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**GUVERNER**

Pursuant to Article 14, paragraph (11) and Article 42, paragraph (1) of the Anti-Money Laundering and Terrorist Financing Act (Official Gazette 108/2017) and Article 43, paragraph (2), item (9), of the Act on the Croatian National Bank (Official Gazette 75/2008 and 54/2013), the Governor of the Croatian National Bank shall issue the

**Decision on the assessment procedure of the money laundering and terrorist financing risk and on the manner of applying simplified and enhanced customer due diligence measures**

PART ONE

TITLE I

INTRODUCTORY PROVISIONS

*Subject matter*

Article 1

This Decision prescribes:

- 1) the procedure of assessing the money laundering and terrorist financing risk;
- 2) risk factors to be considered by credit and financial institutions when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions; and
- 3) the manner of applying simplified and enhanced customer due diligence measures.

*Obligated Entities*

Article 2

- (1) The provisions of Part One of this Decision shall apply to:
  - 1) credit institutions having their head offices in the Republic of Croatia, authorised by the Croatian National Bank;
  - 2) credit unions having their head offices in the Republic of Croatia, authorised by the Croatian National Bank;
  - 3) payment institutions having their head offices in the Republic of Croatia, authorised by the Croatian National Bank to provide services;
  - 4) electronic money institutions having their head offices in the Republic of Croatia, authorised by the Croatian National Bank to provide services;
  - 5) branches of third-country credit institutions authorised by the Croatian National Bank to provide services;
  - 6) branches of third-country payment institutions authorised by the Croatian National Bank to provide services;
  - 7) branches of third-country electronic money institutions authorised by the Croatian National Bank to provide services;

- 8) branches of credit institutions of another Member State for which their competent authorities notified the Croatian National Bank of the establishment of the branch in the Republic of Croatia;
  - 9) branches of electronic money institutions of another Member State for which their competent authorities notified the Croatian National Bank of the establishment of the branch in the Republic of Croatia;
  - 10) branches of payment institutions of another Member State for which their competent authorities notified the Croatian National Bank of the establishment of the branch in the Republic of Croatia;
  - 11) agents of payment service providers of another Member State for which their competent authorities notified the Croatian National Bank of the provision of payment services in the Republic of Croatia; and
  - 12) distributors of electronic money institutions of another Member State for which their competent authorities notified the Croatian National Bank of the distribution of electronic money in the Republic of Croatia.
- (2) The provisions of Part One of this Decision shall apply *mutatis mutandis* to undertakings referred to in items (1) to (12) of paragraph (1) of this Article when in bankruptcy or when winding-up proceedings have been initiated against them.
- (3) The provisions of Part Two of this Decision shall apply to undertakings referred to in paragraphs (1) and (2) of this Article which provide services or establish relationships defined in Titles III to X. The provisions of Part Two of this Decision shall supplement Part One of this Decision and may not be applied separately.

*Terms and definitions*  
Article 3

- (1) The term '*predicate offence*', '*group*', '*credit institution*', '*financial institutions*', '*shell bank*', '*Member State*', '*third country*', '*politically exposed person*' and '*senior management*' shall have the meaning as defined in the Anti-Money Laundering and Terrorist Financing Act.
- (2) The individual terms used in this Decision shall have the following meaning:
  - 1) '*competent authorities*' means the authorities competent for ensuring compliance of undertakings with the requirements 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 (Text with EEA relevance) (OJ L 141, 5. 6. 2015) as transposed by national legislation;
  - 2) '*undertakings*' means credit and financial institutions, branches, agents and distributors referred to in Article 2, paragraphs (1) and (2) of this Decision;
  - 3) '*jurisdictions associated with higher risk of money laundering and terrorist financing*' means countries that, based on the assessment of risk factors referred to in Title II of this Decision, present a higher money laundering and terrorist financing risk. The term includes but is not limited to high-risk third countries identified as having strategic deficiencies in their anti-money



- laundering and counter terrorist financing regimes referred to in Article 49, paragraph (4) of the Anti-Money Laundering and Terrorist Financing Act;
- 4) '*occasional transaction*' means a transaction that is not carried out within the framework of an established business relationship;
  - 5) '*pooled account*' means an account opened by a customer, for example an attorney at law or notary public, for the purpose of holding their clients' money. The clients' money will be commingled, but clients will not be able to directly instruct the bank to carry out transactions. Accounts used to hold mandatory building maintenance fees are not considered pooled accounts;
  - 6) '*money laundering or terrorist financing risk*' means the impact and likelihood of money laundering or terrorist financing taking place. The risk refers to the level of risk that exists before the implementation of risk mitigation measures;
  - 7) '*risk factors*' means variables that, either on their own or in combination, may increase or decrease the money laundering or terrorist financing risk posed by an individual business relationship or occasional transaction;
  - 8) '*risk-based approach*' means an approach under which competent authorities and undertakings identify, assess and understand money laundering and terrorist financing risks to which the undertakings are exposed and take proportionate anti-money laundering and counter terrorist financing to address these risks;
  - 9) '*source of funds*' means the origin of funds included in a business relationship or occasional transaction. It includes the activity generating the funds used in a business relationship, for example personal income, or earnings of a customer, as well as the means through which the customer's funds were transferred;
  - 10) '*source of wealth*' means the origin of the customer's total wealth, for example inheritance or savings;
  - 11) '*the Act*' means the Anti-Money Laundering and Terrorist Financing Act (Official Gazette 108/2017);
  - 12) '*Directive (EU) 2015/849*' means 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 (Text with EEA relevance) (OJ L 141, 5. 6. 2015);
  - 13) '*Regulation (EU) 2015/847*' means 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 (Text with EEA relevance) (OJ L 141, 5. 6. 2015);
  - 14) '*Directive (EU) 2015/2366*' means Directive (EU) 2015/2366 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 (OJ L 337, 23.12.2015);
  - 15) '*FATF*' means the Financial Action Task Force;
  - 16) '*FSAP*' means the Financial Sector Assessment Program;
  - 17) '*EEA*' means the European Economic Area;
  - 18) '*OECD*' means the Organisation for Economic Co-operation and Development;
  - 19) '*G20*' means the Group of Twenty Finance Ministers and Central Bank Governors;

- 20) '*business relationship manager*' means an employee of the undertaking who manages the business relationship with a customer provided with asset management services.

## TITLE II

### ASSESSING AND MANAGING THE MONEY LAUNDERING AND TERRORIST FINANCING RISK

#### *Assessing and managing money laundering and terrorist financing risk* Article 4

Assessing and managing money laundering and terrorist financing risk associated with individual business relationships or occasional transactions shall include:

- 1) an analysis of the money laundering and terrorist financing risk referred to in Article 12 of the Act
- 2) customer due diligence
- 3) holistic view and assessment of the risk of a business relationship or occasional transaction and
- 4) monitoring of the business relationship and occasional transactions and revision of the risk assessment.

#### *Customer due diligence* Article 5

- (1) Undertakings shall use the risk analysis referred to in Article 4, paragraph (1) of this Decision when taking a decision on the appropriate level and type of customer due diligence that they will apply to individual business relationships or occasional transactions.
- (2) Before establishing a business relationship or carrying out an occasional transaction undertakings shall apply the customer due diligence measures referred to in Article 15, paragraph (1), items (1), (2) and (3) of the Act.
- (3) Undertakings shall adapt the scope of initial customer due diligence measures based on the risk assessment.
- (4) When the risk associated with a business relationship or occasional transaction is low, undertakings may apply simplified customer due diligence measures in accordance with Article 43 of the Act, unless otherwise prescribed.
- (5) When the risk associated with a business relationship or occasional transaction is high, undertakings must apply enhanced customer due diligence measures in accordance with Article 44 of the Act.

#### *Holistic view of the risk of a business relationship or occasional transaction*

## Article 6

Undertakings should gather sufficient information to ensure identification of all relevant risk factors, including, where necessary, by applying additional customer due diligence measures. Undertakings shall assess these risk factors and make a holistic view of the risk associated with an individual business relationship or occasional transaction.

### *Assessing the money laundering and terrorist financing risk*

## Article 7

Assessing money laundering and terrorist financing includes:

- 1) the identification of the money laundering and terrorist financing risk; and
- 2) the assessment of the risk factors related to money laundering and terrorist financing.

### *Identifying the money laundering and terrorist financing risk*

## Article 8

- (1) Undertakings shall identify the money laundering and terrorist financing risks they are or would be exposed to as a result of establishing a business relationship or carrying out occasional transaction.
- (2) When identifying the money laundering and terrorist financing risk associated with a business relationship or occasional transaction, undertakings shall consider relevant risk factors, including the identity of the customer, the country or geographical area they operate in, the particular products, services and transactions the customer requires and the delivery channels the customer uses.

### *Sources of information*

## Article 9

- (1) Whenever possible, undertakings shall obtain information on risk factors of money laundering and terrorism financing from a variety of sources, regardless whether these are accessed individually or through commercially available tools or databases that pool information from several sources.
- (2) Undertakings shall determine the type and numbers of sources of information in accordance with the risk assessment.
- (3) Undertakings shall consider the following sources of information:
  - 1) the European Commission's supranational assessment of the money laundering and terrorist financing risk;
  - 2) the national assessment of the money laundering and terrorist financing risk;
  - 3) strategic announcements and alerts of state authorities and explanations provided with relevant legislation;
  - 4) guidelines, circular letters and information from competent authorities and the reasoning set out in sentencing decisions;

- 5) threat reports, alerts and typologies, as well as other information provided by the Office for Money Laundering Prevention and criminal prosecution authority;
  - 6) information obtained as part of the initial customer due diligence; and
  - 7) own knowledge and professional experience.
- (4) Undertakings may consider the following sources of information:
- 1) information from organisations of obliged entities on typologies and on emerging risks;
  - 2) information from civil society organisations on the corruption perception indices and other country reports;
  - 3) information from international standard-setting bodies such as mutual evaluation reports or non-binding blacklists;
  - 4) information from credible and reliable public sources and the media;
  - 5) information from credible and reliable commercial organisations, such as risk reports; and
  - 6) information from statistic organisations and the academia.

*Risk factors*  
Article 10

- (1) Undertakings shall prescribe in their internal bylaws the risk factors they will consider and shall apply them consistently. When defining risk factors, undertakings shall consider at least the risk factors referred to in this Decision and the Act.
- (2) When assessing the risk of an individual business relationship or occasional transaction, undertakings need not identify all risk factors prescribed in this Decision, only those relevant for a particular business relationship or transaction.
- (3) Undertakings shall take a holistic view of the risk associated with the circumstances of a business relationship or transaction and take into account that the presence of isolated risk factors does not necessarily move a relationship into a higher or lower risk category, except in the case referred to in Article 44 of the Act.

*Customer risk factors*  
Article 11

- (1) When identifying the risk associated with their customers or customers' beneficial owners, undertakings shall consider all risks associated with their business or professional activity, reputation, nature and behaviour.
- (2) Risk factors associated with the business or professional activity of customers or customers' beneficial owner that undertakings must consider are as follows:
  - 1) does the customer or the customer's beneficial owner have links to sectors exposed to higher corruption risk;
  - 2) does the customer or the customer's beneficial owner have links to sectors exposed to higher money laundering and terrorist financing risk;



- 3) does the customer or the customer's beneficial owner have links to sectors that involve significant amounts of cash;
  - 4) what is the nature of business or the purpose of establishing of the legal person or entity referred to in Article 26, paragraph (1) of the Act;
  - 5) is the customer or the customer's beneficial owner a politically exposed person or does the customer or the customer's beneficial owner have any other relevant links to a politically exposed person;
  - 6) does the customer or a customer's beneficial owner hold another prominent public function or are the customer or the customer's beneficial owner persons who might abuse their position for their personal gain;
  - 7) is the customer a legal person subject to data disclosure requirements that ensure public availability of reliable information about the customer's beneficial owner, for example joint stock companies listed on the stock exchange;
  - 8) is the customer a credit or a financial institution acting on its own account in a jurisdiction with an effective anti-money laundering and counter terrorist financing regime which is supervised for compliance with the anti-money laundering and counter terrorist financing requirements;
  - 9) is the customer a credit or a financial institution that has been subject to sanctions or other measure by the competent authorities for failure to comply with the obligation to prevent money laundering and terrorist financing or other relevant business omissions;
  - 10) is the customer a public administration body or an enterprise from a jurisdiction with low corruption levels; and
  - 11) whether the information on the customer or the customer's beneficial owner correspond with the undertaking's findings about their former, current or planned business activity, operating income, the source of funds and wealth of the customer or the customer's beneficial owner.
- (3) Risk factors associated with the reputation of a customer or of a customer's beneficial owner that undertakings shall consider are as follows:
- 1) are there adverse reports from reliable and credible media or other sources of information about the customer or the customer's beneficial ownership, for example allegations of criminal offences or links to terrorism or terrorist financing; it is irrelevant whether these illegal acts have already been punished by a judgement with final force and effect;
  - 2) were the wealth of the customer, of the customer's beneficial owner or anyone publicly known to be closely associated with them was, or the undertaking has reasonable grounds to suspect that it was, frozen because of administrative or criminal proceedings or allegations of terrorist activity or terrorist financing;
  - 3) does the undertaking know if the customer or the customer's beneficial owner has been reported to the Office for the Prevention of Money Laundering because of suspicious transactions; and
  - 4) does the undertaking have other adverse information on the integrity of the customer or the integrity of the customer's beneficial owner that it obtained in the course of the business relationship.
- (4) The undertaking shall consider that some of the risk factors associated with the reputation, nature and conduct of the customer or the customer's beneficial owner will not be apparent at the time of establishing the business relationship; they may emerge once the business relationship has already been established.

- (5) Risk factors associated with the nature and behaviour of a customer or of a customer's beneficial owner that the undertaking must consider are as follows:
- 1) does the customer has a legitimate reason for not being able to provide robust evidence of their identity;
  - 2) is there any doubt about the veracity or accuracy of the identity of the customer or of the customer's beneficial owner;
  - 3) is it suspected that the customer is trying to avoid the establishment of a business relationship. For example the customer intends to carry one transaction or several one-off transactions although the establishment of a business relationship would make more economic sense;
  - 4) is the ownership and control structure of the customer complex or opaque and is there an obvious commercial or lawful rationale;
  - 5) does the customer issue bearer shares or does it have nominee shareholders;
  - 6) is the customer a legal person or a legal arrangement that might be used as an asset-holding vehicle;
  - 7) is there a justified reason for the change in the customer's ownership and control structure;
  - 8) does the customer request transactions that are complex, unusually or unexpectedly large or have unusual or unexpected patterns without an apparent economic or lawful purpose or commercial rationale;
  - 9) is there reason to suspect that the customer is trying to evade thresholds referred to in Article 16, paragraph (1), items (2) and (3) or Article 61, paragraph (1) of the Act;
  - 10) does the customer request unnecessary or unreasonable levels of secrecy. For example is the customer reluctant to provide information necessary to carry out customer due diligence or show signs of disguising the true nature of their business;
  - 11) are the information on the source of wealth or funds of the customer or of the customer's beneficial owner understandable and plausible, for example the source of funds is salary, inheritance or investment;
  - 12) does the customer use the products and services they have taken out in accordance with expectations at the time when the business relationship was first established;
  - 13) would the needs of the customer who is a non-resident be better serviced elsewhere and is there a sound economic and lawful rationale for the customer requesting the type of transaction sought; and
  - 14) is the customer a non-profit organisation whose activities might be abused for terrorist financing purposes.

*Country and geographical risk factors*  
Article 12

- (1) When identifying the risk associated with countries or geographical areas, undertakings shall consider the risks associated with jurisdictions in which a customer or a customer's beneficial owner have:
  - 1) a head office or domicile,
  - 2) the main place of business, and
  - 3) relevant personal or business links.
- (2) Undertakings shall consider that the nature and purpose of a business relationship may often be the decisive factor in the relative importance of individual country or geographical risk factors, for example:



- 1) when the funds used in the business relationship have been generated outside the Republic of Croatia, the level of predicate offences and the efficiency of the other country's legal system may be an important factor;
  - 2) when the funds are received from, or sent to, jurisdictions where groups committing terrorist offences are known to be operating undertakings shall consider the extent to which this could raise suspicion based on what the undertaking knows about the purpose and nature of the business relationship;
  - 3) when the customer is a credit or a financial institution, undertakings shall consider the adequacy of the country's anti-money laundering and terrorist financing system and the effectiveness of the country's supervision of the prevention of money laundering and terrorist financing; and
  - 4) when the customer is a legal person, the undertaking shall take into account the extent to which the country with which the customer and, where applicable, the customer's beneficial owner are linked effectively complies with the international tax transparency standards.
- (3) Risk factors that undertakings shall consider when identifying the effectiveness of the anti-money laundering and terrorist financing regime of a particular country and of a geographical area shall be as follows:
- 1) is the country a high-risk third country as identified by a delegated act of the European Commission;
  - 2) is there information from more than one credible and reliable source about the quality of the jurisdiction's anti-money laundering and terrorist financing controls, which include information on the quality and effectiveness of regulatory measures and oversight. Sources of information may include:
    - a) mutual evaluation reports by the FATF or the FATF-style regional bodies;
    - b) the FATF's list of high-risk and non-cooperative jurisdictions;
    - c) International Monetary Fund assessments; and
    - d) FSAP reports.
  - 3) the undertaking shall consider that membership of the FATF or membership in a FATF-style regional body does not, of itself, mean that the jurisdiction's anti-money laundering and terrorist financing regime is adequate and effective.
- (4) Risk factors that undertaking shall consider when identifying the level of terrorist financing risk associated with a jurisdictions shall be as follows:
- 1) is there information from law enforcement authorities or credible and reliable sources from the media, suggesting that a jurisdiction provides funding or support for terrorist activities or that terrorist groups operate in the country or territory; and
  - 2) is the jurisdiction subject to financial sanctions, embargoes or measures related to terrorism, financing of terrorism or proliferation issued by the United Nations or the European Union.
- (5) Risk factors that undertakings shall consider when identifying a jurisdiction's level of transparency and tax compliance shall be as follows:
- 1) is there information from more than one credible and reliable source that the country complies with international tax transparency and information sharing standards and is there evidence that the appropriate rules are effectively implemented in practice. Sources of information may include:

- a) reports by the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes which rate jurisdictions for tax transparency and information sharing purposes;
  - b) assessment of the jurisdiction's commitment to automatic exchange of information based on the Common Reporting Standard;
  - c) assessment of compliance with FATF Recommendations 9, 24 and 25 and FATF Immediate Outcomes 2 and 5 or recommendations of FATF-style regional bodies and
  - d) International Monetary Fund assessments;
- 2) has the jurisdiction committed to, and effectively implemented, the Common Reporting Standard on Automatic Exchange of Information, which the G20 adopted in 2014; and
  - 3) has the jurisdiction put in place reliable and accessible beneficial ownership registers.
- (6) Risk factors that undertakings shall consider when identifying the risks associated with the level of predicate offences shall be as follows:
- 1) is there information from credible and reliable public sources about the level of predicate offences. Sources of information may include:
    - a) corruption perception index;
    - b) OECD country reports on the implementation of the OECD's anti-bribery convention; and
    - c) World Drug Report of the United Nations Office on Drugs and Crime.
  - 2) is there information from more than one credible and reliable source about the capacity of the jurisdiction's investigative and judicial system to effectively investigate and prosecute predicate offences.

*Products, services and transactions risk factors*

Article 13

- (1) When identifying the risk associated with their products, services or transactions, undertakings shall consider the risk associated with:
  - 1) the level of transparency or opaqueness of the product, service or transaction,
  - 2) the complexity of the product, service or transaction, and
  - 3) the value or the volume of the product, service or transaction.
- (2) Risk factors associated with the transparency of a product, service or transaction that undertakings must consider shall be as follows:
  - 1) to what extent do products or services allow the customer or the customer's beneficial owner or ownership structures to remain anonymous, or facilitate hiding their identity. For example: bearer shares and legal persons such as foundations that may be structured in such a way as to take advantage of anonymity and allow transactions with shell companies or companies with nominee shareholders; and
  - 2) to what extent is it possible for a third party that is not part of the business relationship to give instructions, for example in the case of certain banking correspondent relationships.
- (3) Risk factors associated with the complexity of a product, service or transaction that undertakings must consider shall be as follows:
  - 1) the level of complexity of a transaction and the involvement of multiple parties or countries, for example in the case of certain trade financing transactions;

- 2) are transactions straightforward, for example are regular payments into a pension fund;
  - 3) to what extent do products or services allow payments from third parties or accept overpayments in cases where this would not normally be expected;
  - 4) the extent of familiarity with the identity of the third party in cases when third-party payments are expected, for example guarantors, or are products and services funded exclusively by fund transfers from the customer's own account at another financial institution that is subject to anti-money laundering and terrorist financing standards and oversight that are comparable to those laid down in Directive (EU) 2015/849; and
  - 5) the level of familiarity with risks associated with its new or innovative product or service developed by the undertaking, in particular when this involves the use of new technologies or payment methods.
- (4) Risk factors associated with the value or volume of a product, service or transaction that undertakings must consider shall be as follows:
- 1) to what extent are products or services cash intensive, for example certain current accounts and many payment services;
  - 2) to what extent do products or services facilitate or encourage high value transactions; and
  - 3) are there any caps on transaction values or levels of premium that could limit the use of the product or service for money laundering or terrorist financing purposes.

*Delivery channel risk factors*

Article 14

- (1) When identifying the risk associated with the way in which the customer obtains the products or services they require, undertakings shall consider the risk associated with:
- 1) a business relationship when the customer is not face-to-face, and
  - 2) persons carrying out customer due diligence instead of the undertaking and the nature of their relationship with the undertaking.
- (2) Risk factors associated with the way in which the customer obtains the products or services, that undertakings must consider shall be as follows:
- 1) is the customer physically present at identification;
  - 2) have certain safeguards been applied in case of non-face-to-face customer due diligence;
  - 3) what measures have been undertaken to prevent impersonation or identity fraud;
  - 4) have customer due diligence measures instead of the undertaking been carried out by a person which is a member of the same group;
  - 5) can the undertaking rely that the customer due diligence measures carried out by a third person which is a member of the same group will not expose it to excessive risk of money laundering or terrorist financing;
  - 6) the measures undertaken for the undertaking to be satisfied that the person which is the member of the same group applies the same customer due diligence measures pursuant to EEA standards in accordance with Article 39, paragraph (5) of the Act;
  - 7) have customer due diligence measures of the undertaking been carried out by a third person which is not a member of the same group;

- 8) have customer due diligence measures of the undertaking been carried out by a third person whose business activity is not related to the provision of financial services and which is not a part of the same group;
- 9) measures undertaken in order for the undertaking to be satisfied that:
  - a) the person which is not a member of the same group and which has carried out customer due diligence measures instead of the undertaking, applies customer due diligence measures and keeps records in accordance with EEA standards and that it is supervised in order to establish compliance with comparable money laundering and terrorist financing requirements in accordance with Article 39, paragraph (1) of the Act;
  - b) the third person will, immediately upon request, submit copies of identification and verification data in accordance with Article 41 of the Act; and
  - c) it can rely on the quality of the customer due diligence measures applied by the third person;
- 10) is the business relationship carried out via an agent, that is, does the undertaking have direct contact to the customer;
- 11) to what extent can the undertaking be satisfied that the agent has obtained enough information so that the undertaking knows its customer and the level of risk associated with that business relationship or transaction;
- 12) to what extent are independent or tied agents involved in the operation of the undertaking and how does this affect the undertaking's knowledge of the customer and management of operating risks associated with that customer; and
- 13) does the undertaking use an intermediary which:
  - a) is subject to anti-money laundering and counter terrorist financing obligations in accordance with the requirements prescribed by Directive (EU) 2015/849;
  - b) is subject to effective supervision of money laundering and terrorist financing prevention;
  - c) its level of compliance with applicable anti-money laundering and counter terrorist financing legislation or regulation is inadequate, for example the intermediary has been sanctioned for breaches of the obligation to prevent money laundering or terrorist financing;
  - d) has its head office in a jurisdiction associated with higher money laundering and terrorist financing risk;
  - e) has its head office in a high-risk third country as identified by a delegated act of the European Commission;
- 14) the undertaking cannot entrust the application of customer due diligence measures to the intermediary referred to in item 13(e) of this paragraph unless it is a branch or subsidiary in the majority ownership of another undertaking established in the European Union and the undertaking is confident that the intermediary fully complies with group-wide policies and procedures in accordance with Article 45 of Directive (EU) 2015/849.

*Assessing money laundering and terrorist financing risk*  
Article 15

The undertaking shall take a holistic view of all money laundering and terrorist financing risk factors it identified and which will collectively determine the level of the money laundering and terrorist financing risk associated with a business relationship or occasional transaction.

*Weighting risk factors*  
Article 16

- (1) The undertaking shall assign importance weights to individual risk factors in the context of a certain business relationship or occasional transaction.
- (2) The weights assigned to individual risk factors may be different for different products, customers or customer categories.
- (3) When weighting risk factors, undertakings shall ensure that:
  - 1) weighting is not unduly influenced by just one factor;
  - 2) economic or profit considerations do not influence the risk rating;
  - 3) weighting does not lead to a situation where it would be impossible for any business relationship to be classified as high risk;
  - 4) that the cases referred to in Article 44, items (1), (2), (3), (4), (5), (6), (8), (9) and (10) of the Act which are related to the circumstances that always represent high risk cannot be overruled by the undertaking's weighting; and
  - 5) they are able, where necessary, to override any automatically generated risk score and that the rationale for the decision to override such automatically generated score is documented.
- (4) Where it uses automated information technology systems to allocate the overall risk score to categorise business relationships or occasional transactions which it obtained from an external provider, the undertaking must understand how the system works and how it combines risk factors to achieve an overall risk score. The undertaking must be certain that the score allocated reflects its understanding of the money laundering and terrorist financing risk and shall, upon request, be able to demonstrate this to the Croatian National Bank.

*Categorising business relationships and occasional transactions*  
Article 17

- (1) Undertakings shall prescribe in their internal bylaws the manner of categorising risk which shall reflect the type and the scope of business and the types of the money laundering and terrorist financing risks they are exposed to.
- (2) Undertakings shall categorise business relationships and occasional transactions in accordance with the identified level of the money laundering and terrorist financing risk into at least three categories: high, medium and low risk categories. Undertakings may also use internally developed risk categories.

*Risk management: simplified and enhanced customer due diligence measures*  
Article 18

- (1) Undertakings shall use the risk assessment when allocating resources for managing the money laundering and terrorist financing risk, when establishing a relationship with a customer, carrying out transactions and for the duration of the business relationship.

- (2) Undertakings shall apply customer due diligence measures referred in Article 15 of the Act to better understand the risk associated with individual business relationships or occasional transactions.
- (3) Undertakings shall prescribe in their internal bylaws the customer due diligence measures in accordance with the level and type of risk of money laundering and terrorist financing it identified. When defining the customer due diligence measures, undertakings shall consider the customer due diligence measures prescribed in this Decision and shall apply them consistently.

*Simplified customer due diligence measures*  
Article 19

- (1) When applying the simplified customer due diligence measures, undertakings shall apply all customer due diligence measures referred to in Article 15 of the Act.
- (2) Where a business relationship or occasional transaction is categorised as low risk, undertakings may adjust the scope, timing or type of each or all of the customer due diligence measures in a way that is commensurate to that risk category.
- (3) The simplified customer due diligence measures undertakings may apply include but are not limited to:
  - 1) adjusting the timing of the customer due diligence, for example when the characteristics of the product or transaction requested has features that limit the possibility of its use for money laundering and terrorist financing purposes:
    - a) by verifying the identity of the customer and/or the customer's beneficial owner during the establishment of a business relationship; or
    - b) by verifying the identity of the customer and/or the customer's beneficial owner when transactions exceed a threshold defined in internal bylaws or once a reasonable time period has lapsed. In such a case undertakings must ensure:
      - that this does not result in an exception from customer due diligence;
      - that the identity of a customer or the customer's beneficial owner is ultimately verified;
      - that the threshold or time limitation is set at a reasonably low level;
      - that they have systems in place to detect when the threshold or time limit has been breached; and
      - that they do not defer customer due diligence in cases where the applicable legislation, for example Regulation (EU) 2015/847, prescribes the collection of such information;
  - 2) adjusting the quantity of information collected for the purpose of identification, verification or monitoring of the business relationship, for example: by verifying identity on the basis of information obtained from only one reliable, credible and independent document or data source, or assuming the nature and purpose of the business relationship because the product is designed for only one purpose;
  - 3) adjusting the quality or source of information collected for the purpose of identification, verification or monitoring of the business relationship, for example:



- a) by accepting information obtained from the customer rather than an independent source when verifying the identity of the customer's beneficial owner, if, due to objective reasons, it is not possible to collect data from independent sources; or
  - b) when the risk associated with all aspects of the business relationship is very low, relying on the source of funds to meet some of the customer due diligence requirements, for example in case of state benefit payments;
- 4) adjusting the frequency of customer due diligence updates and reviews of the business relationship, for example carrying these out only when trigger events occur such as the customer inquiring about taking out a new product or service or when a certain transaction threshold set by an internal policy is reached. Undertakings must ensure that this does not result in an exemption from updating customer due diligence information; and
  - 5) adjusting the frequency and intensity of transaction monitoring, for example by monitoring only transactions above the threshold set by an the internal act. Undertakings shall set the transaction monitoring threshold at a reasonable level and shall have in place systems to identify linked transactions that, together, would exceed that threshold.
- (4) The information undertakings collect when applying simplified customer due diligence measures must enable them to be reasonably satisfied that their assessment that the risk associated with a business relationship or occasional transaction is low is justified and it must be sufficient to give undertakings enough information about the nature of the business relationship or occasional transaction to identify unusual or suspicious transactions.
  - (5) Undertakings shall not apply simplified customer due diligence measures when in connection with a customer, transaction, wealth or funds there are reasons to suspect money laundering and/or terrorist financing, when they apply high-risk scenarios, if it is the case of a complex and unusual transaction referred to in Article 53, paragraph (1) of the Act, and when there is an obligation to conduct enhanced customer diligence.

*Enhanced customer due diligence measures*

Article 20

- (1) Undertakings shall apply enhanced customer due diligence measures in the situations referred to in Article 44 of the Act to manage those risks and mitigate them appropriately.
- (2) The enhanced customer due diligence measures shall be applied in addition to regular customer due diligence measures.

*Politically exposed persons*

Article 21

- (1) Undertakings that have identified that a customer or a customer's beneficial owner is a politically exposed person shall:

- 1) take adequate measures to identify the source of wealth and the source of funds to be used in a business relationship or for an occasional transaction in order for an undertaking to make sure it does not handle proceeds from corruption or other criminal offence;
  - 2) obtain approval from senior management to establish or continue a business relationship with a certain politically exposed person;
  - 3) apply enhanced ongoing monitoring measures of transactions and risks associated with the business relationship. Undertakings shall determine in their internal bylaws the frequency of ongoing monitoring depending on the level of risk;
  - 4) identify unusual transactions and regularly review information it has in order to ensure that new information that might affect the risk assessment is identified in a timely manner.
- (2) The scope and intensity of measures referred to in paragraph (1), item (1) of this Article must depend on the level of risks associated with a business relationship or occasional transaction. When the risk associated with a business relationship or occasional transaction with a politically exposed person is exceptionally high, undertakings shall verify the source of wealth and the source of funds on the basis of reliable and independent data, documentation or information.
- (3) Undertakings shall determine in their internal bylaws the level of seniority of senior management required to approve a business relationship with a politically exposed person. The appropriate sign-off function should depend on the risk level associated with a business relationship. Senior manager should hold a sufficiently high function to take decisions on issues that directly impact the risk profile of the undertaking. When taking a decision whether to approve a business relationship with a politically exposed person, senior management shall base their decision on the level of risk of money laundering and terrorist financing the undertaking would be exposed to if the business relationship is established and the ability of the undertaking to manage that risk effectively.
- (4) Undertakings shall apply all measures referred to in paragraph (1) of this Article to politically exposed persons, their family members and persons known to be their close associates referred to in Article 46, paragraphs (4) and (5) of the Act and adjust the scope and intensity of these measures on a risk-sensitive basis.

### *Complex and unusual transactions*

#### Article 22

- (1) Undertakings shall have in place adequate policies and procedures to detect complex and unusual transactions or transaction patterns.
- (2) Undertakings shall apply enhanced customer due diligence measures in cases where they detect complex and unusual transactions without an economic or lawful purpose of the transaction or when they doubt the truthfulness of the information provided.
- (3) Complex and unusual transactions are transactions which:
  - 1) are larger than what the undertaking expects based on its knowledge of the customer, the business relationship or the category to which the customer belongs;



- 2) have no apparent economic or obvious lawful purpose or are unexpected in view of the customer's normal activity or transactions associated with similar customers, products or services; or
  - 3) are very complex compared with other similar transactions with similar customer types, products or services.
- (4) Enhanced customer due diligence measures must be sufficient for the undertaking to be able to determine whether unusual transactions give rise to suspicion and shall, together with the measures referred to in Article 53, paragraph (3) of the Act include at least:
- 1) taking justified and adequate measures to understand the background and purpose of these transactions, for example by establishing the destination of funds or collecting additional information on the customer's business in order to ascertain the likelihood of the customer making such transactions; and
  - 2) more frequent and more detailed monitoring of the business relationship and subsequent transactions. Undertakings may decide to monitor individual transactions when this is commensurate to the identified risk.

*High-risk third countries and other high-risk situations*  
Article 23

- (1) When the customer comes from a high-risk third country and in all other high-risk situations, undertakings shall prescribe in their internal bylaws the enhanced customer due diligence measures appropriate for each high-risk situation, taking into consideration the measures prescribed by the Act and the Decision, and shall apply them consistently.
- (2) When the customer comes from a high-risk third country, undertakings shall at least apply the measures referred to in Article 49 of the Act.
- (3) The appropriate type of enhanced customer due diligence, including the scope of requested additional information and of increased monitoring of the business relationship shall depend on the reason why the occasional transaction or a business relationship was classified as high risk.
- (4) When determining the enhanced customer due diligence measures referred to in paragraph (1) of this Article, undertakings shall consider:
  - 1) increasing the quantity of information collected for the purpose of customer due diligence:
    - a) information about the identity of the customer and the customer's beneficial owner or the customer's ownership and control structure for the undertaking to be satisfied that the risk associated with the business relationship is well understood. The increase in the quantity of information may include collecting and assessing information about the reputation of the customer or the customer's beneficial owner and assessing any negative allegations against the customer or the customer's beneficial owner, for example:
      - information about family members and close business associates;
      - information about past and present business activities of the customer or customer's beneficial owner; and
      - adverse media searches;

- b) information about the intended nature of the business relationship to ascertain that the nature and purpose of the business relationship is legitimate and to be able to make a more complete risk profile of the customer, for example:
    - the number, size or frequency of expected transactions per account, to enable the undertaking to spot deviations that might give rise to suspicion. In some cases requesting evidence and documentation from the customer may be appropriate;
    - the reason why the customer requested a certain product or service, in particular when it is unclear why the customer's needs cannot be met better in another way or a different jurisdiction;
    - the destination of funds; or
    - the nature of the business of the customer or the customer's beneficial owner, to enable the undertaking to better understand the likely nature of the business relationship;
  - 2) increasing the quality of information collected for the purpose of customer due diligence in order to confirm the identity of the customer or the customer's beneficial owner, including by:
    - a) requiring that first payment be executed through an account opened in the name of the customer with a credit institution in a Member State or third country which applies measures equal or equivalent to those specified in Chapter II of Directive (EU) 2015/849; or
    - b) verifying that the customer's wealth or funds that are used in the business relationship are not the proceeds of criminal offences and that the source of wealth and the sources of funds are consistent with the undertaking's knowledge of the customer and the nature of the business relationship. In some cases, when the risk associated with a business relationship is particularly high, the verifying the source of wealth and the source of funds might be the only adequate risk mitigation measure. The source of funds or wealth may be verified, for example by reference to VAT or income tax returns, copies of audited accounts, pay slips, public deeds or media reports.
  - 3) increasing the frequency of reviews in order for the undertaking to be certain that it can manage the risk associated with the individual business relationship or conclude that the business relationship no longer corresponds the undertaking's risk appetite and in order to be able to identify transactions that require further review, including by:
    - a) obtaining the approval of senior management to establish or continue the business relationship to ensure that senior management are aware of the risk to which the undertaking is exposed to and can take a decision on the extent to which this risk is manageable;
    - b) carrying out more frequent revisions of the business relationship to ensure that any changes in the risk profile of the customer are identified and to assess the undertaking's ability to continue managing the risk and, where necessary, take the necessary measures; or
    - c) conducting more frequent or in-depth transaction monitoring to identify any unusual or unexpected transactions that may give rise to suspicion of the money laundering and/or terrorist financing. Transaction monitoring, where necessary, may include establishing the destination of funds or ascertaining the reason for certain transactions.
- (5) Undertakings shall not be obligated to apply all enhanced customer due diligence measures referred to in paragraph (4) of this Article in all cases referred to in paragraph (1). In some high-risk situations it may be sufficient to focus on increased ongoing monitoring during the course of the business relationship.

*Refusal of a business relationship and of a transaction*  
Article 24

- (1) Undertakings which cannot apply customer due diligence measures referred to in Article 15, paragraph (1), items (1), (2), (3) and Article (15), paragraph (2) of the Act, when they are not certain whether the purpose and nature of the business relationship are legal or where they deem that they cannot effectively manage the money laundering and/or terrorist financing risk, shall not establish a business relationship or carry out a transaction.
- (2) When the business relationship in relation to which the undertaking cannot take the measures referred to in Article 15, paragraph 1, items (1), (2) and (3) of the Act within a reasonable period or for which there is reasonable doubt that the purpose and nature of the business relationship are not legal, already exists, the undertaking shall terminate it or suspend the carrying out of a transaction until the business relationship is terminated or measures are applied.
- (3) Where undertakings are not able to apply the measures referred to in Article 15, paragraph (1), item (4) of the Act or cannot ensure the up-to-datedness of assessments the money laundering and terrorist financing risks for reasons caused by the customer, they shall apply adequate customer due diligence measures to manage the money laundering and terrorist financing risk arising from that business relationship.
- (4) The customer due diligence measures referred to in paragraph (3) of this Article may include, for example, some of the measures referred to in Article 23, paragraph (4) of this Decision and/or restrict the business with the customer in such a way as to restrict the type and scope of services/products offered to the customer and/or delivery channels through which the product is delivered to the customer.
- (5) Before terminating the business relationship for reasons described in paragraph (3) of this Article, undertakings shall take any reasonable measures to update the information necessary to assess the money laundering and terrorist financing risk associated with an individual business relationship.
- (6) The application of the risk-based approach shall not oblige the undertaking to refuse or terminate business relationships with entire customer categories that are associated with high risk of money laundering and terrorist financing because the risk associated with a business relationship varies even within the same customer category.
- (7) Undertakings shall prescribe in their internal bylaws the management level responsible for deciding on the prohibition of establishment or termination of a business relationship, prohibition of carrying out a transaction or suspension of a transaction within the time limit referred to in paragraph (2) of this Article.

*Assessing and reviewing the money laundering and terrorist financing risk*  
Article 25

- (1) Undertakings shall regularly review the assessments of the money laundering and terrorist financing risk and risk factors associated with individual business relationships and occasional transactions to ensure that the assessments of the money laundering and terrorist financing risk remains up to date and relevant.
- (2) Undertakings shall assess the information collected during the monitoring of a business relationship and analyse whether they affect the existing assessments of the money laundering and terrorist financing risk of individual business relationships and occasional transactions.
- (3) Undertakings shall prescribe in their internal bylaws the systems and controls to identify and assess emerging money laundering and terrorist financing risks and, where appropriate, in a timely manner incorporate them into individual assessments of the risk of a business relationship or occasional transaction and in the analysis of the money laundering and terrorist financing risk referred to in Article 12 of the Act.
- (4) The systems and controls referred to in paragraph (3) of this Article may include:
  - 1) processes to ensure that internal information is reviewed regularly to identify new trends relating to business relationships but also to the undertaking's overall business.
  - 2) processes to ensure that the undertaking regularly reviews the information sources referred to in Article 9 of this Decision, which shall include at least:
    - a) a regular review of the media reports relevant for the sectors or jurisdiction in which the undertaking is active;
    - b) a regular review of alerts and reports by criminal prosecution authorities;;
    - c) ensuring that the undertaking will be aware of the changes to terror alerts and sanctions regimes as soon as they occur, for example by regularly reviewing terrorist alerts and sanctions regimes data updates; and
    - d) a regular review of publications issued by competent authorities;
  - 3) processes to capture and review information on risks associated with new products;
  - 4) cooperation with other sector representatives and competent authorities, for example round tables, conferences and training providers and processes to distribution feedback information to employees; and
  - 5) establishing a culture of information sharing within the undertaking and strong corporate ethics.
- (5) The systems and controls referred to in paragraph (3) of this Article shall ensure that individual assessments of the risk of a business relationship and occasional transaction and the analysis of risk of money laundering and terrorist financing referred to in Article 12 of the Act are up to date.
- (6) The internal bylaws referred to in paragraph (3) of this Article shall contain:
  - 1) the risk assessment frequency to ensure that new risks and emerging risks are included in the risk assessments. When they become aware of the new risk or the increase an existing one, undertakings shall make a new risk assessment as soon as possible.

- 2) registering facts that could affect the risk assessment, for example internal suspicious transactions reports, compliance failures and information from front office staff.
- (7) Undertakings shall ensure that all changes in risk assessment and adjustments of the accompanying customer due diligence measures are proportionate and commensurate to the money laundering and terrorist financing risk.

*System and controls*  
Article 26

Undertakings shall ensure that the risk management system and controls, including those relating to the application of the adequate level of customer due diligence measures are effective and proportionate.

*Record keeping*  
Article 27

Undertakings shall record and document risk assessments of business relationships and occasional transactions and any changes in risk assessments carried out in the course of the implementation of the measures of business relationship monitoring.

PART TWO

TITLE III

CORRESPONDENT BANKING

*Introductory provisions relating to correspondent banking*  
Article 28

- (1) The provisions of Title III of this Decision shall apply to undertakings which have established or are establishing the correspondent relationships referred to in Article 4, item 19(a) of the Act.
- (2) When establishing the correspondent relationships referred to in Article 4, item 19(b) of the Act, undertakings shall apply *mutatis mutandis* the provisions of Title III of this Decision.
- (3) The undertakings referred to in paragraphs (1) and (2) of this Decision shall consider the relevant risk factors and customer due diligence measures referred to in Title III of this Decision in addition to those laid down in Title II of this Decision.

*Products, service and transaction risk factors relating to correspondent banking*  
Article 29

- (1) Risk factors associated with products, services and transactions which can indicate higher risk shall include at least the following:
  - 1) the account can be used by other respondent credit institutions that have a direct relationship with the respondent but not with the correspondent, for example in case of nesting or downstream clearing, which means that the correspondent indirectly provides services to other credit institutions that are not the respondent;
  - 2) the account can be used by other entities within the respondent's group that have not themselves been subject to the correspondent due diligence; and
  - 3) the service includes the opening of a payable-through account which allows the respondent's customer to carry out transactions directly on the respondent's account.
  
- (2) Risk factors associated with products, services and transactions which may contribute to reducing risk are as follows:
  - 1) the relationship shall be limited to the SWIFT RMA technical capability, i.e. application which is designed to manage communications between financial institutions. In a SWIFT RMA relationship, the respondent or a counterparty does not have a payment account.
  - 2) credit institutions act in a principal-to-principal capacity, rather than just processing transactions on behalf of their underlying clients, for example in the case of foreign exchange services between two credit institutions where the business is transacted on a principal-to-principal basis between the credit institutions and where the settlement of a transaction does not involve a payment to a third party. In those cases, the transaction is for the own account of the respondent credit institution.
  - 3) the transaction relates to the selling, buying or pledging of securities on regulated markets, for example when acting as or using a custodian with direct access to an EU or non-EU securities settlement system.

*Customer risk factors relating to correspondent banking*  
Article 30

- (1) Customer risk factors which can indicate higher risk shall include at least:
  - 1) the respondent's anti-money laundering and counter terrorist financing policies and the systems and controls that the respondent has in place fall short of the standards required by Directive (EU) 2015/849;
  - 2) the respondent is not subject to adequate anti-money laundering and terrorist financing supervision;
  - 3) the respondent, its parent undertaking or undertaking belonging to the same group as the respondent has recently been sanctioned for inadequate anti-money laundering and counter terrorist financing policies and procedures or other breaches of anti-money laundering and counter terrorist financing obligations;
  - 4) the respondent conducts significant business with sectors that are associated with higher levels of the money laundering or terrorist financing risk; for example, the respondent conducts significant remittance business or business on behalf of certain money remitters or exchange offices with non-residents or in a currency other than the official currency of the country where it has its head office;

- 5) the respondent's management or ownership includes politically exposed persons, in particular when a politically exposed person can exert meaningful influence over the respondent, when the reputation, integrity or suitability of a politically exposed person as a member of the management board or key function holder gives rise to concern or when the politically exposed person comes from a jurisdiction associated with higher risk of money laundering and terrorist financing. Undertakings shall pay particular attention to those jurisdictions where corruption is perceived to be systematic or widespread; and
  - 6) the history of the business relationship with the respondent gives rise to concern, for example because the amount of transactions is not in line with what the correspondent expected based on its knowledge of the nature and volume of the respondent's business.
- (2) Customer risk factors which may contribute to reducing risk are as follows:
- 1) the correspondent is satisfied that the respondent's anti-money laundering and counter terrorist financing controls are not less effective than those prescribed by Directive (EU) 2015/849;
  - 2) the correspondent is satisfied that the respondent which is part of the same group as the correspondent, does not have a head office in a jurisdiction associated with the higher risk of money laundering and terrorist financing and complies effectively with group anti-money laundering and counter terrorist financing standards that are not less effective than those prescribed by Directive (EU) 2015/849.

*Country or geographical risk factors relating to corresponding banking*  
Article 31

- (1) Country or geographical risk factors which can indicate higher risk shall include at least the following:
- 1) the respondent has its head office in a jurisdiction associated with higher money laundering and terrorist financing risk. The undertakings shall pay particular attention to those jurisdictions:
    - a) with significant levels of corruption or other predicate offences;
    - b) without adequate capacity of the legal and judicial system to effectively prosecute the offences referred to in item 1 (a) of this paragraph; or
    - c) without effective anti-money laundering and counter terrorist financing supervision;
  - 2) the respondent conducts significant business with customers that have head offices in jurisdictions associated with higher risk of money laundering and terrorist financing; and
  - 3) the respondent's parent has a head office or is established in a jurisdiction associated with higher risk of money laundering and terrorist financing.
- (2) Country or geographical risk factors which may contribute to reducing risk are as follows:
- 1) the respondent has a head office in a Member State; and
  - 2) the respondent has a head office in a third country that has anti-money laundering and counter terrorist financing requirements not less effective than those prescribed by Directive (EU) 2015/849 and effectively implements these requirements. In this case the correspondent shall apply all the measures referred to in Article 45, paragraph (1) of the Act.

*Due diligence measures relating to correspondent banking*

## Article 32

- (1) Correspondents shall carry out customer due diligence on respondents based on the risk assessment that includes at least:
  - 1) identifying and verifying the identity of, the respondent and of its beneficial owner. Correspondents shall collect sufficient information about the respondent's business and reputation to establish that the money-laundering risk associated with the respondent is not increased, which includes:
    - a) collecting information about the respondent's management and considering the relevance, for the purposes of preventing crimes against property and economy, of any links the respondent's management or owners might have to politically exposed persons or other high-risk individuals; and
    - b) consider, based on the risk assessment, whether collecting information about the respondent's major business, the types of customers it attracts, and the quality of its anti-money laundering systems and controls, including publicly available information about any recent regulatory or criminal sanctions for anti-money laundering failings would be appropriate. When the respondent is a branch or a subsidiary, correspondents shall also consider the status, the reputation and the anti-money laundering controls of the parent.
  - 2) establishing and documenting the nature and the purpose of the service provided and the responsibilities of each institution. This may include setting out, in writing, the scope of the business relationship, which product and services will be supplied, and how and by whom the correspondent banking facility can be used.
  - 3) monitoring the business relationship, including transactions, to identify changes in the respondent's risk profile and detect unusual or suspicious behaviour, including activities that are not consistent with the purpose of the services provided or that are contrary to commitments that have been concluded between the correspondent and the respondent;
  - 4) enhanced ongoing monitoring of the business relationship if the correspondent credit institution allows the respondent's customers direct access to accounts. Due to the nature of correspondent banking, monitoring after the execution of the transaction is the norm.
  - 5) ensuring that customer due diligence information of the customer is up to date.
- (2) Correspondents must also establish that the respondent does not permit its accounts to be used by a shell bank in accordance with Article 54, paragraph (4) of the Act. This may include asking the respondent for confirmation that it does not deal with shell banks, having sight of relevant passages in the respondent's policies and procedures or considering publicly available information, such as legal provisions that prohibit the servicing of shell banks.
- (3) Correspondents need not apply customer due diligence measures to the respondent's individual customers.
- (4) Where correspondents use customer due diligence questionnaires provided by international organisations, correspondents shall assess whether this is sufficient to allow them to comply with their obligations referred to in Article 15, paragraph (1) of the Act and shall take additional steps where necessary.



*Respondents with head offices in a third country*  
Article 33

- (1) When the respondent has a head office in a third country, the correspondent shall apply at least the measures referred to in Article 45, paragraph (1) of the Act, but may adjust the scope of these measures on a risk-sensitive basis.
- (2) Where the correspondent is satisfied, based on adequate research, that the respondent which has a head office in a third country has an effective anti-money laundering and counter terrorist financing regime, that it is supervised effectively for compliance with these requirements and that there are no grounds to suspect that the respondent's anti-money laundering and counter terrorist financing policies and procedures are, or have recently been deemed inadequate, then the assessment of the respondent's anti-money laundering controls may not need to be carried out in full detail.
- (3) Correspondents shall take risk-sensitive customer due diligence measures to:
  - 1) collect sufficient information about the respondent institution to understand fully the nature of the respondent's business in order to establish the scope in which the respondent's business exposes the correspondent to higher money-laundering risk. Correspondents must understand and assess the nature of the respondent's customer base and the type of activities that the respondent will transact through the correspondent account.
  - 2) determine from publicly available information the reputation of the respondent institution and the quality of its supervision. Correspondents must assess the extent to which the correspondent can be satisfied that the respondent is adequately supervised for compliance with anti-money laundering and counter terrorist financing obligations. The sources of information that correspondents may rely on are, for example, FATF or FSAP assessments, which contain sections on effective supervision.
  - 3) assess the respondent institution's anti-money laundering and counter terrorist financing controls. Correspondents must carry out qualitative and documented assessment of the respondent's anti-money laundering and terrorist financing control framework, not just obtain a copy of anti-money laundering policies and procedures. In accordance with the risk-based approach, when the risk is especially high and in particular when the volume of correspondent banking transactions is substantive, correspondents may consider on-site visits or sample testing to be satisfied that the respondent's anti-money laundering and counter terrorist financing policies and procedures are implemented effectively.
  - 4) obtain approval from senior management before establishing new correspondent relationships. The approving senior manager should not participate in the establishment of a business relationship. The appropriate seniority for approval shall be set in internal bylaws and should depend on the level of risk associated with a business relationship.
  - 5) document the responsibilities of each institution. Correspondents shall set out in writing, which may be part of their standard terms and conditions, how and by whom the correspondent banking facility can be used and what the respondent's anti-money laundering and counter terrorist financing responsibilities are. When the risk associated with the correspondent relationship is particularly high, the correspondent may consider verifying the respondent's compliance with its responsibilities under the agreement, for example through ex post transaction monitoring.

- 6) with respect to payable-through accounts and nested accounts, be satisfied that the respondent has verified the identity of and performed ongoing due diligence on the customer having direct access to accounts of the correspondent and that it is able to provide relevant customer due diligence data to the correspondent upon request. Correspondents shall obtain confirmation from the respondent that the relevant data can be provided upon request.
- (4) Correspondents shall adequately document customer due diligence measures and applied decision-making processes.
- (5) The correspondent's senior management must be informed of high-risk correspondent banking relationships and the steps taken to manage that risk effectively.

*Respondent with head office in a Member State*  
Article 34

- (1) Where a respondent has its head office in a Member State, the correspondent shall apply risk-sensitive customer due diligence measures in accordance with Article 15 of the Act.
- (2) When the risk associated with a respondent with a head office in a Member State is increased, correspondents shall apply enhanced customer due diligence measures. In this case the correspondent shall apply at least the measures referred to in Article 33, paragraph (3), items (1), (2) and (3) of this Decision.

TITLE IV

RETAIL BANKING

*Introductory provisions relating to retail banking*  
Article 35

- (1) The provisions of Title IV of this Decision shall be applied to credit institutions engaged in retail banking.
- (2) For the purpose of this Decision, retail banking means the provision of banking services to natural persons and micro, small and medium-sized enterprises as defined in the Accounting Act (Official Gazette 78/2015, 134/2015, 120/2016).
- (3) The retail banking referred to in paragraph (2) of this Article shall include at least: current accounts, savings accounts and loans.
- (4) Credit institutions shall consider the relevant risk factors and customer due diligence measures referred to in Title IV of this Decision in addition to those laid down in Title II of this Decision.

*Product, service and transaction risk factors relating to retail banking*  
Article 36

- (1) Risk factors associated with products, services and transactions which can indicate higher risk shall include at least the following:
  - 1) the product's features favour anonymity;
  - 2) the product allows payments from third parties that are neither associated with the product nor identified, where such payments would not be expected, for example for mortgages;
  - 3) the product has no restrictions on turnover, cross-border transactions or similar product features;
  - 4) new products and new business practices, including new delivery mechanisms and the use of new or developing technologies for both new and existing products;
  - 5) lending secured against the value of assets in other jurisdictions, particularly countries where it is difficult to ascertain whether the customer has legitimate title to the collateral, or where the identities of parties guaranteeing the loan are hard to verify; and
  - 6) an unusually high volume or substantial value of transactions.
  
- (2) Risk factors associated with products, services and transactions which may contribute to reducing risk are as follows:
  - 1) the product has limited functionality, for example:
    - a) a fixed term saving product with low savings thresholds;
    - c) a product where benefits cannot be realised for the benefit of a third party;
    - d) a product where the benefits are only realisable in the long term or for a specific purpose, for example a real estate property purchase;
    - e) a low-value loan facility, including on a special purpose loan; or
    - f) a low-value product, including a lease, where the legal or beneficial title to the asset is not transferred to the consumer until the contractual relationship expires or is never transferred.
  - 2) the product is intended exclusively for certain categories of customers, for example pensioners, parents on behalf of their children, or minors;
  - 3) transactions shall be carried out through an account in the customer's name at a credit or financial institution that is subject to anti-money laundering and counter terrorist financing requirements that are not less effective than those prescribed by Directive (EU) 2015/849; and
  - 4) there is no overpayment facility.

*Customer risk factors in retail banking*  
Article 37

- (1) Customer risk factors which can indicate higher risk shall include at least the following:
  - 1) the type of customer, for example:
    - a) a legal person which is a cash-intensive undertaking;
    - b) a legal person which is associated with higher levels of money laundering;
    - c) a legal person which is associated with a higher corruption risk;
    - d) a non-profit organisation that supports jurisdictions associated with an increased risk of terrorist financing;

- e) a new undertaking without an adequate business profile or track record;
  - f) a non-resident; or
  - g) an undertaking in relation to which the customer's beneficial owner cannot easily be identified, for example because the customer's ownership structure is unusual, unduly complex or opaque, or because the customer issues bearer shares.
- 2) the customer's behaviour, for example:
- a) the customer is reluctant to provide the information necessary for customer due diligence or appears to deliberately avoid face-to-face contact;
  - b) the customer's evidence of identity is in a non-standard form for no apparent reason;
  - c) the customer's behaviour or transaction volume is not in line with that expected from the category of customer to which they belong, or is unexpected based on the information the customer provided at account opening or
  - d) the customer's behaviour is unusual, for example:
    - the customer unexpectedly and without reasonable explanation accelerates an agreed repayment schedule, by means either of lump sum repayments or early termination;
    - the customer deposits or demands payout of high-value bank notes without apparent reason;
    - the customer increases activity after a period of dormancy; or
    - the customer makes transactions that appear to have no economic rationale.
- (2) Risk factors that may contribute to reducing risk include customers that are long-standing clients whose previous transactions have not given rise to suspicion or concern, and the product or service sought is in line with the customer's risk profile.

*Country or geographical risk factors in retail banking*  
Article 38

- (1) Country or geographical risk factors which can indicate higher risk shall include at least:
- 1) the customer's funds are derived from personal or business links to jurisdictions associated with higher risk of money laundering and terrorist financing;
  - 2) the payee is located in a jurisdiction associated with higher risk of money laundering and terrorist financing. Credit institutions should pay particular attention to jurisdictions known to provide funding or support for terrorist activities or where groups committing terrorist activities are active, and jurisdictions subject to financial sanctions, embargoes or measures that are related to terrorism, financing of terrorism or proliferation.
- (2) Risk factors that may contribute to reducing risk include transactions associated with countries that have anti-money laundering and terrorist financing regimes not less effective than that prescribed by Directive (EU) 2015/849 and have low levels of predicate offences.

*Distribution channel risk factors in retail banking*  
Article 39

- (1) Distribution channel risk factors which can indicate higher risk shall include at least the following:

- 1) customer due diligence measures have been carried out by a third party which is not in a long-standing relationship with the credit institution;
  - 2) non-face-to-face business relationships;
  - 3) new delivery channels.
- (2) Distribution channel risk factors which can contribute to risk reduction include products available only to customers who meet specific eligibility criteria set out by public institutions or legal persons with public authorities, for example social benefit recipients.

*Customer due diligence measures in retail banking*  
Article 40

- (1) When credit institutions use automated systems to identify the money laundering and terrorist financing risk associated with individual business relationships or occasional transactions and to identify suspicious transactions, they should ensure that these systems are adequate for the purpose in accordance with the criteria prescribed in Title II of this Decision.
- (2) Credit institutions shall take into account that the use of automated information technology systems should never fully substitute staff vigilance.

*Enhanced customer due diligence measures in retail banking*  
Article 41

- (1) When the risk associated with a business relationship or occasional transaction is increased the credit institution shall apply enhanced customer due diligence measures. In addition to those prescribed by the Act, enhanced customer due diligence measures may include:
  - 1) verifying the identity of the customer and of the customer's beneficial owner on the basis of more than one reliable and independent source;
  - 2) identifying and verifying the identity of other shareholders who are not the customer's beneficial owner;
  - 3) collecting additional information about the customer and the nature and purpose of the business relationship to build a more complete customer profile, for example by carrying out open source or adverse media searches or commissioning a third party intelligence report;
  - 4) increasing the frequency of transaction monitoring;
  - 5) reviewing and, where necessary, updating customer information and documentation more frequently.
- (2) The information referred to in paragraph (1), item (3) of this Article may be as follows:
  - 1) the nature of the customer's business and employment;
  - 2) the source of the customer's wealth and the source of the customer's funds that are involved in the business relationship for the credit institution to be certain that these are legitimate;
  - 3) the purpose of the transaction, including where appropriate, the destination of the customer's funds;

- 4) the associations the customer might have with other jurisdictions, for example headquarters, operating facilities, branches and individuals who may influence its operations; or
  - 5) the reason why customers with head offices or domicile in another county seeks retail banking services outside their home jurisdiction.
- (3) Where the risk associated with the relationship is particularly high, credit institutions should review business relationships annually.

*Simplified customer due diligence measures in retail banking*  
Article 42

In low-risk situations, credit institutions may apply simplified customer due diligence measures. Simplified customer due diligence measures may be as follows:

- 1) verifying the identity of the customer, and where necessary, of the customer's beneficial owner during the establishment of the business relationship in accordance with Article 17, paragraph (2) of the Act; and
- 2) updating customer due diligence information only in case of specific trigger events, such as for example the customer requesting a new or higher risk product or changes in the customer's behaviour or transaction profile that suggest that the risk associated with the relationship is no longer low.

*Pooled accounts*  
Article 43

- (1) When a customer opens a pooled account in order to administer funds that belong to the customer's own clients, a credit institution shall apply full customer due diligence measures, including establishing and verifying the identity of the customer's clients as beneficial owners of funds in the pooled account.
- (2) Where the risk associated with the business relationship is high, the credit institution shall apply enhanced customer due diligence measures.
- (3) Where the risk associated with the business relationship is low, the credit institution may apply simplified customer due diligence measures provided that:
  - 1) the customer is an undertaking that is subject to anti-money laundering and counter terrorist financing obligations in a Member State or a third country with an anti-money laundering and counter terrorist financing regime that is not less effective by that prescribed by Directive (EU) 2015/849, and is effectively supervised for compliance with these requirements.
  - 2) the customer is not an undertaking but another obliged entity that is subject to anti-money laundering and counter terrorist financing obligations in a Member State that is supervised for compliance with these requirements.
  - 3) based on the customer's business, the types of clients the customer serves and the jurisdictions the customer's business is exposed to that the risks of money laundering and terrorist financing is low;

- 4) the credit institution is satisfied that the customer applies effective and risk sensitive customer due diligence measures to its clients and its clients' beneficial owners. In certain situations it may be appropriate to take risk-sensitive measures to assess the adequacy of its customer's policies and procedures relating to customer due diligence.
  - 5) the credit institution has taken risk-sensitive steps to be satisfied that the customer will provide customer due diligence information and documentation on its underlying clients that are the beneficial owners of funds held in the pooled account immediately upon request, for example by including relevant provisions in a contract or by sample-testing the customer's ability to provide customer due diligence information upon request.
- (4) Where the conditions for the application of simplified due diligence measures to pooled accounts referred to in paragraph (3) of this Article are met, simplified due diligence measures may be as follows:
- 1) identifying and verifying the identity of the customer, including the customer's beneficial owner but not the customer's client;
  - 2) assessing the purpose and intended nature of the business relationship; and
  - 3) ongoing monitoring of the business relationship.

## TITLE V

### ELECTRONIC MONEY

#### *Introductory provisions relating to electronic money*

##### Article 44

- (1) The provisions of Title V of this Decision shall apply to undertakings which, in accordance with Article 4, paragraph (1) of the Electronic Money Act (Official Gazette 139/2010) are electronic money issuers.
- (2) The provisions of Title V of this Decision shall apply *mutatis mutandis* to the undertakings referred to in Article 2, paragraph (1), item (12) of this Decision.
- (3) The undertakings referred to in paragraphs (1) and (2) of this Article shall consider the relevant risk factors and the measures referred to in Title V of this Decision in addition to those prescribed in Title II of this Decision.
- (4) The undertakings referred to in paragraphs (1) and (2) of this Article may consider the risk factors and the measures prescribed in Title VI of this Decision.

#### *Risk factors of electronic money products*

##### Article 45

- (1) The undertakings referred to in Article 44 paragraph (1) of this Decision shall consider the money laundering and terrorist financing risk related to thresholds, the funding method and the ability to use, transfer and redeem the product.
- (2) Product risk factors which may indicate higher risk shall include at least:
  - 1) thresholds:
    - a) the product allows high-value or unlimited-value payments, loading or redemption, including cash withdrawal;
    - b) the product allows high or unlimited amount of funds to be stored on the e-money product.
  - 2) funding method:
    - a) the product can be loaded anonymously, for example with cash, anonymous e-money or e-money products that benefit from the exemption in Article 18 of the Act;
    - b) the product can be funded with payments from unidentified third parties; and
    - c) the product can be funded with other e-money products.
  - 3) ability to use, transfer and redeem:
    - a) the product allows person-to-person transfers;
    - b) the product is accepted as a means of payment by a large number of merchants or point of sale;
    - c) the product is designed specifically to be accepted as a means of payment by merchants dealing in goods and services associated with a high risk of crime against property and economy, for example on-line gambling;
    - d) the product can be used in cross-border transactions or in different jurisdictions;
    - e) the product is designed to be used by persons other than the customer, for example certain partner card products, but not low-value gift cards;
    - f) the product allows high-value cash withdrawals.
- (3) Product risk factors which may contribute to reducing risk are as follows:
  - 1) thresholds:
    - a) the product sets low-value limits on payments, loading or redemption, including cash withdrawal. The undertaking referred to in Article 44, paragraph (1) of this Decision shall note that a low threshold alone may not be enough to reduce the risk of terrorist financing;
    - b) the product limits the number of payments, loading or redemption, including cash withdrawal in a given period
    - c) the product limits the amount of funds that can be stored on the e-money product or account at any one time
  - 2) funding, for example the product requires that the funds for purchase or reloading are drawn from an account held in the customer's sole name or joint name at an EEA credit or financial institution;
  - 3) ability to use, transfer and redeem:
    - a) the product does not allow or strictly limits cash withdrawal;
    - b) the product can only be used in the territory of the Republic of Croatia;
    - c) the product is accepted by a limited number of merchants or points of sale, with whose business the undertaking referred to in Article 44, paragraph (1) of this Decision is familiar;
    - d) the product is designed specifically to restrict its use by merchants dealing in goods and services that are associated with a high risk of crime against property and economy; and
    - e) the product is accepted as a means of payment for limited types of products or service.



*Customer risk factors relating to electronic money*  
Article 46

- (1) Customer risk factors which can indicate higher risk shall include at least the following:
  - 1) the customer purchases several e-money products from the same issuer, frequently reloads the product or makes several cash withdrawals in a short period of time and without an economic rationale;
  - 2) the customer purchases several e-money products from different issuers that are purchased from the same distributor or frequently reloads the product or makes several cash withdrawals in a short period of time and without an economic rationale;
  - 3) the customer's transactions are always just below any value or transaction limits;
  - 4) the product appears to be used by several people whose identity is not known to the undertaking referred to in Article 44, paragraph (1) of this Decision, for example the product is used from several IP addresses at the same time;
  - 5) there are frequent changes in the customer's identification data, such as home address or IP address, or linked bank accounts;
  - 6) the product is not used for the purpose it was designed for.
- (2) The risk factor that may contribute to reducing risk includes the product that is intended for only certain categories of customers, for example social benefit recipients or members of staff of a company that issues them to cover corporate expenses.

*Distribution channel risk factors relating to electronic money*  
Article 47

Distribution channel risk factors which can indicate higher risk shall include at least the following:

- 1) on-line or non-face-to-face distribution;
- 2) the undertaking referred to in Article 44, paragraph (1) of this Decision distributes e-money through intermediaries that are not themselves obliged entities under Directive (EU) 2015/849 or the Act and relies on the intermediary to carry out its anti-money laundering and terrorist financing obligations, and is not satisfied that the intermediary has in place adequate anti-money laundering and counter-terrorist financing systems and controls;
- 3) segmentation of services, that is, the provision of e-money services by several operationally independent service providers without due oversight or coordination.

*Country or geographical risk factors relating to electronic money*  
Article 48

- (1) Country or geographical risk factors which can indicate higher risk shall include at least the following:
  - 1) the payee is located in a jurisdiction associated with higher risk of money laundering and terrorist financing;

- 2) the product is financed from a source in a jurisdiction associated with higher money laundering and terrorist financing risk.
- (2) The undertaking shall pay particular attention to jurisdictions known to provide funding or support for terrorist activities or where groups committing terrorist activities are active, and jurisdictions subject to financial sanctions, embargoes or measures that are related to terrorism, financing of terrorism or proliferation.

*Customer due diligence measures relating to electronic money*  
Article 49

- (1) The undertakings referred to in Article 44, paragraph (1) of this Decision shall collect sufficient information about the customer or type of customers to whom their product is intended for in order to ensure effective ongoing monitoring of the business relationship and transactions that the customer carries out.
- (2) The undertakings referred to in Article 44, paragraph (1) of this Decision shall set up ongoing monitoring systems of the business relationship and transactions and identification of suspicious transactions, for example:
  - 1) transactions monitoring systems which detect anomalies or suspicious patterns of behaviour, including the unexpected use of the product in a way for which it was not designed. The undertaking may have the option to disable the product either manually or in another way until it is satisfied that there are no grounds for suspicion;
  - 2) systems that identify discrepancies between submitted and detected information, for example between submitted country of origin information and the electronically detected IP address;
  - 3) systems that compare data submitted with data held on other business relationships and that can identify patterns such as the same funding instrument or the same contact details; and
  - 4) systems that identify whether the product is used with merchants dealing in goods and services that are associated with a high risk of crime against property and economy.
- (3) The exemption in Article 18 of the Act does not extend to the obligation to conduct ongoing monitoring of business relationships and transactions nor to the obligation to identify and report suspicious transactions.

*Enhanced due diligence measures relating to electronic money*  
Article 50

The enhanced due diligence measures that the undertaking referred to in Article 44, paragraph (1) of this Decision may apply in high-risk situations are as follows:

- 1) collecting additional customer information, for example the information on the source of funds;
- 2) applying additional verification measures from reliable and independent sources, for example in order to verify the identity of the customer or the customer's beneficial owner;

- 3) collecting additional information about the intended nature of the business relationship, for example by asking customers about their business or the jurisdictions to which they intend to transfer e-money;
- 4) collecting information about the merchant or payee, in particular when the undertaking has grounds to suspect that its products are being used to purchase illicit or age-restricted goods;
- 5) applying additional measures in order to ensure that the customer is who they claim to be;
- 6) applying enhanced monitoring of the business relationship and individual transactions; and
- 7) establishing the source and/or the destination of funds.

*Simplified due diligence measures relating to electronic money*  
Article 51

The simplified due diligence measures that the undertaking referred to in Article 44, paragraph (1) of this Decision may apply to low-risk e-money products that do not benefit from the exemption referred to in Article 18 of the Act are as follows:

- 1) postponing the verification of the identity of the customer or beneficial owner to a certain later date after the establishment of the relationship or until a certain monetary threshold established by internal bylaws is exceeded, whichever occurs the first. The monetary threshold shall not exceed EUR 250 where the product is not reloadable or can be used in other jurisdictions or for cross-border transactions;
- 2) verifying identity on the basis of fewer sources;
- 3) assuming the purpose and the intended nature of the business relationship where this is obvious, for example in the case of certain gift cards that are not covered by Article 3, paragraph (1) of the Electronic Money Act;
- 4) reducing the intensity of updating customer identification data; and
- 5) reducing the intensity of ongoing monitoring as long as a certain monetary threshold is not reached. The internal bylaws shall set the thresholds for individual transactions and transactions that appear to be linked over the course of 12 months to a level that the undertaking referred to in Article 44, paragraph (1) of this Decision assessed as presenting a low risk of money laundering and terrorist financing.

TITLE VI

Money remittance services

*Introductory provisions relating to money remittance services*  
Article 52

- (1) The provisions of Title VI of this Decision shall apply to money remitters that are payment institutions and that are, in accordance with Directive (EU) 2015/2366 authorised to provide and execute payment services.
- (2) The provisions of Title VI of this Decision shall apply *mutatis mutandis* to the undertakings referred to in Article 2, paragraph (1), item (11) of this Decision.

- (3) The undertakings referred to in paragraphs (1) and (2) of this Article shall consider the relevant risk factors and the measures referred to in Title VI of this Decision in addition to those prescribed in Title II of this Decision.

*Product, service and transaction risk factors relating to money remittance services*  
Article 53

- (1) Risk factors associated with products, services and transactions which can indicate higher risk shall include at least the following:
- 1) the product allows high-value or unlimited-value transactions;
  - 2) the product or services has a global reach;
  - 3) the transaction is cash-based or funded with anonymous electronic money, including electronic money benefiting from the exemption referred to in Article 18 of the Act;
  - 4) transfers are made from one or more payers from different countries to a payee in the Republic of Croatia.
- (2) Risk factors associated with products, services and transactions which can contribute to reducing risk include the transfer of funds that come from an account held in the payer's name at an EEA credit or financial institution.

*Customer risk factors relating to money remittance services*  
Article 54

- (1) Customer risk factors which can indicate higher risk shall include at least:
- 1) the customer's business activity, for example the customer owns or operates a legal person that handles large amounts of cash or a legal person that has a complex ownership structure.
  - 2) the customer's behaviour, for example:
    - a) the customer's needs may be better serviced elsewhere, for example because the money remitter is not local to the customer;
    - b) the customer appears to be acting for someone else, for example others watch over the customer or are visible outside the place where the transaction is made or the customer reads instructions from a note;
    - c) the customer's behaviour makes no economic sense, for example:
      - the customer accepts a poor exchange rate or high charges unquestioningly;
      - the customer requests a transaction in a currency that is not official tender or commonly used in the jurisdiction where the customer or recipient is located;
      - the customer requests or provides large amounts of currency in either low or high denominations.
    - d) the customer's transactions are always just below the applicable thresholds referred to in Article 16 and 61 of the Act;
    - e) the customer's use of the service is unusual, for example: they send or receive money to or from themselves or send funds on immediately after receiving them;
    - f) the customer appears to know little or is reluctant to provide information about the payee.

- g) several customers transfer funds to the same payee or appear to have the same identification information, for example address or telephone number;
- h) the transaction is not accompanied by the required information on the payer or payee; and
- i) the amount sent or received is at odds with the customer's income.

(2) Customer risk factors which may contribute to reducing risk are as follows:

- 1) the customer is a long-standing customer whose past behaviour has not given rise to suspicion and there are no indications that risk of money laundering or terrorist financing might be increased;
- 2) the amount transferred is low. The undertaking referred to in Article 52, paragraph (1) of this Decision shall note that a low threshold alone is not enough to reduce the risk of terrorist financing.

*Distribution channel risk factors relating to money remittance services*  
Article 55

(1) Distribution channel risk factors which can indicate higher risk shall include at least the following:

- 1) there are no restrictions on the funding instruments, for example in the case of cash or payments from e-money products that benefit from the exemption referred to in Article 18 of the Act, wire transfers or cheques;
- 2) the distribution channel used provides a degree of anonymity;
- 3) the service is provided entirely online without adequate safeguards;
- 4) the money remittance service is provided through agents that:
  - a) represent more than one undertaking referred to in Article 52, paragraph (1) of this Decision;
  - b) have unusual turnover patterns compared with other agents in similar locations, for example:
    - unusually high or low transactions;
    - unusually large cash transactions;
    - high number of transactions that fall just under the threshold prescribed for customer due diligence; and
    - operate outside normal business hours;
  - c) carry out a significant number of transactions with payers or payees from jurisdictions associated with higher money laundering and terrorist financing risk;
  - d) appear to be unsure about, or inconsistent in the application of anti-money laundering and counter terrorist financing policies; and
  - e) are not from the financial sector and conduct another business as their main business;
- 5) the money remittance service is provided through a large network of agents in different jurisdictions; and
- 6) the money remittance service is provided through an overly complex payment chain, for example with a large number of intermediaries operating in different jurisdictions or using untraceable, formal or informal, settlement systems.

(2) Distribution channel risk factors which may contribute to reducing risk are as follows:

- 1) agents are themselves regulated financial institutions;

- 2) the service can be funded only by transfers from an account held in the customer's name at an EEA credit or financial institution or an account over which the customer can prove to have control.

*Country or geographical risk factors relating to money remittance services*  
Article 56

Country or geographical risk factors which can indicate higher risk shall include at least the following:

- 1) the payer or the payee is located in a jurisdiction associated with higher risk of money laundering or terrorist financing;
- 2) the payee is resident in a jurisdiction that has no or has a less developed financial sector and can use informal money remittance services as a means of payment (for example, *hawala*).

*Customer due diligence relating to money remittance services*  
Article 57

- (1) The undertakings referred to in Article 52, paragraph (1) of this Decision shall put in place monitoring systems and controls to detect money-laundering and terrorist financing attempts even when the information required for the due diligence analysis of the customer is basic or incomplete because no business relationship has been established.
- (2) The undertakings referred to in Article 52, paragraph (1) of this Decision shall put in place at least the following:
  - 1) systems to identify linked transactions;
  - 2) systems to identify whether transactions from different customers are destined for the same payee;
  - 3) systems to permit as far as possible the establishment of the source of funds and destination of funds;
  - 4) systems that enable the full traceability of both transactions and the number of operators included in the payment chain: and
  - 5) systems to ensure that throughout the payment chain only those duly authorised to provide money remittance services can intervene.
- (3) When the risk associated with an occasional transaction or business relationship is increased, the undertakings referred to in Article 52, paragraph (1) of this Decision shall apply enhanced due diligence measures in accordance with Title II of this Decision, including, where necessary, increased transaction monitoring, for example increased frequency or lower thresholds.
- (4) When the risk associated with an occasional transaction or business relationship is low, the undertakings referred to in Article 52, paragraph (1) of this Decision may apply simplified customer due diligence in accordance with Title II of this Decision.

*Use of agents*

## Article 58

- (1) The undertakings referred to in Article 52, paragraph (1) of this Decision using agents to provide payment services shall be well acquainted with the business of their agents.
- (2) The undertakings referred to in Article 52, paragraph (1) of this Decision shall establish and maintain appropriate policies and procedures to mitigate the risk of their agents engaging in money laundering and/or terrorist financing.
- (3) The policies and procedures referred to in paragraph (2) of this Article shall contain at least the rules on the following:
  - 1) identifying the person who owns or controls the agent where the agent is a legal person, for the undertaking referred to in Article 52, paragraph (1) of this Decision to be satisfied that the money laundering and terrorist financing risk to which it is exposed as a result of its use of the agent is not increased;
  - 2) collecting evidence, in line with the requirements of Article 19, paragraph (1), item (c) of Directive (EU) 2015/2366, that the directors and other persons responsible for the management of the agent are fit and proper, including by considering their honesty, integrity and reputation. The enquiry that the undertaking referred to in Article 52, paragraph (1) of this Decision makes shall be proportionate to the nature, complexity and scale of the money laundering and terrorist financing risk inherent in the payment services provided by the agent and could be based on the customer due diligence procedures referred to in Article 52, paragraph (1) of this Decision.
  - 3) taking reasonable measures in order for the undertaking referred to in Article 52, paragraph (1) of this Decision to be satisfied that the agent's anti-money laundering and counter terrorist financing internal controls are appropriate, for example by monitoring a sample of the agent's transactions or reviewing the agent's controls;
  - 4) assessing the risk of impact on compliance with anti-money laundering and counter terrorist financing requirements of the undertaking and the agent and adequate management of this risk when there is a difference between agent's and undertaking's anti-money laundering and terrorist financing internal controls, for example because the agent represents more than one principal or because the agent is itself an obliged entity under applicable anti-money laundering and counter terrorist financing legislation;
  - 5) providing anti-money laundering and counter terrorist financing training to agents to ensure that agents have an adequate knowledge and understanding of the risks of money laundering and terrorist financing and of the quality of anti-money laundering and terrorist financing controls the money remitter expects.

## TITLE VII

### WEALTH MANAGEMENT SERVICES

#### *Introductory provisions relating to wealth management services*

#### Article 59

- (1) The provisions of Title VII of this Decision shall apply to undertakings that provide wealth management services.
- (2) For the purposes of this Decision wealth management means the provision of financial services to high-net-worth individuals and their families or business entities.
- (3) The wealth management referred to in paragraph (2) of this Article includes at least: current account management, foreign exchange sale and purchase, investment management and advice, fiduciary services, safe custody, insurance, tax and estate planning and associated facilities and legal support.
- (4) The undertakings referred to in paragraph (1) of this Article shall consider the relevant risk factors and customer due diligence measures referred to in Title VII of this Decision in addition to those laid down in Title II of this Decision.
- (5) The undertakings referred to in paragraph (1) this Article may consider the risk factors and the measures prescribed in Title IV of this Decision.

*Product, service and transaction risk factors relating to wealth management services*  
Article 60

Risk factors associated with products, services and transactions which can indicate higher risk shall include at least the following:

- 1) transactions including large amounts of cash or other physical stores of value such as precious metals;
- 2) very high-value transactions;
- 3) financial arrangements involving jurisdictions associated with higher risk of money laundering and terrorist financing. The undertakings referred to in Article 59, paragraph (1) of this Decision shall pay particular attention to countries that have a culture of banking secrecy or do not comply with international tax transparency standards;
- 4) lending secured against the value of assets in other jurisdictions, particularly countries where it is difficult to ascertain whether the customer has legitimate title to the collateral, or where the identities of parties guaranteeing the loan are hard to verify;
- 5) use of complex business structures, especially when the undertaking referred to in Article 59, paragraph (1) of this Decision established the identity of the beneficial owner in the manner prescribed in Article 28, paragraph (8) of the Act;
- 6) business taking place across multiple countries, particularly where it involves multiple providers of financial services; and
- 7) cross-border arrangements where assets are deposited or managed in another financial institution, either of the same financial group or outside of the group, particularly where the other financial institution has a head office in a jurisdiction with higher levels of risk of money laundering and terrorist financing. The undertakings referred to in Article 59, paragraph (1) of this Decision shall pay particular attention to jurisdictions with higher levels of predicate offences, an ineffective anti-money laundering and terrorist financing regime or weak tax transparency standards.



*Customer risk factors relating to customers using wealth management services*

Article 61

Customer risk factors which can indicate higher risk shall include at least the following:

- 1) customers with income and/or wealth from high-risk sectors such as arms, the extractive industries, construction, gambling or private military contractors;
- 2) customers about whom credible allegations of wrongdoing have been made;
- 3) customers who expect unusually high levels of confidentiality or discretion;
- 4) customers whose spending or transactional behaviour makes it difficult to establish normal or expected patterns of behaviour;
- 5) very wealthy and influential customers, including customers with a high public profile, non-resident customers and politically exposed persons;
- 6) the customer requests facilitation in contracting a product or service by a third party without a clear business or economic rationale.

*Country or geographical risk factors relating to wealth management services*

Article 62

Country or geographical risk factors which can indicate higher risk shall include at least the following:

- 1) business is conducted in countries that have a culture of banking secrecy or do not comply with international tax transparency standards;
- 2) the customer has a domicile or normal place of residence in a jurisdiction associated with higher risk of money laundering and terrorist financing;
- 3) the funds derive from activity in a jurisdiction associated with higher risk of money laundering and terrorist financing.

*Assessing money laundering and terrorist financing risk relating to wealth management services*

Article 63

- (1) The undertakings referred to in Article 59, paragraph (1) of this Decision shall ensure that the business relationship manager participates and has a key role in the assessment of the business relationship risk.
- (2) The undertakings referred to in Article 59, paragraph (1) of this Decision shall ensure independent oversight of the business relationship risk assessment carried out by the business relationship manager in order to avoid the potential conflict of interest that may arise due to too close contact of the business relationship manager with the customer to the detriment of the undertaking's efforts to manage the money laundering and terrorist financing risk.
- (3) Independent oversight of the risk assessment referred to in paragraph (2) of this Article may be carried out by, for example, senior management or may be organised as part of the compliance monitoring function.

*Enhanced customer due diligence relating to wealth management services*  
Article 64

- (1) The undertakings referred to in Article 59, paragraph (1) of this Decision shall apply enhanced due diligence measures when the risk associated with a business relationship is higher. Enhanced customer due diligence measures may be as follows:
- 1) collecting and verifying more information about the customer and the revision and up-dating of this information on a regular basis and when prompted by material changes to a customer's profile. The undertakings referred to in Article 59, paragraph (1) of this Decision shall carry out a review on a risk-sensitive basis, reviewing higher risk clients at least annually but more frequently if the risk is especially high, which may include visits to the customer's premises.
  - 2) establishing the source of wealth and funds. When the risk is particularly high and/or when the undertaking has doubts about the legitimate source of origin of the funds, verifying the source of wealth and funds may be the only adequate way of risk mitigation. The source of funds or wealth can be verified as follows:
    - a) by reference to an original or certified copy of a recent pay slip;
    - b) by reference to a written confirmation of annual salary signed by an employer;
    - c) by reference to an original or certified copy of contract of sale;
    - d) by reference to a written confirmation of sale signed by an attorney at law or legal representative;
    - e) by reference to an original or certified copy of a will;
    - f) by reference to a decision on inheritance or a written confirmation of inheritance signed by an attorney at law, legal representative, trustee or executor of a will; and
    - g) by an internet search of a registry of companies to confirm the sale of a company.
  - 3) establishing the destination of funds;
  - 4) performing greater levels of scrutiny and due diligence of business relationships;
  - 5) carrying out an independent internal review and, where appropriate, seeking senior management approval of new clients and existing clients on a risk-sensitive basis;
  - 6) ongoing monitoring of transactions, including, where necessary, reviewing each transactions before its execution, to detect unusual or suspicious activity. Monitoring measures may include the use of thresholds prescribed in internal bylaws and an appropriate review process by which the business relationship manager or at certain thresholds compliance monitoring function or senior management promptly review unusual translations.
  - 7) monitoring public reports or other sources of intelligence to collect information that relates to the customer or its known associates, businesses to which it is connected, corporate acquisition targets or third party beneficiaries to whom the customer makes payments;
  - 8) ensuring that cash and other physical stores of value are handled only at bank counters, and never by relationship managers; and
  - 9) ensuring that the undertaking is satisfied with the customer's use of complex business structures for legitimate and genuine purposes and that the knowledge of the customer's beneficial owner is satisfactory.
- (2) The monitoring measures referred to in paragraph (1), item (6) of this Article may include all procedures to determine whether any of the following are out of line with the business risk profile of the customer:
- a) transfers of cash, investments and other assets;

- b) the use of wire transfers;
- c) significant changes in activity; and
- d) transactions involving jurisdictions associated with higher risk of money laundering and terrorist financing.

*Simplified customer due diligence relating to wealth management services*  
Article 65

The undertaking referred to in Article 59, paragraph (1) of this Decision shall not apply simplified due diligence measures in the wealth management context.

TITLE VIII  
TRADE FINANCING SERVICES

*Introductory provisions relating to trade financing services*  
Article 66

- (1) The provisions of Title VIII of this Decision shall apply to undertakings that provide trade financing services.
- (2) For the purpose of this Decision trade financing means managing a payment to facilitate the movement of goods and the provision of services either domestically or across borders and it may include, for example: documentary letters of credit or documentary bills for collection.
- (3) The trade financing referred to in paragraph (2) of this Article shall not include trade finance products such as forfaiting, structured financing or project financing. In such a case the undertakings referred to in paragraph (1) of this Article shall apply the provisions of Title II of this Decision.
- (4) The undertakings referred to in paragraph (1) of this Article shall consider the relevant risk factors and customer due diligence measures referred to in Title VIII of this Decision in addition to those laid down in Title II of this Decision.
- (5) The undertakings referred to in paragraph (1) this Article may consider the risk factors and the measures prescribed in Title III of this Decision.

*Transaction risk factors relating to trade financing services*  
Article 67

- (1) Transaction risk factors which can indicate higher risk shall include at least the following:
  - 1) unusually large transaction given what is known about a customer's previous trading activity;
  - 2) the transaction is highly structured, fragmented or complex, involving multiple parties, without an obvious lawful rationale;



- 3) copy documents are provided in situations where original documentation would be expected, without reasonable explanation;
  - 4) there are significant discrepancies in documentation, for example between the description of goods in the documents and actual goods delivered;
  - 5) the type, quantity and value of goods is inconsistent with the undertaking's knowledge of the buyer's business;
  - 6) the goods transacted are higher risk for money-laundering purposes, for example: certain commodities the prices of which can fluctuate significantly, which can make bogus prices difficult to detect;
  - 7) the goods transacted require export licences;
  - 8) the trade documentation does not comply with applicable laws or standards;
  - 9) the unit pricing appears unusual, based on what the undertaking knows about the goods and trade; and
  - 10) the transaction is otherwise unusual, for example letters of credits are frequently amended without a clear rationale or goods are shipped through another jurisdiction for no apparent commercial reason.
- (2) Transaction risk factors which may contribute to reducing risk are as follows:
- 1) an independent party verified the quality and quantity of goods; and
  - 2) transactions involve counterparties that have a proven track record of transacting with each other and due diligence has previously been carried out.

*Customer risk factors relating to trade financing services*

Article 68

- (1) Customer risk factors which can indicate higher risk shall include at least the following:
- 1) the transaction and/or the parties involved are out of line with what the undertaking referred to in Article 66, paragraph (1) of this Decision knows about the customer's previous activity or business, for example the goods being shipped or shipping volumes are inconsistent with what is known about the importer or exporter's business;
  - 2) there are indications that the buyer and seller may be colluding, for example:
    - a) the buyer and seller are controlled by the same person;
    - b) transacting businesses have the same address, provide only a registered agent's address, or have other address inconsistencies; and
    - c) the buyer is willing or keen to accept or waive discrepancies in the documentation;
  - 3) the customer is unable or reluctant to provide relevant documentation to support the transaction; and
  - 4) the buyer uses agents or third parties.
- (2) Customer risk factors which may contribute to reducing risk are as follows:
- 1) the customer is an existing customer whose business is well known to the undertaking referred to in Article 66, paragraph (1) of this Decision and the transaction is in line with that business; and
  - 2) the customer is listed on the stock exchange and subject to disclosure requirements the same or equivalent to those in the European Union or similar to those in the European Union.

*Country or geographical risk factors relating to trade financing services*  
Article 69

- (1) Country or geographical risk factors which can indicate higher risk shall include at least the following:
  - 1) a country associated with the transaction, for example the country where the goods originated from, which they are destined for, or which they transited through, or that where either party to the transaction have their head offices, has currency exchange controls in place. This increases the risk that the transaction's true purpose is to export currency in contravention with applicable law.
  - 2) a country associated with the transaction has free trade zones or higher levels of predicate offences, for example those related to the narcotics trade, smuggling or counterfeiting.
- (2) Country or geographical risk factors which may contribute to reducing risk are as follows:
  - 1) the trade is within the European Union or EEA;
  - 2) the countries associated with the transaction have an anti-money laundering and counter terrorist financing regime that is not less efficient than that prescribed by Directive (EU) 2015/849 and are associated with low levels of predicate offences.

*Customer due diligence relating to trade financing services*  
Article 70

- (1) The undertakings referred to in Article 66, paragraph (1) of this Decision shall carry out customer due diligence on the instructing party.
- (2) When carrying out due diligence the undertakings referred to in Article 66, paragraph (1) of this Decision may collect information on:
  - 1) countries with which the customer trades;
  - 2) trading routes which the customer uses;
  - 3) goods which the customer trades;
  - 4) persons who the customer does business with, for example buyers or suppliers;
  - 5) whether the customer uses agents or third parties; and
  - 6) head offices of agents or third parties, if the customer uses them.
- (3) The information referred to in paragraph (2) of this Article may be used when detecting unusual or suspicious transaction.
- (4) When the undertaking referred to in Article 66, paragraph (1) of this Decision is a correspondent, it must apply customer due diligence measures to the respondent and apply all the relevant risk factors and customer due diligence measures referred to in Title III of this Decision.

*Enhanced customer due diligence relating to trade financing services*  
Article 71

- (1) The undertakings referred to in Article 66, paragraph (1) of this Decision shall apply enhanced due diligence measures when the risk is higher.
- (2) The enhanced customer due diligence measures referred to in paragraph (1) of this Article may include the checks on other parties to the transactions, including non-customers, and checks on the transaction itself.
- (3) The checks on other parties to the transaction may include the following:
  - 1) better understanding the ownership structure of other parties to the transaction, in particular when they have a head office in a jurisdiction associated with higher money laundering and terrorist financing risk or in case of high-risk goods. They may include checks of company registers and open source internet searches.
  - 2) collecting additional information on the financial situation of the parties in the transaction.
- (4) The checks on the transactions referred to in paragraph (2) of this Article may include the following:
  - 1) using third party or opens source data sources, for example the International Maritime Bureau for warning notices, bills of lading, shipping and pricing checks or shipping lines' free container tracking service to verify the information provided and the check that the purpose of the transaction is legitimate;
  - 2) using professional judgement to consider whether the pricing of goods makes commercial sense, in particular in relation to traded commodities for which reliable and up-to-date information can be obtained; and
  - 3) checking that the weights and volumes of goods being shipped are consistent with the shipping method.
- (5) When automated transaction monitoring is not feasible because letters of credit and bills of credit are paper-based and accompanied by trade-related documentation, for example invoices, bills of lading and manifests, the undertaking referred to in Article 66, paragraph (1) of this Decision shall assess these documents for consistency with the terms of the trade transaction and require staff to use professional expertise and judgement to verify unusual features that would warrant the application of enhanced due diligence measures or give rise to suspicion of money laundering and/or terrorist financing.

*Simplified customer due diligence relating to trade financing services*  
Article 72

The undertaking referred to in Article 66, paragraph (1) of this Decision may not apply simplified due diligence measures in the trade financing context.

TITLE IX

PROVISION OF INVESTMENT SERVICES

*Introductory provisions relating to investment services*  
Article 73

- (1) The provisions of Title IX of this Decision shall apply to undertakings that provide trade financing services.
- (2) For the purpose of this Decision providing investment services means the management of an investor's assets to achieve specific investment goals. It includes both discretionary investment management, where investment managers take investment decisions on their customers' behalf and advisory investment management, where investment managers advise their customers on which investments to make but do not execute transactions on their customer's behalf.
- (3) The undertakings referred to in paragraph (1) of this Article that provide investment services shall consider the relevant risk factors and customer due diligence measures referred to in Title IX of this Decision in addition to those laid down in Title II of this Decision.
- (4) The undertakings referred to in paragraph (1) this Article may consider the risk factors and the measures prescribed in Title VII of this Decision.

*Product, service and transaction risk factors relating to investment services*  
Article 74

Risk factors associated with products, services and transactions which can indicate higher risk shall include at least the following:

- 1) transactions are unusually large;
- 2) third party payments are possible; and
- 3) the product or service is used for subscriptions that are quickly followed by redemption possibilities, with limited intervention of the undertaking referred to in Article 73, paragraph (1) of this Decision.

*Customer risk factors relating to investment services*  
Article 75

- (1) Customer risk factors which can indicate higher risk shall include at least the following:
  - 1) the customer's behaviour, for example:
    - a) the investment lacks an obvious economic purpose;
    - b) the customer asks to repurchase or redeem a long-term investment within a short period after the initial investment or before the payout date without a clear rationale, in particular where this results in financial loss or payment of high transaction fees;
    - c) the customer requests the repeated purchase and sale of shares within a short period of time without an obvious strategy or economic rationale;
    - d) the unwillingness to provide customer due diligence information on the customer and the customer's beneficial owner;

- e) frequent changes to customer due diligence information or payment details;
  - f) the customer transfers funds in excess of those required for the investment and asks for surplus amounts to be reimbursed;
  - g) the circumstances in which the customer makes use of the cooling-off period give rise to suspicion;
  - h) using multiple accounts without previous notification, especially when these accounts are held in multiple or high-risk jurisdictions;
  - i) the customer wishes to structure the relationship in such a way as to use multiple parties from jurisdictions that are associated with higher money-laundering and terrorist financing risk.
- 2) the type of customer for example:
- a) the customer is an undertaking established in a jurisdiction associated with higher risk of money laundering and terrorist financing. The undertakings referred to in Article 73, paragraph (1) of this Decision shall pay particular attention to countries that do not comply with international tax transparency standards;
  - b) the customer is an investment vehicle that carries out little or no due diligence on its own clients;
  - c) the customer is an unregulated third party investment vehicle;
  - d) the customer's ownership and control structure is opaque;
  - e) the customer or the customer's beneficial owner is a politically exposed person or holds another prominent position that might enable them to abuse their position for private gain; and
  - f) the customer is a non-regulated company acting as a nominee shareholder;
- 3) the customer's business, for example the customer's funds are derived from business in sectors that are associated with high risk of crime against property and economy.
- (2) Customer risk factors which may contribute to reducing risk:
- 1) the customer is an institutional investor whose status has been verified by an EEA government agency, for example a pension scheme;
  - 2) the customer is a government body from a Member State; and
  - 3) the customer is a financial institution from a Member State; and

*Country or geographical risk factors relating to investment services*  
Article 76

- Country or geographical risk factors which can indicate higher risk shall include at least the following:
- 1) the investor or their custodian has a head office in a jurisdiction associated with higher risk of money laundering and terrorist financing; and
  - 2) the funds come from a jurisdiction associated with higher risk of money laundering and terrorist financing.

*Customer due diligence measures relating to investment services*  
Article 77



- (1) The undertakings referred to in Article 73, paragraph (1) of this Decision shall apply enhanced due diligence measures when the risk associated with a business relationship is higher. Enhanced customer due diligence measures may be as follows:
  - 1) identify and, where necessary, verify the identity of the underlying investors where the customer is an unregulated third party investment vehicle;
  - 2) understand the reason for any payment or transfer to or from an unverified third party.
- (2) When undertakings referred to in Article 73 paragraph (1) of this Decision assesses in accordance with Article 12, paragraph (1) and Article 14, paragraph (6) of the Act that the customer presents a low risk of money laundering and terrorist financing, they may apply the simplified customer due diligence measures prescribed in Title II of this Decision.

## TITLE X

### PERSONAL DATA PROCESSING

#### *General provisions*

#### Article 78

- (1) Undertakings shall be authorised to collect, process, keep, submit and use any personal data necessary pursuant to this Decision to assess risk and carry out customer due diligence.
- (2) When carrying out customer due diligence pursuant to this Decision, for the purpose of ensuring the accuracy of personal data and undoubted identification of persons in all cases prescribed by an undertaking's internal bylaws adopted in accordance with the Act and this Decision, undertakings shall be authorised to process personal data by collecting copies of the relevant personal identification documents and other public documents issued by the competent government authorities, applying adequate technical and organisational measures of protecting the rights and freedoms of persons whose data are collected.
- (3) When collecting the data referred to in Article 20, paragraph (3) of the Act, undertakings shall prescribed in their internal bylaws the scope of data requested in relation to risk assessment and customer due diligence. The scope of data requested from the customer should be proportionate to the risk arising for the undertaking from an individual business relationship or transaction.
- (4) When collecting data in accordance with Articles 4, 5, 6 and 7 of Regulation (EU) 2015/847, undertakings shall collect copies of the relevant identification documents and shall retain them within the time limits prescribed by Article 79 of the Act.
- (5) When for the purpose of customer due diligence in accordance with this Decision undertakings collect and process data that is not collected from the person on which customer due diligence is carried out, Article 14, paragraph (5), item (c) of Regulation (EU) No 2016/679 shall apply.

- (6) When for the purpose of customer due diligence in accordance with this Decision undertakings carry out automated data processing, including profiling, which produce legal effects concerning the person on which customer due diligence is carried out, Article 22, paragraph (2), item (b) of Regulation (EU) No 2016/679 shall apply.
- (7) The obliged entities shall prescribe in their internal bylaws the treatment of a customer when there are limitations referred to in Article 74 of the Act.

TITLE XI  
TRANSITIONAL AND FINAL PROVISIONS

*Entry into force*  
Article 79

- (1) This Decision shall be published in the Official Gazette and shall enter into force on the eight day after the day of its publication.
- (2) Undertakings shall bring the risk assessment procedure and the manner of applying due diligence measures in compliance with the provisions of this Decision by 31 December 2018.

No.: 173-020/06-18/BV  
Zagreb, 11 June 2018

**Boris Vujčić**

**Governor**