in order to have a sufficient degree of certainty that they know the persons concerned. To that end, obliged entities should take into account the risk level identified in accordance with Article 19, § 2, first subparagraph.

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

§ 3. If the individual risk assessment conducted in accordance with Article 19, § 2, first subparagraph, shows that the risk associated with the customer and with the business relationship or with the transaction is low, the obliged entity may verify a smaller amount of information collected pursuant to Article 26. However, a

sufficient amount of information must be verified in order to enable the obliged entity to have a sufficient degree of certainty as to its knowledge of the person concerned.

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

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

1° use the identification number from the National Register;

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

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

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

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

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

1° they possess legal personality;

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

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

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

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

Art. 29. Obliged entities that have access to the central register of beneficial owners referred to in Article 73, to the equivalent registers held in other Member States pursuant to Article 30(3) of Directive 2015/849 or in third countries, or to the registers of the beneficial owners of trusts, *fiducies* or similar legal arrangements held in other Member States pursuant to Article 31(4) of Directive 2015/849 or in third countries, shall not rely solely on the consultation of these registers in order to fulfil their obligation to identify and verify the identity of the beneficial owners of their customers, their customers' agents or the beneficiaries of life insurance policies. To that end, they shall implement additional measures that are proportionate with the risk level identified in accordance with Article 19, § 2, first subparagraph.

Subsection 3. – Identification and identity verification time

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

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

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

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

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

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

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

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

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

Art. 33. § 1. If the obliged entities cannot fulfil their obligations to identify and verify the identity of a customer, his agents or his beneficial owners within the time limits referred to in Articles 30 and 31, they may neither establish a business relationship with or carry out a transaction for that customer. Moreover, they shall end any already established business relationship.

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

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

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

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

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

Art. 34. § 1. Obliged entities shall take adequate measures to assess the customer's characteristics and the purpose and nature of the business relationship or of the intended occasional transaction.

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

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

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

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

§ 3. If obliged entities are unable to fulfil their obligation referred to in paragraph 1, they may neither establish a business relationship with or carry out a transaction, especially a transaction through a bank account, for the customer concerned. Moreover, they shall terminate any already established business relationship or shall, where appropriate, apply the alternative restrictive measures referred to in Article 33, § 1, third subparagraph.

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

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

Section 4. – Ongoing due diligence

Art. 35. § 1. Obliged entities shall, with regard to the business relationship, exercise ongoing due diligence proportionate to the risk level identified in accordance with Article 19, § 2, first subparagraph, which involves, among other things:

1° carefully examining the transactions carried out over the course of the business relationship as well as, where necessary, the origin of the funds, in order to verify whether these transactions are consistent with the customer's characteristics, with the nature and purpose of the business relationship or of the intended transaction, and with the customer's risk profile, in order to detect atypical transactions that should be subjected to an in-depth analysis in accordance with Article 45;

2° updating the data held in accordance with Sections 2 and 3, particularly when data relevant for the individual risk assessment referred to in Article 19 is modified.

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

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

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

§ 2. If obliged entities have reasons to consider that they will not be able to fulfil their obligation referred to in paragraph 1, they may neither establish a business relationship with or carry out a transaction for the customer concerned. Moreover, if they cannot fulfil that same obligation with regard to their existing customers, they shall terminate any already established business relationship or, where appropriate, apply the alternative restrictive measures referred to in Article 33,§ 1, third subparagraph.

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

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

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

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

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

§ 2. If they implement the alternative restrictive measures referred to in Articles 33, § 1, 34, § 3 and 35, § 2, obliged entities shall exercise enhanced due diligence with regard to the business relationships concerned.

Art. 38. Obliged entities shall apply enhanced customer due diligence measures in the context of their relationships with natural or legal persons or with legal arrangements such as trusts or *fiducies* that are established in a high-risk third country.

Obliged entities that have established branches or majority-owned subsidiaries in high-risk third countries may, based on an individual risk assessment, authorise them to not automatically apply increased customer due diligence measures, provided that they ensure that the branches and subsidiaries concerned fully comply with the group-wide policies and procedures, in accordance with Article 13.

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

1° with regard to transactions, including the reception of funds, that are somehow linked to a State with low or no taxes included in the list established by Royal Decree in accordance with Article 307, § 1, seventh subparagraph of the Income Tax Code 1992; and

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

Art. 40. § 1. Obliged entities referred to in Article 5, § 1, 1°, 3° and 4°, that establish cross-border correspondent relationships with a respondent institution from a third country shall, in addition to the customer due diligence measures laid down in Chapter 1, take the following measures:

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

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

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

4° document the respective responsibilities of each institution;

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

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

Art. 41. § 1. Obliged entities that carry out transactions or establish business relationships with politically exposed persons, family members of politically exposed persons or persons who are known to be closely associated with politically exposed persons shall, in addition to the customer due diligence measures laid down in Chapter 1, take the following measures:

1° without prejudice to Article 8, have in place appropriate risk management systems, including appropriate risk-based procedures, to determine whether the customer, an agent of the customer or the beneficial owner of the customer is or has become a politically exposed person;

2° apply the following measures in cases of business relationships with politically exposed persons:

a) obtain senior management approval for establishing or continuing business relationships with such persons;

b) take adequate measures to establish the source of the wealth and of the funds that are involved in business relationships or transactions with such persons;

c) subject the business relationship to enhanced scrutiny.

§ 2. Without prejudice to paragraph 1, if the beneficiaries of a life insurance policy and/or, where appropriate, the beneficial owner of the beneficiary of such a policy are or have become politically exposed persons, family members of politically prominent persons or persons who are known to be closely associated with politically exposed persons, obliged entities shall, in addition to the customer due diligence measures laid down in Chapter 1, take the following measures:

1° inform senior management before pay-out of insurance benefits;

2° subject the entire business relationship with the policyholder to ongoing enhanced scrutiny.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2. The obliged entities referred to in Article 5 that act as third party business introducers shall immediately provide the bodies or persons to which the customer has been introduced with the information concerning the identity of the customer and, where appropriate, of his agents and beneficial owners, concerning the customer's

characteristics and the purpose and intended nature of the business relationship, that is necessary for fulfilling the due diligence requirements conferred upon them in accordance with Article 42.

They shall also, without delay and at first request, submit a copy of the supporting documents or of the reliable sources of information they used to verify the identity of the customer and, where appropriate, of his agents and beneficial owners.

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

CHAPTER 1. – *Analysis of atypical transactions*

Art 45. § 1. Obliged entities shall perform a specific analysis, under the responsibility of the person appointed in accordance with Article 9, § 2, of the atypical transactions identified pursuant to Article 35, § 1, 1°, in order to determine whether these transactions can be suspected of being linked to money laundering or terrorist financing. In particular, they shall examine, as far as reasonably possible, the background and purpose of any complex and unusually large transactions, as well as any unusual patterns of transactions that have no apparent economic or lawful purpose.

To this end, they shall implement any measures that are necessary in addition to those referred to in Articles 19 to 41.

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

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

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

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

CHAPTER 2 – *Reporting of suspicions*

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

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

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

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

3° other than the cases referred to in 1° and 2°, that a fact of which they know, is related to money laundering and terrorist financing.

The obligation to report to CTIF-CI in accordance with 1° to 3°, does not entail that the obliged entity must identify the predicate money laundering offence.

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

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

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

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

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

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

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

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

Art. 51. § 1. The information relating to a transaction, referred to in Article 47, § 1, 2°, and §§ 2 and 3, is reported to CTIF-CFI prior to carrying out the transaction. Where appropriate, the period of time is mentioned during which the transaction must be carried out.

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

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

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

Art. 52. [By way of derogation from Articles 47 and 49], lawyers who, while carrying out the activities listed in Article 5, § 1, 28°, are faced with funds, transactions to be carried out or facts referred to in Article 47 are obliged to immediately inform the President of the bar association to which they belong.
First subparagraph modified by Article 112 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

The President of the bar association shall verify compliance with the conditions referred to in Article 5, § 1, 28°, and 53. Where appropriate, he shall transmit the information unfiltered to CTIF-CFI.

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

Art. 54. § 1. The King may, by Decree deliberated in the Council of Ministers upon the advice of CTIF-CFI extend the reporting obligation to funds, transactions and facts involving natural or legal persons domiciled, registered or located in a country or jurisdiction whose legislation is considered insufficient or whose practices are deemed to impede the fight against money laundering and terrorist financing by the national risk assessment referred to in Article 68, or by a competent international or European consultative and coordinating authority.

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

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

Section 2. – Prohibition of disclosure

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

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

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

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

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

1° between credit or financial institutions referred to in Article 2, paragraph 1, items 1 and 2, of Directive 215/849, established in a Member State when these institutions belong to the same group;

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

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

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

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

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

Section 3. – Protection of reporting entities

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

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

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

Art. 59. The competent authorities for investigating and prosecuting money laundering and terrorist financing shall take all appropriate measures to protect directors, members of staff, agents or distributors of obliged entities who report suspicions of money laundering or terrorist financing, either internally, or to CTIF-CFI from being exposed to threats or hostile action.

Section 4. – Retention and protection of data and documents

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

1° identification data referred to Sections 2 and 3 of Title 3, Chapter 1, where appropriate updated in accordance with Article 35, and a copy of the records or the result of checking an information source, referred to in Article 27, for a period of ten years after the end of the business relationship with their customer or after the date of an occasional transaction;

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

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

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

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

The obliged entities who intend to use the derogation referred to in the first subparagraph shall specify beforehand in their internal control procedures, the categories of records of which they retain references instead of a copy, as well as the methods of retrieving these documents through which they can be produced upon request, in accordance with the first subparagraph.

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

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

Art. 63. Obliged entities have systems enabling them fully respond, within the period of time laid down in Article 48 via secure and confidential channels, in order to ensure complete confidentiality, to requests for

information from CTIF-CFI in accordance with Article 81, from the judicial authorities or supervisory authorities referred to in Article 85, within the scope of their respective powers, to determine whether the entities involved maintain or, in the ten years prior to this request, have maintained a business relationship with a specific person, as well as, where appropriate, to questions on the nature of this relationship.

Art. 64. § 1. The processing of personal data in pursuant to this Law is subject to the provisions of the Law of 8 December 1992 on the protection of privacy in relation to the processing of personal data and to the provisions of the European regulations that are directly applicable. This personal data processing is necessary to carry out a task in the public interest within the meaning of Article 5 of the same Law.

§ 2. Obliged entities only process personal data in accordance with this Law for ML/TF prevention purposes and do not subsequently process this data in a way that is incompatible with these purposes.

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

§ 3. Obliged entities provide their customers with the required information in accordance with Article 9 of the aforementioned Law of 8 December 1992 prior to establishing a business relationship or to carrying out an occasional transaction.

This information particularly includes a general notification of the obligations of obliged entities pursuant to the aforementioned Law when processing personal data for money laundering and terrorist financing prevention purposes.

Art. 65. The person whose personal data are processed in accordance with this Law does not have the right to access and correct his or her data, nor the right to be forgotten, nor the right to portability of these data, nor the right to object, nor to the right not to be profiled, nor to the notification of security failures.

The right of the individual involved to access personal data relating to him is exercised indirectly, pursuant to Article 13 of the aforementioned Law of 8 December 1992, through the Commission for the Protection of Privacy established by Article 23 of the same Law.

The Commission for the Protection of Privacy only informs the applicant that the necessary verifications have been carried out and of the result of these verifications in terms of the legality of the processing in question. These data may be provided to the applicant when the Commission for the Protection of Privacy, by agreement with CTIF-CFI and after consulting the person responsible for the processing, finds on the one hand that the notification is not likely to reveal the existence of a disclosure referred to in Article 47 and 54, the action taken, or the use of CTIF-CFI's right to request additional information in accordance with Article 81, nor likely to compromise the goal of combating ML/TF, and on the other hand finds that this data relates to the applicant and is held by obliged entities, CTIF-CFI or supervisory authorities in accordance with this Law.

BOOK III. – RESTRICTION OF THE USE OF CASH

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

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

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

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

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

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

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

2° “old metals”: any used or reclaimed pieces of metal;

3° “copper cables”: any delivered copper cables, in any form, whether stripped or cut, shredded, ground or mixed with other materials, excluding flexible copper cables that are part of an appliance.

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

Except in case of public auction under the supervision of a bailiff, a person who is not a consumer may not pay any amount in cash when buying old metal, copper cables or goods containing precious materials from another person, unless these precious materials are only present in small quantities and only because of their necessary physical properties.

By way of derogation from subparagraph 2, a person who is not a consumer may only pay an amount of up to EUR 500 in cash when buying old metals or goods containing precious materials from a person who is a consumer, unless these precious materials are only present in small quantities and only because of their necessary physical properties. In this case these persons must identify and register the person who presents himself/herself with metals or goods containing precious materials.

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

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

2° transactions between consumers;

3° the obliged entities referred to in Article 5, § 1, 1°, 3°, 4°, 6°, 7°, 10° and 16°, as well as other natural persons when they carry out transactions with these entities.

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

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

BOOK IV. – COMPETENT AUTHORITIES

TITLE 1 – *National Risk Assessment*

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

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

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

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

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

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

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

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

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

Art. 70. Based on the national risk assessment referred to in Article 68 the coordinating bodies shall:

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

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

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

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

5° inform the European Commission, the European Supervisory Authorities and other Member States of the result of the national risk assessment.

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

The King shall determine, on the recommendation of the Minister of Finance and the Minister of Justice, and in accordance with Article 44, paragraph 2, of Directive 2015/849, the data to be included in the statistics referred to in the first subparagraph of this Article, as well as the methodology for collecting statistics in order to publish an annual consolidated overview.

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

§ 2. The Minister of Justice publishes a consolidated overview of the statistics sent to him in accordance with paragraph 1 once a year and forwards this to the European Commission.

TITLE 2. – *Register of beneficial owners*

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

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

The King shall determine, by Decree deliberated in the Council of Ministers, which legal arrangements referred to in the first subparagraph are similar to *fiducies* or trusts.

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

The Administration of the Treasury is in charge of supervising the compliance with the obligations referred to in Article 58/11, third and fourth subparagraph, of the Law of 27 June 1921 on non-profit organisations, foundations, European political parties and European political foundations and in Article 14/1, subparagraphs 2 and 3 of the Companies Code.

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

Art. 75. The King shall determine, by Decree deliberated in the Council of Ministers, upon the advice of the Commission for the Protection of Privacy, created by Article 23 of the Law of 8 December 1992 on the protection of privacy in relation to the processing of personal data, the way in which the information is collected, the content of the collected information, the management, access, use of data, the methods for verifying the data and the functioning of the UBO register.
[Any natural or legal person that can access the data of the UBO register shall pay a fee for each consultation which may not exceed the administrative costs of making the information available, including the costs of developing and maintaining the register. The Administration of the Treasury can conclude a contract with the aforementioned natural or legal persons stipulating that these persons will pay an annual or quarterly flat-rate fee. The King shall determine the amount and the payment arrangements of the fee referred to in this subparagraph.]
Second subparagraph inserted by Article 42 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018
[By way of derogation from the second subparagraph, the supervisory authorities referred to in Article 85, CTIF-CFI and the public authorities whose legal tasks include combating money laundering and terrorist financing or related predicate offences, the tax authorities, the public authorities in charge of seizing and confiscating criminal assets and the public authorities that receive information on the cross-border transportation or transfer of money or bearer negotiable instruments shall not pay a fee.]
Third subparagraph inserted by Article 42 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

TITLE 3. – *The Financial Intelligence Processing Unit*

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

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

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

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

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

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

2° typological and strategic analysis, which focuses on the proactive research of ML/FTP trends and aimed at completing and enhancing operational analysis.

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

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

§ 2. At the time of their appointment, the financial experts must fulfil the following requirements:

1° be a Belgian citizen;

2° enjoy civil and political rights;

3° have their permanent residence in Belgium;

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

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

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

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

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

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

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

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

Art. 78. At least once a year, CTIF-CFI shall prepare a report on its activities for the Minister of Justice and the Minister of Finance. This report shall contain all information useful, as far as CTIF-CFI is concerned, for assessing the effectiveness of the preventive system for combating ML/FTP.

CHAPTER 2. – *Competences and powers*

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

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

1° the supervisory authorities, when during checks carried out on the obliged entities for which they are responsible, or in any other way, they identify funds, transactions or facts they know, suspect, or have reasonable grounds to suspect to be related to money laundering or to terrorist financing. The same applies to the authorities

in charge of supervising the financial markets, by way of derogation of their statutory and regulatory rules on their professional secrecy.

2° the officials of the administrative services of the State, the trustees in a bankruptcy and the temporary administrators referred to in [Articles XX.31, § 1, and XX.32, § 2, of the Code of Economic Law] when, in the course of their duties or in the course of their professional activities, they identify funds, transactions or facts they know, suspect, or have reasonable grounds to suspect to be related to money laundering or to terrorist financing;
§ 2, 2° modified by Article 113 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

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

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

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

6° the General Customs and Excise Administration of the Federal Public Service Finance, hereinafter referred to as "General Customs and Excise Administration", in accordance with the Royal Decree of 26 January 2014 on supervisory measures for the physical cross-border transportation of currency and Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community; and

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

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

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

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

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

2° the Public Prosecutor's Office, as part of an inquiry or preliminary inquiry related to terrorism and terrorist financing;

3° European Anti-Fraud Office of the European Commission as part of an investigation of fraud affecting the financial interests of the European Union.

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

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

1° it acknowledges receipt; and

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

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

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

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

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

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

§ 3. When CTIF-CFI forwards information to the Public Prosecutor or the Federal Public Prosecutor in accordance with paragraph 2, CTIF-CFI shall also, without delay, inform the Central Office for Seizure and Confiscation [referred to in Article 4 of the Law of 4 February 2018 on the tasks and composition of the Central Office for Seizure and Confiscation].
§ 3 modified by Article 56 of the Law of 4 February 2018 – Belgian Official Gazette of 26 February 2018

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

Art. 81. § 1. When CTIF-CFI receives reports of suspicions or information in accordance with Article 79, CTIF-CFI, one of its members, one of its members of staff designated for this purpose by the magistrate heading CTIF-CFI or by his deputy may demand to obtain, in accordance with the procedures determined by CTIF-CFI, any additional information deemed useful to accomplish CTIF-CFI's task, from:

1° obliged entities;

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

3° police services, in accordance with Article 44/11/9, § 1, 2°, of the Law of 5 August 1992 on the policing function;

4° administrative services of the State;

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

6° trustees in a bankruptcy;

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

8° judicial authorities.

For the same purposes as those referred to in subparagraph 1, CTIF-CFI, one of its members, one of its members of staff designated for this purpose by the magistrate heading CTIF-CFI or by his deputy may consult the central point of contact of the National Bank of Belgium.

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

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

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

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

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

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

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

CTIF-CFI also informs the Central Office for Seizure and Confiscation referred to in Article 80, § 3 when assets of significant value, of any nature, are available for a potential judicial seizure.

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

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

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

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

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

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

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

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

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

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

Where this notification contains information regarding laundering the proceeds of [trafficking in human beings , smuggling of human beings or social fraud], CTIF-CFI shall forward a copy of the report that was disseminated to the Public Prosecutor or Federal Public Prosecutor in accordance with Article 82, § 2 to the Prosecutor at a labour tribunal.
§ 2, third subparagraph modified by Article 114, 1° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

Where this notification contains information regarding laundering the proceeds of offences for which the Customs and Excise Administration conducts criminal proceedings, CTIF-CFI shall forward a copy of the report that was disseminated to the Public Prosecutor or Federal Public Prosecutor in accordance with Article 82, § 2.

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

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

Where this notification contains information regarding laundering the proceeds of an offence for which the Federal Public Service Economy, SMEs, Self-employed and Energy has investigative powers, CTIF-CFI shall forward to the Minister of Economy the useful information resulting from the notification of this file to the Public Prosecutor or Federal Public Prosecutor, pursuant to Article 82, § 2.

Where this notification contains information for which the State Security Service [VSSE] or the General Intelligence and Security Service of the Armed Forces [SGRS-ADIV] provided information to CTIF-CFI, it shall inform them of this notification.
[Where this notification contains information for which the Directorate-General for Penitentiary Institutions of the Federal Public Service Justice provided information to CTIF-CFI, CTIF-CFI shall inform it of this notification.]
§ 2, ninth subparagraph inserted by Article 114, 2° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

Paragraph 1 shall not apply to the transfer of information to the common databases as referred to in Article 44/11/3*bis* of the Law of 5 August 1992 on the policing function, to which CTIF-CFI has direct access. When information is submitted to the common databases by CTIF-CFI in accordance with Article 44/11/3*ter*, § 4 of the aforementioned Law, any useful information may be sent to all services which, pursuant to the aforementioned Law or to its implementing decrees, have direct access to all or part of the personal data and information included in these common databases. This information may only be used by these services for the purposes for which they have access to the common databases.
§ 2, tenth subparagraph inserted by Article 190 of the Law of 5 May 2019 – Belgian Official Gazette of 24 May 2019

Art. 84. When conducting investigations on money laundering, related criminal activities and terrorist financing, the judicial authorities may, subject to the application of the requirement referred to in Article 58, request any relevant information it holds.

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

TITLE 4. – Supervisory authorities

CHAPTER 1. – *General provisions*

Article 85. § 1. Without prejudice to the prerogatives granted to them by or pursuant to other legal provisions, the following authorities shall monitor compliance with the provisions of Book II of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds, and the due diligence requirements laid down in the mandatory provisions on financial embargoes:

1° the Minister of Finance, through his representative referred to in Article 22 of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium, with regard to the latter;

2° the Administration of Treasury with regard to the obliged [entity] referred to in Article 5, § 1, […] 3°;
§ 1, 2° modified by Article 115 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

3° the National Bank of Belgium, hereinafter called "the Bank", with regard to the obliged entities referred to in Article 5, § 1, 4° to 10°, including for the activities carried out by these entities in the capacity of lenders within the meaning of Article I.9, 34° of the Code of Economic Law;

§ 1, 3° modified by Article 102, 1° of the Law of 2 May 2019 – Belgian Official Gazette of 21 May 2019

4° the Financial Services and Markets Authority, hereinafter called "the FSMA", with regard to the obliged entities referred to in Article 5, § 1, 11° to 20°, excluding lenders within the meaning of Article I.9, 34° of the Code of Economic Law, which fall within the supervisory competence of the National Bank of Belgium pursuant to 3°;
§ 1, 4° modified by Article 102, 2° of the Law of 2 May 2019 – Belgian Official Gazette of 21 May 2019

5° the Federal Public Service Economy, SMEs, Self-Employed and Energy with regard to the obliged entities referred to in Article 5, § 1, 21°, and 29° to 31°;

6° the Supervisory Board of Auditors with regard to the obliged entities referred to in Article 5, § 1, 23°;

7° the Institute of Tax Accountants and Tax Consultants with regard to the obliged entities referred to in Article 5, § 1, 24°;

8° the Institute of Accounting professionals and Tax Experts with regard to the obliged entities referred to in Article 5, § 1, 25°;

9° the National Chamber of Notaries with regard to the obliged entities referred to in Article 5, § 1, 26°;

10° the National Association of Bailiffs with regard to the obliged entities referred to in Article 5, § 1, 27°;

11° the President of the Bar Association to which they belong with regard to the obliged entities referred to in Article 5, § 1, 28°;

12° the Federal Public Service Home Affairs with regard to the obliged entities referred to in Article 5, § 1, 32°;

13° the Gaming Commission with regard to the obliged entities referred to in Article 5, § 1, 33°;

§ 2. The King shall designate the authorities that are competent to monitor, without prejudice to the prerogatives granted to them by or pursuant to other legal provisions, compliance with the provisions referred to in § 1 by

the entities to which He, where appropriate, extends the scope of all or part of the provisions of Book II of this Law pursuant to Article 5, § 1, 22°, and § 4.

§ 3. Without prejudice to the prerogatives granted to them in paragraph 1 and by or pursuant to other legal provisions, the following authorities shall monitor compliance with the provisions of Book III:

1° with respect to the provisions of Article 66, § 2, first subparagraph and of Article 67: the Federal Public Service Economy, SMEs, Self-Employed and Energy;

2° with respect to the provisions of Article 66, § 2, second and third subparagraph:

a) the National Chamber of Notaries with regard to the obliged entities referred to in Article 5, § 1, 26°;

b) the Federal Public Service Economy, SMEs, Self-Employed and Energy with regard to the obliged entities referred to in Article 5, § 1, 30°.

Art. 86. § 1. Supervisory authorities or, where appropriate, authorities designated by other laws may issue regulations that apply to the obliged entities under their competence and that complete the provisions of Books II and III and their implementing decrees on a technical level, taking into account the national risk assessment referred to in Article 68.

Where appropriate, the regulations referred to in the first subparagraph shall only take effect after their approval by the King.

If the supervisory authorities or, where appropriate, the other authorities referred to in the first subparagraph fail to issue the regulations referred to in the first subparagraph or fail to amend them in the future, the King shall be empowered to issue these regulations Himself or to amend them.

§ 2. Depending on what they deem necessary for an effective application of the provisions referred to in Article 85, § 1, the supervisory authorities shall:

1° send circulars, recommendations or other forms of communication to the obliged entities in order to clarify the scope of the obligations arising from the aforementioned provisions for these entities;

2° take measures to raise the obliged entities' awareness of ML/FT risks; and

3° take measures to inform the obliged entities of the developments in the legal AML/CFTP framework.

Art. 87. § 1. The supervisory authorities shall exercise their supervision based on a risk assessment. To that end, they shall ensure that they:

1° have a clear understanding of the ML/FT risks present in Belgium, based on relevant information concerning national and international risks, including the report drawn up by the European Commission pursuant to Article 6(1) of Directive 2015/849 and on the national risk assessment referred to in Article 68;

2° base the frequency and intensity of on-site and off-site supervision on the obliged entities' risk profile.

The risk profile referred to in the first subparagraph, 2°, shall be the result of the combination of:

1° an assessment of the level of the ML/FT risks to which the obliged entity is exposed, taking into account in particular the characteristics of its sector of activity, its customers, the products and services offered by it, the geographic areas where it conducts its business and its distribution channels, on the one hand; and

2° an assessment of the management of these risks, including in particular an assessment of the measures it has taken to identify and reduce these risks and an assessment of its level of compliance with the applicable legal and regulatory obligations, on the other hand.

The supervisory authorities shall ensure that they possess relevant information on the obliged entities that is necessary to establish their risk profile.

The obliged entities' risk profile shall be reviewed by the supervisory authority:

1° periodically, with a frequency that has been adapted to take into account in particular the characteristics of the sector of activity and the risk profile previously attributed to the obliged entity; and

2° when important events occur that could affect the level of the ML/FT risks to which the obliged entity is exposed or the management of these risks by the obliged entity.

§ 2. When exercising their supervisory powers, the supervisory authorities shall take into account the risk assessment discretion left to the obliged entities pursuant to this Law. To that end, they shall examine the relevance of the overall risk assessment conducted by the obliged entities in accordance with Article 16 and shall take into account the risk factors listed in Annexes II and III.

Art. 88. In the cases referred to in Article 13, § 3, third subparagraph, where the additional measures imposed by the obliged entity on the establishment operated by it in the third country concerned are not sufficient to efficiently manage the ML/FT risk, the supervisory authority competent pursuant to Article 85 may require that the group does not establish a business relationship or that it ends the relationship and does not perform any transactions. If necessary, the supervisory authority shall demand that the establishment in the third country concerned be closed.

Art. 89. § 1. Except for the case where they are called upon to testify in criminal proceedings, the supervisory authorities referred to in Article 85, § 1, 2°, the members and former members of their bodies and their staff who are involved in exercising the supervision laid down in this Law, or the persons designated for that purpose shall be bound by professional secrecy and may not disclose confidential information they became aware of in exercising their supervisory powers pursuant to this Law to any person or authority.

Except for the case where they are called upon to testify in criminal proceedings, the supervisory authority referred to in Article 85, § 1, 5°, the members and former members of its staff who are involved in exercising the supervision laid down in this Law, or the persons designated for that purpose shall be bound by professional secrecy and may not disclose confidential information they have received from another supervisory authority in the context of exercising their supervisory powers pursuant to this Law to any person or authority.

§ 2. Paragraph 1 is without prejudice to the disclosure of confidential or secret information to third parties in the cases laid down in the Law.

§ 3. The supervisory authorities referred to in paragraph 1 and the members or former members of their bodies and their staff shall be exempt of the obligation laid down in Article 29 of the Code of Criminal Procedure.

§ 4. Breaches of this Article shall be punished by the penalties laid down in Article 458 of the Penal Code. They shall be subject to the provisions of Book 1 of the Penal Code, including Chapter VII and Article 85.

Art. 90. The supervisory authorities shall set up efficient and reliable mechanisms for the reporting, by the obliged entity's managers, staff members, agents and distributors or by third parties, to these authorities of supposed or actual breaches of the provisions of this law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds and the due diligence requirements laid down in the mandatory provisions on financial embargoes.

The mechanisms referred to in the first subparagraph shall include specific procedures for the receipt of reports on breaches and their follow-up.

The supervisory authority may not inform the obliged entity or third parties of the identity of the person who submitted the report.

No civil, criminal or disciplinary proceedings may be brought against and no professional sanction may be imposed on the staff member or representative of the obliged entity who submitted a report to the supervisory authority in good faith because of the fact that he/she submitted the aforementioned report. This protection shall also apply if the report submitted in good faith mentions information that is or should have been included in a notification of a suspicious transaction.

Any adverse or discriminatory treatment of this person, as well as any termination of this person's employment at or representation of the entity because of the reporting, is prohibited.
[The provisions of this Article are without prejudice to the application of special provisions regarding the reporting of breaches to a supervisory authority.]
Sixth subparagraph inserted by Article 116 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

CHAPTER 2. – *Powers and supervisory measures of the National Bank of Belgium*

Art. 91. Without prejudice to the prerogatives granted to it to perform its other statutory supervisory tasks, the Bank can, for the purposes of exercising the supervisory powers conferred on it by or pursuant to this Law, request any information and any document, in any form, and in particular any information on the organisation, operation, situation and transactions of the obliged entities referred to in Article 5, § 1, 4° to 10°, including information about the relationship between an obliged entity and its customers.

The Bank can undertake on-site inspections and take cognizance of and copy, on the spot, any data and any document, file or record and have access to any computer system:

1° to verify compliance with the provisions of Book II of this Law and its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds and the due diligence requirements imposed by the binding provisions on financial embargoes;

2° to be able to verify the appropriate nature of the management structures, the administrative organisation, the internal control and the ML/FTP risk management policies.

The prerogatives referred to in the first and second subparagraphs also include access to the agendas and minutes of the meetings of the various bodies of the obliged entity and of their internal committees as well as to all associated documents and to the results of the internal and/or external opinions on the operation of the aforementioned bodies.

As part of its supervisory task and, in particular, of its inspections as referred to in the second paragraph, the Bank's staff are authorised to obtain any information and explanation from the managers and staff of the obliged entity that they deem necessary for the exercise of their tasks and can request meetings to this end with the managers or staff of the obliged entity they indicate.

Art 92. Relations between the obliged entity and a particular customer do not come under the powers of the Bank unless the supervision of the obliged entity so requires.

Art. 93. § 1. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, the Bank may order an obliged entity as referred to in Article 5, § 1, 4° to 10°, by a deadline it determines:

1° to comply with specific provisions of Book II of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds and the due diligence requirements imposed by the binding provisions on financial embargoes;

2° to make the necessary adjustments to its management structures, its administrative organisation, its internal control and its ML/FTP risk management policies; or

3° to replace the persons referred to in Article 9.

§ 2. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, where the obliged entity to which an order has been issued pursuant to paragraph 1, fails to comply with this order on the deadline set, and provided that the obliged entity has been able to defend its case, the Bank can:

1° publish the infringements found and the fact that the obliged entity has not complied with the order issued to it;

2° impose a penalty on it which may not be less than EUR 250 nor more than EUR 50 000 per calendar day nor, in total, more than EUR 2 500 000.

The penalties imposed pursuant to the first subparagraph shall be collected by the administration of FPS Finance which is responsible for collecting and recovering non-fiscal debts, in accordance with Article 3 et seq. of the Law on State Property of 22 December 1949.

Art. 94. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions and by the prerogatives granted to the Bank to perform its other statutory supervisory tasks, where it finds that on the deadline set pursuant to Article 93, § 1, the situation has not been remedied, the Bank can:

1° appoint a special commissioner.

In such a case, the written, generic or specific authorisation of the special commissioner is required for all the actions and decisions of all the bodies of the obliged entity including its general meeting, and for the actions of the persons responsible for its management; the Bank may however limit the scope of the operations subject to the authorisation.

The special commissioner may submit any proposal he considers appropriate to all bodies of the obliged entity, including the general meeting.

The members of the management and governing bodies and the persons responsible for management who carry out actions or make decisions without having received the necessary authorisation from the special commissioner shall be jointly and severally liable for any loss arising therefrom incurred by the obliged entity or by a third party.

If the Bank has published the name of the special commissioner in the Belgian Official Gazette and has specified the actions and decisions that are subject to his authorisation, any actions or decisions made without the required authorisation shall be null and void unless ratified by the special commissioner.

Under the same conditions, any decision of the general meeting which has been made without the necessary authorisation of the special commissioner shall be null and void unless ratified by the special commissioner.

The remuneration of the special commissioner shall be set by the Bank and paid by the obliged entity.

The Bank may appoint a deputy commissioner;

2° order the replacement of all or part of the members of the statutory governing body of the obliged entity by a deadline it determines and, where no replacement occurs by this deadline, appoint one or more provisional managers or administrators to replace the management and governing bodies as a whole of the obliged entity, who alone or collegially, depending on the case, shall have the powers of the persons replaced. The Bank shall publish its decision in the *Belgian Official Gazette*.

With the authorisation of the Bank, the provisional manager(s) or administrator(s) may call a general meeting and draw up the agenda thereof.

The Bank may request, in accordance with the methods it determines, that the provisional manager(s) or administrator(s) provide a report on the measures taken in connection with their task.

The remuneration of the provisional manager(s) or administrator(s) shall be determined by the Bank and borne by the obliged entity.

The Bank may, at any time, replace the provisional manager(s) or administrator(s), either ex officio, or at the request of the majority of the shareholders or members if they can prove that the management by the parties concerned no longer offers the necessary guarantees;

3° suspend, for a period to be determined by the Bank, the direct or indirect exercise of all or part of the obliged entity’s business or prohibit such business; such suspension may, to the extent determined by the Bank, imply the total or partial suspension of pending contracts.

The members of the management and governing bodies and the persons responsible for management who carry out actions or make decisions in violation of the suspension or prohibition order shall be jointly and severally liable for any loss arising therefrom incurred by the obliged entity or by a third party.

If the Bank has published the suspension or prohibition order in the *Belgian Official Gazette*, any actions or decisions contravening it shall be null and void;

4° withdraw the authorisation.

In the case of obliged entities which are credit institutions, the decision to withdraw the authorisation shall be taken in accordance with Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;

In urgent cases, the Bank may take the measures referred to in the first paragraph without previously issuing an order, provided that the obliged entity has been able to defend its case.

Article 95. Where the Bank finds that an obliged entity as referred to in Article 5, § 1, 6° *d)* or 7° *e)*, has committed in Belgium a serious breach of the provisions of Book II of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849, the European Regulation on transfers of funds or the due diligence requirements imposed by the binding provisions on financial embargoes, the measures referred to in Article 94, 3°, include the power to prohibit the obliged entity from providing services in Belgium through one or more agents or distributors in Belgium designated by the Bank.

Art. 96. When adopting measures pursuant to Article 93, § 2, 2°, the Bank shall take account inter alia of:

1° the gravity and the duration of the breaches;

2° the financial strength of the obliged entity involved, as indicated in particular by its total turnover;

3° any benefits or profits derived from the breaches by the obliged entity involved, insofar as they can be determined;

4° the losses to third parties caused by the breaches, insofar as they can be determined;

5° the level of cooperation of the obliged entity involved with the Bank;

6° any previous breaches by the obliged entity involved.

Art. 97. The Bank shall inform the ESA's of the measures it has taken pursuant to Articles 93, 94, 2° and 4°, and 95, and of any appeal in relation thereto and of the outcome thereof.

Article 98. Where the Bank, in the context of its supervisory task and in particular of its inspections as referred to in Article 91, second subparagraph, identifies a breach of the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy as soon as possible.

CHAPTER 3. – *Powers and supervisory measures of the Financial Services and Markets Authority*

Art. 99. Without prejudice to the prerogatives granted to it to perform its other statutory supervisory tasks, the FSMA can, for the purposes of exercising the supervisory powers conferred on it by or pursuant to this Law, request any information and any document, in any form, and in particular any information on the organisation, operation, situation and transactions of the obliged entities referred to in Article 5, § 1, 11° to 20°, including information about the relationship between an obliged entity and its customers.

The FSMA can undertake on-site inspections and take cognizance of and copy, on the spot, any data and any document, file and record and have access to any computer system:

1° to verify compliance with the provisions of Book II of this Law and its implementing decrees and regulations, the implementing measures of Directive 2015/849 and the due diligence requirements imposed by the binding provisions on financial embargoes;

2° to be able to verify the appropriate nature of the management structures, the administrative organisation, the internal control and the ML/FTP risk management policies.

Art. 100. Relations between the obliged entity and a particular customer do not come under the powers of the FSMA unless the supervision of the obliged entity so requires.

Art. 101. § 1. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, the FSMA may order an obliged entity as referred to in Article 5, § 1, 11° to 20°, by a deadline it determines:

1° to comply with specific provisions of Book II of this Law, its implementing decrees and regulations, the implementing measures of Directive 2015/849 or the due diligence requirements imposed by the binding provisions on financial embargoes;

2° to make the necessary adjustments to its ML/FTP organisation and policies;

3° to replace the persons referred to in Article 9.

§ 2. Without prejudice to the other measures prescribed by this Law or by other legal or regulatory provisions, where the obliged entity to which an order has been issued pursuant to paragraph 1, fails to comply with this order on the deadline set, and provided that the obliged entity has been able to defend its case, the FSMA can:

1° publish the infringements found and the fact that the obliged entity has not complied with the order issued to it;

2° impose a penalty on it which may not be less than EUR 250 nor more than EUR 50,000 per calendar day nor, in total, more than EUR 2,500,000.

The penalties imposed pursuant to the first paragraph shall be collected by the administration of FPS Finance which is responsible for collecting and recovering non-fiscal debts, in accordance with Article 3 et seq. of the Law on State Property of 22 December 1949.

Art. 102. Without prejudice to the other provisions prescribed by this Law or by other legal or regulatory provisions, where it finds that on the deadline set pursuant to Article 101, § 1, the situation has not been remedied, the FSMA can:

1° order the replacement of the managers or administrators concerned of the obliged entity by a deadline it determines. The FSMA shall publish its decision in the *Belgian Official Gazette*;

2° suspend, for a period to be determined by the FSMA, the direct or indirect exercise of all or part of the obliged entity's business or prohibit such business.

The members of the management and governing bodies and the persons responsible for management who carry out actions or make decisions in violation of the suspension or prohibition order shall be jointly and severally liable for any loss arising therefrom incurred by the obliged entity or by a third party.

If the FSMA has published the suspension or prohibition order in the Belgian Official Gazette, any actions or decisions contravening it shall be null and void;

3° withdraw the authorisation.

In urgent cases, the FSMA may take the measures referred to in the first paragraph without previously issuing an order, provided that the obliged entity has been able to defend its case.

Art. 103. When adopting measures pursuant to Articles 101 and 102, the FSMA shall take account inter alia of the circumstances set out in Article 96.

Art. 104. Where the FSMA imposes a penalty pursuant to Article 101, the provisions of Chapter III, Section 5*bis* of the Law of 2 August 2002 on the supervision of the financial sector and on financial services shall apply.

Art. 105. The FSMA shall inform the ESAs of the measures it has taken pursuant to Articles 101 and 102, and of any appeal in relation thereto and of the outcome thereof.

Art. 106. Where the FSMA, in the context of its supervisory task and in particular of its inspections as referred to in Article 99, second subparagraph, identifies a breach of the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy as soon as possible.

CHAPTER 4. – *Supervisory powers and measures of the Federal Public Service Economy, SMEs, Self-employed and Energy*

Section 1. – Supervisory powers and measures regarding the obliged entities referred to in Article 5, § 1, 21°, and 29° to 31°

Art. 107. For the purpose of exercising the supervisory powers conferred on the Federal Public Service Economy, SMEs, Self-employed and Energy pursuant to Article 85, § 1, 5°, and § 3, 2°, *b)*, the officials designated by the Minister of Economy pursuant to Article XV.2 of the Code of Economic Law have the powers to investigate and ascertain, referred to in Articles XV. 2, §§ 1 and 2, first subparagraph, XV.3 to XV.5, XV.10 and XV.32 to XV.34 of the aforementioned Code.

Art. 108. Without prejudice to other measures laid down in this Law or other legal provisions or regulations, the Minister of Economy can, when he finds that an obliged entity, referred to in Article 5, § 1, 21°, and 29° to 31°, breached the provisions of Book II of this Law or its implementing Decrees and Regulations, or Article 66, § 2, second and third subparagraph, of this Law, or the implementing measures of Directive 2015/849, or the due diligence obligations laid down in the binding provisions related to financial embargoes, take the following measures with regard to the obliged entity involved:

1° issue a public statement mentioning the identity of the natural or legal person and the nature of the offence;

2° issue an injunction that the natural or legal person ceases this behaviour and does not repeat it;

3° withdraw or suspend the licence, when the obliged entity needs a licence;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. The King determines the necessary rules of procedure for imposing the measures referred to in paragraph 1, as well as the remedies.

Section 2. – Supervisory powers regarding the restriction of cash payments

Art. 109. For the purpose of exercising the supervisory powers conferred on the Federal Public Service Economy, SMEs, Self-employed and Energy pursuant to Article 85, §3, 1°, the officials designated by the Minister of Economy pursuant to Article XV.2 of the Code of Economic Law have the powers to investigate and ascertain, referred to in Articles XV.1 to XV.10 and XV.32 to XV.34 of the aforementioned Code.

CHAPTER 5. – *Supervisory powers of the Administration of the Treasury and supervisory measures of the Minister of Finance and the Minister responsible for bpost*

Art. 110. Without prejudice to the prerogatives granted to the Administration of the Treasury for its other legal supervisory tasks, it can, for carrying out its supervisory powers laid down in or pursuant to this Law, request any information and any document, in any form, and in particular, any information with regard to the organisation, operations, position and transactions of the obliged [entity] referred to in Article 5, § 1, […] 3°, including the information regarding the relations between an obliged entity and its clients.
First subparagraph modified by Article 117 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

The Administration of the Treasury can carry out on-site inspections and consult and copy any information, any document, any file and any registration, and have access to any computer system, in order to:

1° check compliance with the provisions of Book II of this Law and its implementing Decrees and Regulations, the implementing measures of Directive 2015/849, the European Regulation regarding the transfers of funds and the due diligence obligations laid down in the binding provisions related to financial embargoes;

2° verify the adequate nature of the management structures, the administrative organisation, the internal supervision and the ML/FTP risk management policy.

The prerogatives referred to in the first and second subparagraphs also cover access to the agendas and the minutes of the meetings of the different bodies of the obliged entity and its internal committees, as well as related documents and the results of the internal and/or external assessment of the operations of these bodies.

As part of its supervisory task and in particular the inspections referred to in subparagraph 2, the officials of the Administration of the Treasury are authorised to receive any information and explanation from managers and members of staff of the obliged entity they deem necessary to carry out their tasks and can, to that end, demand interviews with managers or members of staff of the obliged entity they specify.

Art. 111. The Administration of the Treasury is not informed of the relationships between the obliged entity and a specific client, unless required for the supervision of this obliged entity.

Art. 112. Without prejudice to other measures laid down in this Law or other legal provisions or regulations, the Minister responsible for bpost can, with respect to the latter, , when he finds that the obliged entity breached the provisions of Book II of this Law or its implementing Decrees and Regulations, or the implementing measures of Directive 2015/849 or the due diligence obligations laid down in the binding provisions related to financial embargoes, take the following measures:
§ 1, first subparagraph modified by Article 118, 1° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

1° issue a public statement mentioning the name of the obliged entity and the nature of the offence;

2° issue an injunction that the obliged entity ceases this behaviour and does not repeat it;

3° where appropriate, withdraw or suspend the authorisation;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. The measures referred to in paragraph 1 are imposed by […] the Minister responsible for bpost, after the obliged entity has been heard or at least duly convened.
§ 3 modified by Article 118, 2° of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

Art. 113. When the Administration of the Treasury finds, in the framework of its supervisory task, and more in particular the inspections referred to in Article 110, second subparagraph, breached the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy of this as soon as possible.

CHAPTER 6. – *Supervisory powers and measures of the Gaming Commission*

Art. 114. The Gaming Commission can use all of its powers granted in accordance with Article 15, § 1, of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players, as part of its supervisory powers of the obliged entities referred to in Article 5, § 1, 33° of this Law.

Art. 115. § 1. Without prejudice to other measures laid down in this Law or other legal provisions or regulations, when the Gaming Commission finds that a obliged entity, referred to in Article 5, § 1, 33°, breached the

provisions of Book II of this Law or its implementing Decrees and Regulations, or the implementing measures of Directive 2015/849 or the due diligence obligations laid down in the binding provisions related to financial embargoes, take the following measures with regard to the obliged entity involved:

1° issue a public statement mentioning the identity of the natural or legal person and the nature of the offence;

2° issue an injunction that the natural or legal person ceases this behaviour and does not repeat it;

3° withdraw or suspend the licence;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions with obliged entities.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. The Gaming Commission uses the procedure laid down in Article 15/4 to 15/6 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players for imposing the measures referred to in paragraph 1.

Art. 116. When the Gaming Commission finds, in the framework of its supervisory task, a breach of the provisions of Article 66, § 2, first subparagraph, or of Article 67, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy of this as soon as possible.

CHAPTER 7. – *Supervisory powers and measures of other supervisory authorities*

Art. 117. § 1 Without prejudice to the prerogatives granted in accordance with or pursuant to other legal provisions or regulations, the supervisory authorities referred to in Article 85, § 1, 1°, and 6° to 12°, adopt a supervisory regime, in accordance with the provisions of Article 48, paragraphs 1 and 2, of Directive 2015/849, in order to ensure compliance by the obliged entities referred to in Article 5, § 1, 1°, 23° to 28°, and 32°, with the provisions of Book II and of Article 66, § 2, second and third subparagraph, of this Law as well as its implementing Decrees and Regulations, and the implementing measures of Directive 2015/849.

In case the supervisory authorities referred to in the first paragraph fail to set up the mechanisms referred to in the same subparagraph of modify them in the future, the King can adopt or modify these mechanisms Himself.

Art. 118. § 1. Without prejudice to other measures laid down in this Law or other legal provisions or regulations, when the supervisory authorities referred to in Article 85, § 1, 6° to 12°, or, where applicable, designated authorities designated by other legislation, when they find that an obliged entity for which they are responsible, referred to in Article 5, § 1, 1°, 23° to 28°, and 32°, breached the provisions of Book II of this Law or its implementing Decrees and Regulations, or Article 66, § 2, second and third subparagraph, of this Law, or the implementing measures of Directive 2015/849 or the due diligence obligations laid down in the binding provisions related to financial embargoes, take the following measures with regard to the obliged entity involved:

1° issue a public statement mentioning the identity of the natural or legal person and the nature of the offence;

2° issue an injunction that the natural or legal person ceases this behaviour and does not repeat it;

3° withdraw or suspend the licence, when the obliged entity needs a licence;

4° impose a temporary ban for any person with a management role in the obliged entity or any other natural person held responsible for the offence, to carry out management positions.

§ 2. When determining the measures referred to in paragraph 1 the circumstances referred to in Article 96 are taken into account.

§ 3. The supervisory authorities referred to in Article 85, § 1, 6° to 11°, and 14°, each for their own powers, determine the necessary rules of procedure for imposing the measures referred to in paragraph 1, as well as the remedies.

Art. 119. For the entity referred to in Article 5, § 1, 1°, the measures referred to in Article 118 are imposed by the Minister of Finance, after the obliged entity or person involved has been heard or at least duly convened.

Art. 120. When the supervisory authorities referred to in Article 85, § 1, 6° to 12°, find, as part of their supervisory task, finds that the provisions of Article 66, § 2, first subparagraph, or of Article 67, have been breached, it shall notify the Federal Public Service Economy, SMEs, Self-employed and Energy of this as soon as possible.

TITLE 5. – *National cooperation*

Art. 121. § 1. The supervisory authorities shall cooperate and exchange all useful information whenever necessary for the exercise of the supervisory powers conferred on them by or pursuant to this Law, in particular with respect to obliged entities which simultaneously fall within the competence of several of them and with respect to obliged entities that are part of a group comprising subsidiaries or branches that fall within the competence of several of them.

§ 2. The CTIF-CFI and the supervisory authorities referred to in Title 4 shall cooperate and exchange all useful information whenever necessary for the exercise of the powers conferred on them by or pursuant to this Law.

§ 3. For the purposes of this Article, the obligation of professional secrecy to which the supervisory authorities concerned and the CTIF-CFI are subject, is waived.

TITLE 6. – *International cooperation*

CHAPTER 1. – *Cooperation of CTIF-CFI with other financial intelligence units*

Art. 122. CTIF-CFI cooperates and provides information to other FIUs, to the largest extent possible, regardless of their organisational status, in accordance with the conditions laid down in this chapter.

Art. 123. § 1. CTIF-CFI exchanges, spontaneously or upon request, any information that may be relevant for the processing or analysis of information by the FIU related to money laundering or terrorist financing and the natural or legal person involved, even if the type of predicate offences that may be involved is not identified at the time of the exchange.

§ 2. When CTIF-CFI requests information from another FIU, it describes the relevant facts and background, it explains its request, specifies the degree of urgency and indicates how the requested information will be used.

§ 3. When CTIF-CFI receives a request from another FIU to provide information, it responds to this request as soon as possible, depending on the nature of the request and the degree of urgency, in compliance with the principle of free information exchange for analytical purposes and the use of all of its powers that it usually uses to receive and analyse suspicious transaction reports.

Art. 124. § 1. When CTIF-CFI receives a suspicious transaction report, by an obliged entity in accordance with Article 47 or 54, regarding another country, it shall send, any useful information in the report to the FIU of the country in question, as soon as possible.

§ 2. When CTIF-CFI wants to obtain additional information from an obliged entity governed by the law of another Member State carrying out activities in Belgium, it sends its request to the FIU of the Member State in question.

When CTIF-CFI receives such a request from another FIU, it sends the requested information without delay.

Art. 125. § 1. Any document sent by CTIF-CFI to another FIU states that the information received may only be used for analytical purposes for which the information was requested or provided, and that any disclosure of this information to another authority, another agency or department, or any use of this information for other purposes than those initially approved by CTIF-CFI requires prior consent from CTIF-CFI.

§ 2. CTIF-CFI gives its prior consent, referred to in paragraph 1, without delay and to the greatest extent possible.

It refuses its consent for any disclosure beyond the scope of this Law, that could hamper a criminal investigation or would be clearly disproportionate to the legitimate interests of a natural or legal person in Belgium, or otherwise contrary to the fundamental principles of Belgian law.

Each refusal for consent in accordance with the second subparagraph shall be explained.

Art. 126. § 1. CTIF-CFI exchanges information with other FIUs via secure and reliable channels.

The exchange of information between FIUs of Member States shall take place via the "FIU.net" and other international exchanges via the "Egmont Secure Web" or other channels offering the same level of security, reliability and effectiveness that are at least equivalent to the ones mentioned above.

§ 2. In order to carry out its tasks, CTIF-CFI cooperates with other FIUs to use high technology to enable each FIU to anonymously, ensuring full protection of personal data, compare its data with the data of other FIUs, aimed at detecting individuals of interest to the FIU in other member states and identify their proceeds and funds.

Art. 127. When CTIF-CFI receives a request for information from a foreign authority that is not an FIU, regarding information elements in the suspicious transaction report in its possession, it sends the potential response it decides to send to this request to the FIU of the country involved.

When CTIF-CFI wants to obtain information for analytical purposes from a foreign authority, which is not an FIU, it contacts the FIU of the country involved.

Art. 128. Differences between national legal systems regarding the definition of fiscal offences are no impediment for CTIF-CFI to exchange information or provide assistance to another FIU.

CHAPTER 2. – *Cooperation between supervisory authorities and their foreign counterparts*

Art. 129. For the purpose of this Chapter, the following definitions shall apply:

1° "Belgian supervisory authorities": the authorities referred to in Article 85;

2° "Belgian obliged entities": the entities referred to in Article 5, §§ 1 and 4.

Art. 130. § 1. In order to exercise effectively the supervisory powers set out in Title 4 in respect of Belgian obliged entities which are branches, subsidiaries or other forms of establishment of obliged entities subject to the law of another Member State or of a third country, the Belgian supervisory authorities shall cooperate and exchange all relevant information with the competent supervisory authorities of the Member State or third country concerned.

The Belgian supervisory authorities shall also cooperate and exchange all relevant information with the competent supervisory authorities of another Member State or of a third country which monitor compliance with the policies and procedures referred to in Article 45 (1) of Directive 2015/849, at the level of the group to which a Belgian obliged entity as referred to in the first paragraph belongs.

§ 2. In order to monitor compliance effectively with the provisions of Book II, Title 1, Chapter 2, the Belgian supervisory authorities shall cooperate and exchange all relevant information with the competent supervisory authorities of the Member States and third countries in which the group to which the Belgian obliged entity belongs has other establishments.

They shall cooperate and exchange, inter alia, all relevant information with a view to determining whether the conditions for the application of Article 43(2)(2) are met.

§ 3. Where the Bank intends to take a measure as referred to in Article 95, it shall notify the competent supervisory authority of the Member State to the law of which the obliged entity is subject and shall cooperate with a view to ensuring that the serious breaches detected are ended as soon as possible.

§ 4. The Belgian supervisory authorities shall communicate to the competent supervisory authorities of the Member States or third countries any information that would be relevant for the exercise by the latter of their power to impose sanctions and measures on the obliged entities that fall within their competence, in accordance with Articles 58 to 60 of Directive 2015/849 or equivalent provisions of their national legislation.

Art. 131. Cooperation and exchanges of information covered by professional secrecy pursuant to Article 130 shall be subject to compliance with at least one of the following conditions:

1° the competent supervisory authority of the Member State or of the third country is subject, in accordance with the provisions of its national law, to a system of professional secrecy at least equivalent to that to which the Belgian supervisory authorities are subject;

2° the competent supervisory authority of the Member State or of the third country has signed a cooperation agreement with the Belgian supervisory authority which provides for:

a) reciprocity in the exchange of information;

b) the prohibition to use the disclosed information for purposes other than monitoring compliance by the group or the obliged entities which belong to it, with the AML/CFTP obligations or the prudential supervision thereof without the prior written authorisation of the communicating authority;

c) the prohibition to transmit the information received to any third party without the prior written authorisation of the communicating authority.

BOOK V. – SANCTIONS

Title 1. – *Administrative sanctions*

Art. 132. § 1. Without prejudice to other measures prescribed by this Law or by other legal or regulatory provisions, the supervisory authorities referred to in Article 85 or, where appropriate, the authorities designated by other laws, may, where they identify a breach of the provisions of Book II, of Article 66, § 2, second and third subparagraphs, or of Article 90, fifth subparagraph, of this Law or of their implementing decrees and regulations, of the implementing measures of Directive 2015/849, of the European Regulation on transfers of funds or of the due diligence requirements imposed by the binding provisions on financial embargoes, impose an administrative fine to the obliged entities that fall within their competence and, where appropriate, to one or more members of the statutory governing body of these entities, of their management committee, and to persons involved in their senior management in the absence of a management committee, who are responsible for the breach identified.

§ 2. Where the breach referred to in paragraph 1 has been committed by one of the obliged entities referred to in Article 5, § 1, 1° to 22, the amount of the administrative fine referred to in paragraph 1 shall, for the same deed or deeds, amount to:

1° at least EUR 10 000 and at most ten percent of the annual net turnover in the previous financial year, in case of a legal person;

2° at least EUR 5 000 and at most EUR 5 000 000, in case of a natural person.

Where the breach referred to in paragraph 1 has been committed by one of the obliged entities referred to in Article 5, § 1, 23° to 33°, the amount of the administrative fine referred to in the same paragraph 1 shall, for the same deed or deeds, amount to at least EUR 250 and at most EUR 1 250 000.

§ 3. The amount of the administrative fine referred to in § 1 shall be determined in accordance with paragraph 2, taking into account all relevant circumstances, including:

1° the gravity and the duration of the breaches;

2° the degree of responsibility of the person involved;

3° the financial strength of the person involved, as indicated in particular by the total turnover of the legal person involved or the annual income of the natural person involved;

4° any benefits or profits derived from the breaches by the person involved, insofar as they can be determined;

5° any losses to third parties caused by the breaches, insofar as they can be determined;

6° the level of cooperation of the person involved with the competent authorities;

7° any previous breaches by the person involved.

§ 4. By way of derogation from paragraph 1, the authority competent to impose an administrative fine shall be, in respect of the obliged [entity] referred to in Article 5, § 1, 1° […], the Minister of Finance and, in respect of bpost, the Minister responsible for the latter.
§ 4 modified by Article 119 of the Law of 30 July 2018 – Belgian Official Gazette of 10 August 2018

§ 5. The Minister of Finance may impose an administrative fine in accordance with paragraphs 2 and 3 in respect of persons who benefit from the exemption referred to in Article 5, § 3 and who fail to comply with the conditions for exemption. However, where the supervisory authority competent for the category of obliged entities to which the person involved belongs, is, in accordance with Article 85, a federal public service, the administrative fine may be imposed by the minister responsible for this federal public service.

§ 6. Without prejudice to other measures prescribed by this Law or by other legal or regulatory provisions, the Minister of Finance may, where he identifies a breach of Article 58/11, third and fourth subparagraphs, of the Law of 27 June 1921 on non-profit associations, foundations and European political parties and foundations, or to Article 14/1, second and third subparagraphs of the Company Code, or to the quality of the data supplied, as referred to in the aforementioned Articles, impose an administrative fine on the administrators referred to in Article 58/11 of the aforementioned Law and in Article 14/1 of the aforementioned Code, and, where appropriate, to one or more members of the statutory body of these entities, their management committee, and to persons involved in their senior management in the absence of a management committee, who are responsible for the breach identified.

The amount of the administrative fine referred to in the first subparagraph shall be at least EUR 250 and at most EUR 50 000.

The amount of the administrative fine referred to in the first subparagraph shall be determined in accordance with the second subparagraph, taking into account all relevant circumstances set out in § 3, 1° to 7°.

Article 133. § 1. Where the FSMA imposes an administrative fine pursuant to Article 132, § 1, the provisions of Chapter III, Section 5, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services shall apply.

§ 2. Where the Belgian Gaming Commission imposes an administrative fine pursuant to Article 132 , § 1, the provisions of Articles 15/4 to 15/7 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players shall apply.

§ 3. The administrative fine referred to in Article 132, §§ 1 and 6 shall be imposed by the supervisory authorities referred to in Article 85 or, where appropriate, the authorities designated by other laws, the Minister of Finance or the Minister responsible for bpost, pursuant to Article 132, §§ 4 and 6, after the obliged entity or person involved has been heard or at least duly convened.

§ 4. The supervisory authorities referred to in Article 85, § 1, 5° to 12° or, where appropriate, the authorities designated by other laws shall lay down the procedural rules necessary for the imposition of an administrative fine pursuant to Article 132 in respect of the obliged entities referred to in Article 5, § 1, 21°, 23° to 32°, as well as the legal remedies against such a sanction.

The rules of procedure and remedies referred to in the first subparagraph shall take effect only after their approval by the King. If the supervisory authorities concerned fail to lay down such rules of procedure and remedies or fail to amend them in the future, the King shall be empowered to enact such rules or remedies Himself or to amend them.

Art. 134. The administrative fines imposed pursuant to this Title shall be collected by the administration of FPS Finance which is responsible for collecting and recovering non-fiscal debts, in accordance with Article 3 et seq. of the Law on State Property of 22 December 1949.

Art. 135. § 1. The supervisory authorities or, where appropriate, the authorities designated by other laws, the Minister of Finance and the Minister responsible for bpost shall inform the CTIF-CFI of the administrative fines they have imposed pursuant to this Title and of any appeal in relation thereto and of the outcome thereof.

§ 2. The supervisory authorities referred to in Article 85, § 1, 3° to 5° shall inform the ESAs of the administrative fines they have imposed pursuant to this Title to the obliged entities referred to in Article 5, § 1, 4° to 21°, and of any appeal in relation thereto and of the outcome thereof.

§ 3. The supervisory authorities referred to in Article 85, § 1, 1° and 5° to 13° or, where appropriate, the authorities designated by other laws, the Minister of Finance and the Minister responsible for bpost, shall nominatively publish on their official website their decisions concerning the imposition of an administrative sanction under this Title or of a supervisory measure as referred to in Chapters 4 to 7 of Title 4 immediately after the persons concerned have been informed of the decisions.

The publication must contain at least information on the type and nature of the breach and the identity of the natural or legal persons responsible.

Where the publication of the identity of the persons responsible referred to in the second paragraph or the personal data of such persons is deemed disproportionate by the supervisory authorities referred to in the first paragraph, the Minister of Finance or the Minister responsible for bpost, after a case-by-case assessment of the proportionality of the publication of such data, or where such publication would jeopardise the stability of the financial markets or an ongoing investigation, the aforementioned supervisory authorities, the Minister of Finance and the Minister responsible for bpost shall proceed as follows:

1° postponement of the publication of the decision until the reasons for non-publication cease to exist;

2° anonymous publication of the decision, if such an anonymous publication guarantees the effective protection of the personal data in question; in such a case, the publication of the relevant data may be postponed for a reasonable period of time if it is expected that at the end of this period the reasons for an anonymous publication will have ceased to exist;

3° non-publication if the possibilities referred to in 1° and 2° are considered insufficient to ensure that:

a) the stability of the financial markets will not be compromised; or

b) that the publication of the decision is proportionate to the supervisory measures, which are considered to be minor in nature.

If the decision is appealed against, such information and any subsequent information relating to the outcome of that appeal shall be published immediately on the official website referred to in the first paragraph. Any decision cancelling a previous decision must also be published.

Any information published in accordance with this paragraph shall remain on the official website referred to in the first paragraph for a period of five years after publication.

However, the personal data mentioned in the publication on the official website referred to in the first paragraph shall not be kept longer than necessary, in accordance with the applicable rules on the protection of personal data.

TITLE II. – *Criminal sanctions*

Art. 136. For the purposes of this Law and its implementing Decrees and Regulations, those who hamper inspections and checks that supervisory authorities are required to carry out in the country or abroad of those who refuse to give information they are required to provide in accordance with this law or those who intentionally provide inaccurate or incomplete information, shall be punished:

1° for the obliged entities referred to in Article 5, § 1, 1° to 10°, 14°, and 17° to 22°, with the penalties referred to in Article 36/20, § 1, of the Law of 22 February 1998 determining the organic statute of the National Bank of Belgium;

2° for the obliged entities referred to in Article 5, § 1, 11° to 13°, 15° and 16°, with the penalties referred to in Article 87, § 1, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services;

3° for the obliged entities referred to in Article 5, § 1, 23° to 33°, with a fine between EUR 150 and EUR 5 000.

Art. 137. Shall be punished with a fine between EUR 250 and EUR 225 000:

1° those who breach the provisions of Article 66, § 2, first subparagraph, or of Article 67. The fine may however not exceed ten percent of the payment or gift;

2° By way of derogation from Article 136, those who intentionally impede or hinder the mission of police officials or officials designated in accordance with Article XV.2 of the Code of Economic Law when acting within the supervisory powers conferred on the Federal Public Service Economy, SMEs, Self-employed and Energy by Article 85, § 3, of this Law.

The officials designated by the Minister of Economy in accordance with Article XV.2 of the Code of Economic Law can send a warning to the offender, in accordance with Article XV.31 of the same Code or ask the offender to pay an amount barring further prosecution, in accordance with Article XV.61 of the aforementioned Code.

Art. 138. § 1. The provisions of Book I of the Criminal Code, including Chapter VII and Article 85, shall be applicable to the offences punishable in accordance with this title.

§ 2. Legal persons are civilly liable for the criminal fines imposed on the members of their legal administrative body, the persons in charge of the actual management or their agents in accordance with this Title.

§ 3. Any investigation as a result of an offence defined in this Title shall be reported to the competent supervisory authority in accordance with Article 85, by the judicial or administrative authority in charge of this investigation.

Any criminal proceedings as a result of an offence referred to in this title shall be reported by the Public Prosecutor's Office to the competent supervisory authority in accordance with Article 85.

§ 4. The competent supervisory authority in accordance with Article 85 is empowered to intervene at any stage of the procedure before the criminal courts dealing with an offence punished by this title, without having to demonstrate any harm. The intervention shall take place in accordance with the rules applicable to the civil party.

BOOK VI. – MISCELLANEOUS PROVISIONS, AMENDING, REPEAL AND TRANSITIONAL PROVISIONS

TITLE 1 – *Miscellaneous provisions*

Art 139 To carry out its task regarding the implementation of this Law, the Royal Decrees, regulations, and other measures adopted for the implementation of this Law, to implement the financial sanctions in accordance with the Regulations of the Council of the European Union, to implement the financial sanctions referred to in the Resolutions adopted by the United Nations Security Council in the framework of Chapter VII of the Charter of the United Nations and without prejudice to other legal provisions, the Administration of the Treasury, upon specific and duly substantiated request, request information from the Central Point of Contact of the National Bank of Belgium.

The request for consulting the Central Point of Contact referred to in the first subparagraph is carried out by an official who is at least Advisor-General or by the Administrator-General of the Administration of the Treasury, after having checked the reasons for the request.

TITLE 2. – *Amending provisions*

CHAPTER 1. – *Amendments to the Code of Criminal Procedure*

Art. 140 In article 46*quater*, § 1, second subparagraph, of the Code of Criminal Procedure, inserted by the Programme Law of 1 July 2016 the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 141. In Article 464/12, of the same Code, inserted by the Law of 11 February 2014, the words " "Article 2, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 5, § 1, 1° to 22°, 29° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 2. – *Amendments to the Law of 27 June 1921 on non-profit organisations and foundations, European political parties and foundations*

Art. 142. In the Law of 27 June 1921 on non-profit organisations and foundations, European political parties and foundations, a title III*quinquies* shall be inserted as follows:

"Title III*quinquies*. The beneficial owner".

Art. 143. In Title III*quinquies* of the same Law, inserted by Article 142, an Article 58/11 shall be inserted as follows:

"Art 58/11. This Article shall be applicable to associations regulated by Titles I and III, as well as foundations regulated by Title II. The legal persons mentioned under Titles III*ter* and III*quater* shall be excluded.

Shall be considered to be beneficial owners, the persons referred to in Article 4, first subparagraph, 27°, *c)*, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.

Associations and foundations shall obtain and hold adequate, accurate and current information about who their beneficial owners are. The information shall include at least the name, date of birth, nationality and address of the beneficial owner.

The managers shall provide the information on the persons or categories of persons referred to in Article 4, first subparagraph, 27°, *c)*, *v)* and *vi)*, of the aforementioned Law, within one month, from the moment the information regarding the beneficial owner is known or has changed, by electronic means to the Register of beneficial owners (UBO), created by Article 73 of the same Law, as laid down in Article 75 of this Law.

The information on the beneficial owner, referred to in the second and third subparagraph, shall be provided, in addition to the information on the legal owner, to the obliged entities, referred to in Article 5, § 1, of the aforementioned Law, when these entities take customer due diligence measures, in accordance with Book II, Title 3, of the same Law.".

Art 144. In Title III*quinquies* of the same Law, inserted by Article 142, an Article 58/12 shall be inserted as follows:

"Art. 58/12. Shall be punished with a fine between EUR 50 and EUR 5 000, the managers who fail to carry out the formalities referred to in Article 58/11, third and fourth subparagraph, within the period set in this Article.

CHAPTER 3. – *Amendments to the Law of 20 March 1991 on the accreditation of contractors*

Art 145. In Article 4, § 1, 4°, *a)*, fifth dash, of the Law of 20 March 1991 on the accreditation of contractors, replaced by the Law of 5 August 2011, the words "Article 3 of the Law of 11 January 1993 on preventing the

use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 5, § 1, 23° to 28° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 4. – *Amendments to the Law of 8 December 1992 on the protection of privacy in relation to the processing of personal data*

Art 146. In Article 3, § 5, 4°, of the Law of 8 December 1992 on the protection of privacy in relation to the processing of personal data, the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 5. – *Amendments to the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium*

Art. 147. In the introductory sentence of Article 35/1, § 1, 1°, of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium, inserted by the Law of 13 March 2016, the words "Article 39 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 85, § 1, 3°, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 148. In Article 35/1, § 1, 1°, *a)*, of the same Law, inserted by the law of 13 March 2016, the words "Article 39 of the aforementioned Law of 11 January 1993" are replaced by the words "Article 85 of the aforementioned Law of 18 September 2017".

Art. 149. Article 36/2 of the same Law, the current text of which will become paragraph 1, shall be completed by the following paragraph 2:

"§ 2. In accordance with Article 12*bis* and the provisions of this chapter, and to the extent stipulated in the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the Bank's mission shall also be to verify compliance by the financial institutions referred to in § 1, first subparagraph with the legal and regulatory provisions and with the provisions of European law that aim to prevent the use of the financial system for purposes of money laundering and terrorist financing and to prevent the financing of the proliferation of weapons of mass destruction.".

CHAPTER 6. – *Amendments to the Law of 30 November 1998 on the intelligence and service services*

Art 150. In Article 14, third subparagraph, of the Law of 30 November 1998 on the intelligence and service services, replaced by the Law of 4 February 2010, the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 7. – *Amendments to the Law of 22 April 1999 on accounting and fiscal professions*

Art. 151. In Article 4, third subparagraph, of the Law of 22 April 1999 on accounting and fiscal professions, inserted by the Royal Decree of 19 November 2009, the second dash shall be replaced by "-Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that their contents is not contrary to the aforementioned Law of 18 September 2017".

CHAPTER 8. – *Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players*

Art 152. In Article 20 of the Law of 7 May 1999 on games of chance, betting, gaming establishments and the protection of players, the third subparagraph shall be repealed.

CHAPTER 9. – *Amendments to the Companies Code*

Art. 153. In Book I, Title II, Chapter II, of the Companies Code, a section shall be inserted as follows:

"Section V. – The beneficial owner".

Art. 154. In Section V of the same Code, inserted by Article 153, an Article 14/1 shall be inserted as follows:

"Article 14/1. Shall be considered to be beneficial owners, the persons referred to in Article 4, first subparagraph, 27°, *a)*, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.

Companies shall obtain and hold adequate, accurate and current information about who their beneficial owners are, including detailed data on the economic interests held by the beneficial owners. The information shall include at least the name, date of birth, nationality and address of the beneficial owner, as well as the nature and the scope of the economic interest held by the beneficial owner.

The managers shall provide the information on the persons or categories of persons referred to in the aforementioned Article, within one month, from the moment the information regarding the beneficial owner is known or has changed, by electronic means to the Register of beneficial owners (UBO), created by Article 73 of the same Law, as laid down in Article 75 of this Law.

The information on the beneficial owner, referred to in the second subparagraph, shall be provided, in addition to the information on the legal owner, to the obliged entities, referred to in Article 5, § 1, of the aforementioned Law, when these entities take customer due diligence measures, in accordance with Book II, Title 3, of the same Law.".

Art 155. In Section V of the same Code, inserted by Article 153, an Article 14/2 shall be inserted as follows:

"Art. 58/12. Shall be punished with a fine between EUR 50 and EUR 5 000, the managers who fail to carry out the formalities referred to in Article 14/1, second and third subparagraph, within the period set in this Article.".

Art 156. In Article 265, § 1, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art 157. In Article 265, § 2, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 158. In Article 409, § 1, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 159. In Article 409, § 2, fourth subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 160. In Article 515*bis*, first subparagraph, of the same Code, inserted by the Law of 18 January 2010, the words "directly or indirectly" shall be inserted between the words "natural person or legal person that" and "gets securities that grant voting rights".

Art. 161. In Article 530, § 1, third subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system

for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 162. In Article 530, § 2, third subparagraph, of the same Code, as last amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 163. In Article 921, third subparagraph, of the same Code, inserted by the Royal Decree of 1 September 2004 and amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 164. In Article 986, third subparagraph, of the same Code, inserted by the Royal Decree of 28 November 2006 and amended by the Law of 15 July 2013, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 4, 23° of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 10. – *Amendments of the Law of 28 February 2002 on compiling the balance of payments, the external asset position and the international trade statistics of services and Belgium's direct foreign investments and on amending the Decree Law of 6 October 1944 on exchange control and various legal provisions*

Art. 165. In Article 4, § 5, of the Law of 28 February 2002 on compiling the balance of payments, the external asset position and the international trade statistics of services and Belgium's direct foreign investments and on amending the Decree Law of 6 October 1944 on exchange control and various legal provisions the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 11. – *Amendments of the Law of 2 August 2002 on the supervision of the financial sector and financial services*

Art. 166. In Article 40*bis*, § 1, third subparagraph, 2°, of the Law of 2 August 2002 on the supervision of the financial sector and financial services, inserted by the Law of 31 July 2017, the words "Article 2 and 3 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, pursuant to Articles 23 to 27 and 33, first subparagraph to sixth subparagraph of the same Law" shall be replaced by the words "Article 5, § 1, 1° to 32°, and § 3, first subparagraph, Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, pursuant to Book II, Title 4, Chapter 2, Section 1 and Book IV, Title 3, Chapter 2, of the same Law".
Art. 161. In Article 121, § 1, 4°, of the same Law, as last amended by the Law of 13 March 2016, the words "Article 22 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Book IV, Title 3, Chapter 1, and Article 79, §§ 1 to 3, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 11. – *Amendments of the Law of 26 March 2003 on the creation of a Central Office for Seizure and Confiscation and provisions on managing the value of seized goods and implementing specific asset sanctions*

Art. 168. In Article 15, § 3, of the Law of 26 March 2003 on the creation of a Central Office for Seizure and Confiscation and provisions on managing the value of seized goods and implementing specific asset sanctions, replaced by the Law of 11 February 2014, the words "Article 2 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 5, § 1, 1° to 22°, 29° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 169. In Article 15*bis*, § 1, of the same Law, replaced by the Law of 11 February 2014, the words "Article 2 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 5, § 1, 1° to 22°, 29° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 13. – *Amendments of the Law of 19 November 2004 introducing a levy on the exchange of currency, bank notes and coins*

Art. 170. In Article 9, 1°, of the Law of 19 November 2004 introducing a levy on the exchange of currency, bank notes and coins, the words "Article 4 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 5, § 1, 33°, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 14. – *Amendments of the Law of 22 March 2006 on the intermediation in banking and financial services and the distribution of financial instruments*

Art. 171. In Article 8, first subparagraph, of the Law of 22 March 2006 on the intermediation in banking and financial services and the distribution of financial instruments, inserted by the Law of 31 July 2009, 11° shall be replaced as follows:

"11° comply with the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that this legislation is applicable to the intermediary in question and in so far that the contents of the implementation decrees is not contrary to the aforementioned Law of 18 September 2017.".

CHAPTER 15. – *Amendments of the Law of 20 July 2006 on miscellaneous provisions*

Art. 172. In Article 102, § 2, 7°, of the Law of 20 July 2006 on miscellaneous provisions, the words "Article 22 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Book IV, Title 3, Chapter 1, and Article 79, §§ 1 to 3, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash" and the words "Articles 4 to 19" shall be replaced by the words "Articles 2 and 3, Article 4, 23°, Article 5, § 1, 33°, and Book II, Titles 1 to 4, Chapters 1 and 2, Section 4".

CHAPTER 16. – *Amendments of the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, access to the activity of issuing electronic money and access to payment systems*

Art. 173. In Article 7, first subparagraph, 6°, of the Law of 21 December 2009 on the legal status of payment institutions and electronic money institutions, access to the activity of payment service provider, access to the activity of issuing electronic money and access to payment systems, the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 174. In Article 20, § 1, second subparagraph, *d)*, of the same Law, the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 175. In Article 48, § 3, 4°, of the same Law, replaced by the Law of 27 November 2012, the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 176. In Article 62, § 1, 6°, of the same Law, inserted by the Law of 27 November 2012, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

Art. 177. In Article 105, § 3, 6°, of the same Law, inserted by the Law of 27 November 2012, the words “Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

CHAPTER 17. – *Amendments of the Law of 11 February 2013 on the organisation of the profession of estate agent*

Art. 178. In Article 5, § 1, of the Law of 11 February 2013 on the organisation of the profession of estate agent, a first subparagraph shall be inserted as follows:

“ No-one can practise the profession of estate agent if he has been deprived of his civil and political rights or if he has been declared bankrupt without being granted a pardon or if his criminal record shows, at the time of requesting access, that, in Belgium or another Member State of the European Union, he has been given:

1° a criminal sentence;

2° an unsuspended prison sentence of at least one year for one of the offences mentioned in Article 1 of the Royal Decree number 22 of 24 October 1934 banning certain individuals that have been sentenced or declared bankrupt from carrying out certain duties, professions or activities and granting commercial courts the power to impose such a ban;

3° a criminal fine of at least EUR 2 500, prior to applying the additional 10% surcharges, for infringing the legislation on the prevention of money laundering and terrorist financing.”.

Art. 179. In Article 10, § 1, of the same Law, 4° shall be completed as follows:

“and in so far that these natural persons or the beneficial owners of these legal persons have not been sentenced to any of the sentences referred to in Article 5, § 1, first subparagraph,”.

CHAPTER 18. – *Amendments to the Code of Economic Law*

Art. 180. In Article VII.40, § 2, of the Code of Economic Law, inserted by the Law of 19 April 2014, the words “Article 12 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 19, § 2, second subparagraph, and Book II, Title 3, Chapter 2, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

Art. 181. In Article VII.79, second subparagraph, of the same Code, inserted by the Law of 19 April 2014, the words “Article 12 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 19, § 2, second subparagraph, and Book II, Title 3, Chapter 2, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

Art. 182. In Article VII.137, second subparagraph, of the same Code, amended by the Law of 22 April 2016, the words “Article 12 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing” shall be replaced by the words “Article 19, § 2, second subparagraph, and Book II, Title 3, Chapter 2, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash”.

CHAPTER 19. – *Amendments to the Law of 4 April 2014 on insurance*

Art. 183. In Article 268, § 1, 9°, of the Law of 4 April 2014 on insurance, the provision under 9° shall be replaced as follows:

"9° comply with the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that this legislation is applicable to the intermediary in question and in so far that the contents of the implementation decrees is not contrary to the aforementioned Law of 18 September 2017.".

Art. 184. In Article 270, § 1, 1°, A, *e)*, of the same Law the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 185. In Article 20, § 1, 3°, *b)*, of the Law of 25 April 2014 on the status and the supervision of credit institutions and stock broking firms, the words "Article 40 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 132 of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

CHAPTER 21 – *Amendments to the Law of 25 April 2014 on the status and the supervision of independent financial planners and providing advice on financial planning by regulated companies and amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and financial services*

Art. 186. In Article 19 of the Law of 25 April 2014 on the status and the supervision of independent financial planners and providing advice on financial planning by regulated companies and amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and financial services the words "Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing and its implementation decrees" shall be replaced by the words "Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, the implementation decrees and the implementation decrees of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, in so far that their contents is not contrary to the aforementioned Law of 18 September 2017".

CHAPTER 22. – *Amendments to the Law of 27 June 1921 on non-profit organisations and foundations, European political parties and foundations*

Art. 187. In Article 2, 9°, of the Law of 21 July 2016 on introducing a permanent system regarding fiscal and social regularisation, the words "the articles 2 and 3 of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing" shall be replaced by the words "Article 5, § 1, 1° to 32°, and § 3, first subparagraph, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash".

Art. 188. In Article 6, 2°, of the same Law, the words "Article 5, § 3, of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, except for the offence referred to in Article 5, § 3, 1°, eleventh dash of the same Law" shall be replaced by the words "Article 4, 23°, of the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, except for the offence referred to in Article 4, 23°, *k)*, of the same Law".

Art. 189. In Article 7, eighth subparagraph of the same Law, the words "Law of 11 January 1993" shall be replaced by the words "Law of 18 September 2017".

TITLE 3. – *Repeal provisions*

Art. 190. The Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, as last amended by the Law of 1 July 2016, shall be repealed.

Art. 191. Articles 69 to 71 of the Law of 29 December 2010 on miscellaneous provisions (I), as amended by the Law of 15 July 2013, shall be repealed.

TITLE 4 – *Transitional provisions*

Art 192. The Royal Decrees, regulations and any other regulatory acts adopted for the implementation of the Law of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing shall remain applicable in so far as the provisions of this Law lay down general or specific legal authorisation required for these regulatory acts and that their contents is not contrary to this Law.

ANNEXES

The annexes to this Law form an integral part of the Law. They consist of articles. When articles from an annex are referred to, this is explicitly stated.

ANNEX I

Article 1. When conducting their overall risk assessment pursuant to Article 16, second subparagraph, the obliged entities shall at least consider the following variables:

1° the purpose of an account or relationship;

2° the level of assets to be deposited by a customer or the size of transactions undertaken;

3° the regularity or duration of the business relationship.

ANNEX II

Article 1. The factors that are indicative of a potentially lower risk, as referred to in Articles 16, second subparagraph and 19, § 2, are the following:

1° customer risk factors:

a) public companies listed on a regulated market and subject to disclosure requirements (either by regulated market rules or through laws or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership;

b) public administrations or enterprises;

c) customers that are resident in geographical areas of lower risk as set out under 3°;

2° product, service, transaction or delivery channel risk factors:

a) life insurance policies for which the premium is low;

b) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;

c) a supplementary pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme;

d) financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes;

e) products where the ML/FT risks are managed by other factors such as purse limits or transparency of ownership (e.g. certain types of electronic money);

3° geographical risk factors:

a) Member States;

b) third countries having effective AML/CFT systems;

c) third countries identified by credible sources as having a low level of corruption or other criminal activity;

d) third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have AML/CFT requirements consistent with the revised FATF Recommendations and effectively implement those requirements.

ANNEX III

Article 1. The factors that are indicative of a potentially higher risk, as referred to in Articles 16, second subparagraph and 19, § 2, are the following:

1° customer risk factors:

a) the business relationship is conducted in unusual circumstances;

b) customers that are resident in geographical areas of higher risk as set out under 3°;

c) legal persons or arrangements that are personal asset-holding vehicles;

d) companies that have nominee shareholders or shares in bearer form;

e) businesses that are cash-intensive;

f) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business;

2° product, service, transaction or delivery channel risk factors:

a) private banking services;

b) products or transactions that might favour anonymity;

c) non-face-to-face business relationships or transactions, without certain safeguards such as electronic signatures;

d) payment received from unknown or unassociated third parties;

e) new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products;

3° geographical risk factors:

a) without prejudice to Article 38, countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems;

b) countries identified by credible sources as having significant levels of corruption or other criminal activity;

c) countries subject to sanctions, embargoes or similar measures issued by, for example, the European Union or the United Nations;

d) countries providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.