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Act on Preventing and Clearing Money Laundering

(68/1998; amendments up to 365/2003 included)

Section 1

Purpose and scope of application of the Act (365/2003)

- (1) The purpose of this Act is to prevent money laundering and financing of terrorism and to promote their detection and investigation and to reinforce the tracing and recovery of the proceeds from crime.
- (2) The provisions of this Act on preventing and clearing money laundering also apply to preventing and clearing financing of terrorism referred to in Chapter 34a, section 5 of the Penal Code (39/1889).

Section 2

Definitions (63/2003)

- (1) For the purposes of this Act:
 - 1) *money laundering* means activities referred to in Chapter 32, sections 6-10 of the Penal Code (39/1889); (365/2003)
 - 2) *clearing money laundering* means receiving, recording, examining and investigating suspicious transaction reports referred to in sections 5 and 10;
 - 3) *a party subject to the obligation to report* means institutions and businesses and professions referred to in section 3.

Section 3

Parties subject to the obligation to report

- (1) For the purposes of this Act, the following are parties subject to the obligation to report:
 - 1) credit and financial institutions referred to in the Act on Credit Institutions (1607/1993);
 - 2) branches and agencies of foreign credit and financial institutions referred to in the Act on the Operation of a Foreign Credit Institution or Financial Institution in Finland (1608/1993);
 - 3) investment firms referred to in the Act on Investment Firms (579/1996) and such other institutions which are not investment firms but which, as a business, practise professional activities referred to in section 16 of the Act on Investment Firms;
 - 4) branches and agencies of foreign investment firms referred to in the Act on the Right of a Foreign Investment Firm to Provide Investment Services in Finland (580/1996);
 - 4a) management companies and custodians referred to in the Act on Common Funds (48/1999); (54/1999)
 - 5) limited-liability companies or co-operatives practising restricted credit institution activities referred to in section 1a of the Act on Credit Institutions; (365/2003)

- 6) insurance companies referred to in the Insurance Companies Act (1062/1979);
 - 7) agencies of foreign insurance companies referred to in the Act on Foreign Insurance Companies (398/1995);
 - 8) insurance brokers referred to in the Insurance Brokers Act (251/1993);
 - 9) pawnshops referred to in the Pawnshops Act (1353/1992);
 - 10) gaming operators referred to in section 12(1) of the Lotteries Act (1047/2001) practising pools, betting, totalisator betting or casino activities, as well as businesses, professions and institutions supplying registration and charges for participation in pools, betting and totalisator betting referred to in the Lotteries Act; (1052/2001)
 - 11) real estate businesses and apartment rental agencies referred to in the Act on Real Estate Businesses and Apartment Rental Agencies (1075/2000); (365/2003)
 - 12) the Central Securities Depository, account operators, and agencies located in Finland of other foreign institutions which have been granted the rights of an account operator referred to in the Act on the Book-entry System (826/1991); (365/2003)
 - 13) businesses or professions practising payments transfer activity other than payment intermediation referred to in the Act on Credit Institutions; (365/2003)
 - 14) businesses or professions carrying out duties referred to in section 1(1) of the Auditing Act (936/1994); (365/2003)
 - 15) businesses or professions performing external accounting functions; (365/2003)
 - 16) businesses or professions dealing in precious stones or metals, works of art or vehicles; (365/2003)
 - 17) businesses or professions holding auctions; (365/2003)
 - 18) businesses or professions providing assistance in legal matters. (365/2003)
- (2) Businesses or professions providing assistance in legal matters referred to in subsection 1(18) above are subject to the obligation to report when they prepare for or carry out transactions on behalf of their client concerning buying and selling of real estate and business entities, managing of client money, securities or other assets, opening or management of bank, savings or securities accounts, organisation of contributions for the creation, operation or management of companies, or creation, operation or management of trusts, companies or similar legal arrangements, and buying and selling of business entities on behalf of and for a client. Legal professionals carrying out duties of an attorney are not subject to the obligation to report. For the purposes of this Act, duties of an attorney include, in addition to duties related to actual legal proceedings, the provision of legal advice concerning a client's legal position in the pre-trial investigation of an offence or other pre-trial handling of the case, and instituting or avoiding proceedings. (365/2003)

Section 4

Money Laundering Clearing House

- (1) For carrying out duties pertaining to clearing money laundering, a Money Laundering Clearing House, hereafter the Clearing House, is located at the National Bureau of Investigation. The Clearing House shall also promote cooperation between different authorities in the prevention of money laundering, as well as cooperation and exchange of information with foreign authorities and international organisations responsible for clearing money laundering. The National Bureau of Investigation shall provide the ministry responsible for police activities with an annual report on the activity of the Clearing House and the progress of anti-money laundering action in Finland in general.

Section 5

Obligation of public authorities and other supervisory bodies to supervise and report

- (1) Public authorities supervising parties subject to the obligation to report, the Savings Bank Inspectorate referred to in the Savings Banks Act (1270/1990), the central body for cooperative banks referred to in the Cooperative Banks Act (1271/1990) and an auditor of the savings fund operations referred to in the Co-operatives Act shall supervise the fulfilment of the obligations imposed by this Act or by provisions laid down under this Act.
- (2) If the authorities referred to in subsection 1 or any other supervisory bodies consider, on the basis of facts discovered in the context of their supervisory or other duties, that there are reasons to suspect that the assets or other property involved in a transaction are of illegal origin or that these are used to commit an offence referred to in section 1(2) or a punishable attempt of such an offence, they shall report the case to the Clearing House. (365/2003)

Section 6

Obligation to identify (365/2003)

- (1) In addition to what is provided hereafter, parties subject to the obligation to report shall always establish the identity of their customer if there are reasons to suspect that the assets or other property involved in a transaction are of illegal origin or that these are used to commit an offence referred to in section 1(2) or a punishable attempt of such an offence.
- (2) Parties subject to the obligation to report referred to in section 3(1)(1)-(8) and (11)-(18) above shall establish the identity of their regular customers. The same requirement shall also apply to other than regular customers when the sum of a transaction amounts to EUR 15,000 or more, whether the transaction is carried out in a single operation or in several operations which are linked to each other.
- (3) Parties subject to the obligation to report referred to in section 3(1)(6)-(8) above do not have to identify their customer if:
 - 1) the assignment concerns an insurance policy the periodic premium amount of which does not exceed EUR 1,000 or if its single premium is not more than EUR 2,500;
 - 2) the assignment concerns a statutory employment pension insurance policy or a pension insurance policy of a self-employed person which contains no surrender clause and may not be used as collateral for a loan;
 - 3) the insurance premium is paid from the policyholder's account with a credit or financial institution duly authorised in a State belonging to the European Economic Area, or from an account with a branch located in a State belonging to the European Economic Area of a credit or financial institution duly authorised in a State belonging to the European Economic Area.
- (4) Parties subject to the obligation to report referred to in section 3(10) above shall establish the identity of their customers in connection with:
 - 1) casino activities;
 - 2) pools and betting or totalisator betting when the stake placed by the player amounts to EUR 3,000 or more, whether the transaction is carried out in a single operation or in several operations which are linked to each other.

- (5) A customer which is a credit institution, financial institution, investment firm or life insurance company duly authorised in a State belonging to the European Economic Area, or a branch located in a State belonging to the European Economic Area of a credit institution, financial institution, investment firm or life insurance company duly authorised in a State belonging to the European Economic Area does not have to be identified. In addition, a customer does not have to be identified if it is a credit institution, financial institution, investment firm or life insurance company duly authorised in such other State whose system of preventing and clearing money laundering meets the international standards, or a branch located in such a State of a credit institution, financial institution, investment firm or life insurance company duly authorised in other than such a State.

Section 7

Obligation to identify when a customer is acting for another person

- (1) If it is likely that a customer is acting for another person, the identity of this person shall also be established by all available means.

Section 8

Keeping records on the identification data

- (1) Records shall be kept on customer identification data in a secure manner for at least five years after the business transaction or relation is ended.

Section 9

Customer due diligence obligation

- (1) Parties subject to the obligation to report shall examine with due diligence the grounds for and the purpose of the use of their services if they consider that transactions are unusual in respect of their structure or extent or the size or office of the party subject to the obligation to report, or if they have no apparent financial purpose or if they are inconsistent with the customer's financial position or business activity.

Section 10

Obligation to report

- (1) If, after fulfilling the customer due diligence obligation referred to in section 9 or otherwise, parties subject to the obligation to report have reasons to suspect that the assets or other property involved in a transaction are of illegal origin or that these are used to commit an offence referred to in section 1(2) or a punishable attempt of such an offence, they shall report the matter to the Clearing House without delay and supply on request all information and documents that could be significant to clearing the suspicion. (365/2003)
- (2) Parties subject to the obligation to report referred to in section 3(1)(9) above shall make a report referred to in subsection 1, if a transaction involves a pledge of a significant financial value.
- (3) Such reporting may not be disclosed to the person subject to the suspicion or to any other person.

Section 11

Suspending and refusing to conduct a transaction

- (1) If parties subject to the obligation to report have reasons to suspect that the assets or other property involved in a transaction are of illegal origin or that these are used to commit an offence referred to in section 1(2) or a punishable attempt of such an offence, they shall suspend the transaction for further inquiries or refuse to conduct the transaction. (365/2003)
- (2) If it is not possible to refrain from carrying out the transaction, or if suspending or refusing to conduct the transaction are likely to hamper the establishment of the beneficiary of the transaction, the transaction may be carried out, after which a suspicious transaction report referred to in section 10 shall be made without delay.
- (3) After receiving a suspicious transaction report, a commanding police officer working at the Clearing House may give an order to refrain from carrying out the transaction for no more than five working days, if such refraining is necessary for clearing money laundering.

Section 11a

Enhanced identification, customer due diligence and reporting obligation (365/2003)

- (1) If a transaction is connected with a State whose system of preventing and clearing money laundering does not meet the international standards, an enhanced identification, customer due diligence and reporting obligation applies to the transaction.
- (2) To fulfil an enhanced obligation to report, parties subject to the obligation to report shall make a report referred to in section 10 to the Clearing House if their customers do not provide them with an account they have requested in order to fulfil the customer due diligence obligation, or if they consider that this account is unreliable. The same applies if the account obtained by parties subject to the obligation to report does not provide sufficient information on the grounds for the transaction and on the origin of the assets. Parties subject to the obligation to report shall also make a report to the Clearing House if a legal person cannot be identified or beneficiaries established in a reliable way. The same also applies if a person on behalf of whom a customer is acting cannot be identified.

Section 12

Obtaining, recording, using and disclosing information

- (1) Notwithstanding the provisions on the confidentiality of information subject to business and professional secrecy or the financial circumstances or financial status of an individual, institution or foundation, the Clearing House has the right to obtain free of charge any information and documents necessary for clearing money laundering from an authority or a body assigned to perform a public function.
- (2) A decision on obtaining confidential information referred to in subsection 1 shall be made by a commanding police officer working at the Clearing House.
- (3) Notwithstanding the obligation to observe secrecy binding a member, auditor, auditor of the savings fund operations, board member or employee of the institution, the Clearing House has the right to obtain at the written request of a commanding police officer working at the Clearing House any information necessary for clearing money laundering from a private institution or person.
- (4) The Clearing House has the right to record information received on the basis of sections 5 and 10 and subsections 1 and 3. The information may be used and disclosed only for the purpose of preventing and clearing money laundering.

Section 13

Reference to certain Acts (365/2003)

- (1) In addition to this Act, the provisions of the Police Act (493/1995) on police investigation apply to clearing money laundering, unless the Pre-trial Investigation Act (449/1987) is applied to clearing the matter.
- (2) In addition to this Act, the provisions of the Act on Police Personal Data Files (509/1995) on personal data files intended for the use of a police unit apply to handling information on a suspicious transaction.

Section 13a

Obligation to notify of payments transfer activity (365/2003)

- (1) Financial institutions practising payments transfer activity referred to in section 3(1)(13) above and financial institutions practising payments transfer activity shall notify the State Provincial Office of Southern Finland, which acts as the central administrative authority, of their activity before starting their operation.
- (2) The notification shall include information on the institution practising the activity and on the activity referred to in the notification.

Section 14

Government decisions and further provisions (365/2003)

- (1) A list of States whose systems of preventing and clearing money laundering meet the international standards referred to in section 6(5), as well as a list of States whose systems of preventing and clearing money laundering, correspondingly, do not meet the international standards referred to in section 11a(1), may be approved by a decision made in a Government plenary session.
- (2) Further provisions on fulfilling the requirements laid down in sections 6-11 and 11a and the content of the notification referred to in section 13a(2) are given by decree of the Ministry of the Interior. Before issuing a decree, other relevant ministries, the Insurance Supervisory Authority and the Financial Supervision Authority shall be heard.

Section 15

Liability for damages

- (1) Parties subject to the obligation to report are liable for the financial loss sustained by their customers as a result of clearing a transaction, reporting a suspicious transaction or suspending or refusing to conduct a transaction, only if the parties have failed to carry out such customer due diligence measures as can be reasonably required from them, considering the circumstances.
- (2) Otherwise, what is provided in the Tort Liability Act (412/1974) applies to the liability for damages of a party subject to the obligation to report.

Section 16
Content of the obligation to identify (365/2003)

- (1) A person who, deliberately or through negligence, fails to fulfil the obligation to identify a customer laid down in sections 6, 7 or 11a or the obligation to keep records on the identification data referred to in section 8 shall be sentenced for *violation of obligation to identify* to a fine, unless a more severe penalty for the act is provided elsewhere in the law.

Section 16a
Violation of obligation to report money laundering (365/2003)

- (1) A person who, deliberately or through negligence, fails to make a report referred to in sections 10 or 11a, discloses such reporting in violation of the prohibition laid down in section 10, or fails to fulfil the customer due diligence obligation referred to in section 9 and, therefore, does not realise the existence of the obligation to report referred to in section 10 shall be sentenced for *violation of obligation to report money laundering* to a fine.

Section 16b
Violation of obligation to notify of payments transfer activity (365/2003)

- (1) A person who, deliberately or through negligence, fails to make a notification of payments transfer activity referred to in section 13a shall be sentenced for *violation of obligation to notify of payments transfer activity* to a fine, unless a more severe penalty for the act is provided elsewhere in the law.

Section 17
Entry into force

- (1) This Act comes into force on 1 March 1998.
- (2) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

Section 18
Transitional provisions

- (1) When this Act comes into force, such matters under consideration at the Financial Supervision Authority and the Ministry of Social Affairs and Health which, under this Act, belong to the Clearing House are transferred to be handled by the Clearing House.
- (2) When this Act comes into force, information on suspicious transactions recorded by the Financial Supervision Authority and the Ministry of Social Affairs and Health shall be transferred to be handled by the Clearing House. The provisions of section 12(4) apply to recording, using and disclosing this information.

Entry into force and application of amendments:

- (54/1999) This Act comes into force on 1 February 1999.
(92/1999) This Act comes into force on 1 April 1999.
(799/2000) This Act comes into force on 16 October 2000.
(1076/2000) This Act comes into force on 1 March 2001.

(1052/2001) This Act comes into force on 1 January 2002.

(63/2003) This Act comes into force on 1 April 2003.

(365/2003) This Act comes into force on 1 June 2003.

This Act also applies to such customers of parties subject to the obligation to report referred to in section 3(1)(5) and (11)-(18) whose business relationship with the parties has been established before the entry into force of this Act. Parties subject to the obligation to report shall identify such customers as provided in sections 6 and 11a and, if it is likely that the customers are acting on behalf of another person, this other person as provided in section 7 before carrying out a new transaction.

When this Act comes into force, financial institutions practising payments transfer activity referred to in section 3(1)(13) and financial institutions practising payments transfer activity shall make a notification referred to in section 13a of their activity within six months of the entry into force of this Act.