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ACT
of 16 November 2000
on Counteracting Introduction into Financial Circulation of Property Values Derived
from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism¹⁾

Chapter 1

General

Article 1

This Act regulates the principles and procedures in counteracting the introduction into financial circulation of property values derived from illegal or undisclosed sources and on counteracting the financing of terrorism, and also the duties of entities involved into financial circulation with regard to gathering and disclosing information.

Article 2

Whenever this Act refers to:

(1) obligated institution: it shall mean banks, foreign bank branches, brokerage houses, banks carrying out brokerage activity and other entities not being a bank engaged in brokerage activities pursuant to the Public Trading in Securities Law Act of 21 August 1997 (*Journal of Laws* from 2002 No. 49, item 447), Krajowy Depozyt Papierów Wartościowych S.A. (Joint

¹ Whenever separate provisions refer to the act or provisions on counteracting introduction into financial circulation of property values derived from illegal or undisclosed sources, it shall mean respectively the Act or the provisions on counteracting introduction into financial circulation of property values derived from illegal or undisclosed sources and on counteracting the financing of terrorism.

Stock Company National Depository for Securities) in the scope, in which it keeps the securities' accounts, entities conducting activity involving games of chance, mutual betting and automatic machine games, insurance companies, the main branches of foreign insurance companies, investment funds, investment funds societies, co-operative savings and credit banks, state public utility enterprise Poczta Polska (Polish Post), notaries public insofar as notaries procedures concerning dealings in the said property values are concerned, residents engaged in currency exchange, entrepreneurs running auction houses, antique shops, conducting leasing and factoring activity, activity in the scope of precious and semi-precious metals and stones trade, commission sale, giving loans on pawn (pawnshops) or real estate agents;

(2) transaction: it shall mean payments and withdrawals in form of cash or not involving cash, including also transfers between different accounts belonging to the same holder of the account, excluding transfers onto long-term deposit accounts, as well as transfers coming from abroad, foreign currency exchange, transfer of ownership or possession of property values, including giving such values on consignment or as collateral, a claims-for-shares or claims-for-stocks swap – both when these activities are performed on one's or someone else's behalf, and on one's or someone else's own;

(3) property values: it shall mean legal tender of payment, securities or other foreign exchange values, rights to assets or movable or immovable property;

(4) account: it shall mean a bank account, account in a co-operative savings and credit bank, a securities account and a money account dedicated to serve a securities account;

(5) transaction suspension: it shall mean the temporary restrictions on the disposition and use of the property values, consisting in preventing from the performance of a specific transaction by an obligated institution;

(6) blocking an account: it shall mean the temporary preventing from the disposition and use of all property values accumulated on the account, including also by an obligated institution;

(7) act of terrorism: it shall mean crimes against peace, mankind and war crimes, offences against public safety and offences set forth in Article 134 and 136 of the Penal Code;

(8) co-operating units: it shall mean the authorities of government and self-governing administrations and other state organizational units, and also the Narodowy Bank Polski (National Bank of Poland) and Komisja Nadzoru Bankowego (Banking Supervision Commission).

Chapter 2

Authorities Responsible for Counteracting the Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources

Article 3

1. The government administration authorities responsible for counteracting the introduction into financial circulation of property values derived from illegal or undisclosed sources and for counteracting the financing of terrorism, hereinafter referred to as “financial information authorities,” shall be:

(1) the minister responsible for financial institutions who shall be the principal financial information authority;

(2) the General Inspector of Financial Information, hereinafter referred to as “General Inspector.”

2. The General Inspector shall be appointed and dismissed by the Prime Minister on petition by the minister responsible for financial institutions.

3. The General Inspector shall be an under-secretary of state in the Ministry of Finance.

4. The General Inspector shall perform his duties with the assistance of an organizational unit created especially for that purpose in the Ministry of Finance.

5. The provisions of Paragraph 1 do not infringe the provisions of the Act of 24 May 2002 on the Agencja Bezpieczeństwa Wewnętrznego (Home Security Agency) and the Agencja Wywiadu (Intelligence Agency) (*Journal of Laws* No. 74, Item 676) laying down the tasks of the Home Security Agency and the Intelligence Agency.

Article 4

The tasks of the General Inspector shall include the obtaining, gathering, processing and analyzing of information pursuant to this Act, as well as actions of counteracting the introduction into financial circulation of property values derived from illegal or undisclosed sources and of counteracting the financing of terrorism, in particular:

(1) analyses of transactions of which the General Inspector was informed pursuant to this Act;

(2) performance of transaction suspension or of account blocking procedures;

(3) transmitting to obligated institutions the information on entities towards which there exist a well-founded ground, that they are connected with commitment of terrorist acts;

- (4) preparation of documents justifying the execution of criminal act suspicion and forwarding them to competent authorities;
- (5) initiating and taking of other actions serving to prevent the use of the Polish financial system to legalize revenues derived from illegal or undisclosed sources, including the training of personnel of obligated institutions within the scope of the responsibilities of these institutions;
- (6) control the observance of this Act;
- (7) co-operation with foreign institutions, working to counteract introduction into financial circulation of property values derived from illegal or undisclosed sources or counteracting the financing of terrorism.

Article 5

1. The minister responsible for internal affairs and the Head of the Home Security Agency, acting in consultation with the minister responsible for financial institutions, may assign personnel or functionaries of units and authorities being under their authority or supervision to work in the unit referred to in Article 3, Paragraph 4 herein.
2. The conditions and procedures for assigning functionaries of units and authorities being under the authority of or supervised by the minister responsible for internal affairs are regulated in detail elsewhere.
3. The Minister of National Defense, acting in consultation with the minister responsible for financial institutions, may assign career soldiers to work in the unit referred to in Article 3, Paragraph 4 herein.
4. The Prime Minister shall issue regulations describing in detail the procedures and conditions for the assignment of Home Security Agency functionaries, specifying in particular the information to be included in the General Inspector's petition to assign the said functionary, specifying the position to be filled by the assigned person, his/her tasks and responsibilities in that position, the proposed remuneration, and also specifying the information to be included in the personal assignment order, specifying the conditions and duration of assignment as well as the assigned functionary's rights and benefits, rules of payment of remuneration and other financial dues, indicating separately the remuneration and dues paid by the organizational unit of the Home Security Agency and the remuneration and dues paid by the organizational unit to which the functionary is assigned.
5. The minister responsible for internal affairs, acting in consultation with the minister responsible for financial institutions, shall issue regulations describing in detail the procedures

and conditions for the assignment of the employees of units and authorities subordinated to him, specifying in particular the information to be included in the General Inspector's petition to assign the said employees, specifying the position to be filled by the assigned person, his/her tasks and responsibilities in that position, the proposed remuneration, the assigned employee's rights and benefits, rules of payment of remuneration and other financial dues, indicating separately the remuneration and dues paid by the unit assigning the employee and the remuneration and dues paid by the organizational unit to which the employee are assigned.

6. Rules and procedures for the assigning of career soldiers to serve in the unit referred to in Article 3, Paragraph 4 herein, as well as rules for calculating the remuneration and other benefits during service with the said unit are specified in detail in the Act of 30 June 1970 on the Military Service of Career Soldiers (*Journal of Laws* 1997, No. 10, item 55; No. 28, item 153; No. 106, item 678; No. 107, item 688; No. 117, item 753; No. 121, item 770; No. 141, item 944; 1998, No. 162, item 1117; 1999, No. 1, item 7).

Article 6

1. Financial information authorities, employees and persons performing activities on behalf of the unit referred to in Article 3 Paragraph 4 herein, on the basis of civil law contracts as well as appointed to work or assigned to serve in this unit shall keep confidential any information they obtain in the course of their official duties, in keeping with separate regulations.
2. The confidentiality requirement referred to in Paragraph 1 above shall remain in force also after termination of employment, termination of the period of assignment or service in the unit referred to in Article 3 Paragraph 4 herein, and also performing activities on its behalf on the basis of civil law contracts.

Article 7

In the case of inspection proceedings of a scope and nature described in regulations pertaining to the Najwyższa Izba Kontroli (Supreme Chamber of Control), the General Inspector shall make available to inspectors the information obtained in the course of performing the duties referred to in Article 4 herein, based on an authorization by the President of the Supreme Chamber of Control issued on an individual basis.

Chapter 3

Duty to Register Transactions and Persons Executing Transactions

Article 8

1. Obligated institution receiving instruction or order from a client to execute a transaction worth in excess of EUR 10,000, shall register such transaction, also when it is performed involving more than a single operations, in circumstances suggesting that these operations are linked together.²⁾
2. The equivalent of the EUR sum referred to in Paragraph 1 above shall be calculated based on the average exchange rate for this currency quoted by the National Bank of Poland (NBP) effective for the day of the transaction or for the day of submitting the instruction or the order to execute the transaction.
3. The obligated institution receiving instruction or order from a client to execute a transaction, if circumstances suggest that the property values involved in this transaction may originate from illegal or undisclosed sources, shall register such transaction regardless of its value and nature.
4. The register of transactions referred to in Paragraphs 1 and 3 above and documents pertaining to registered transactions shall be kept for a period of five years, starting from the first day of the year following the year in which the last entry concerning the given transaction was made. In the event of liquidation, merger, division or transformation of the obligated institution, for keeping the said registers and documents, provisions of Article 76 of the Act of 29 September 1994 on Accounting (*Journal of Laws* No. 121, item 591; 1997, No. 32, item 183; No. 43, item 272; No. 88, item 554; No. 118, item 754; No. 139, items 933-934; No. 140, item 939; No. 141, item 945; 1998, No. 60, item 382; No. 106, item 668; No. 107, item 669; No. 155, item 1014; 1999, No. 9, item 75; No. 83, item 931; 2000, No. 60, item 702; No. 94, item 1037; No. 117, item 1186) shall apply.
5. The obligation to register transactions, referred to in Paragraph 1 above, does not concern real estate agents.

² Since the 1st of January 2004 Paragraph 1 shall be replaced by following: “1. Obligated institutions receiving instruction or order from a client to execute a transaction worth in excess of EUR 15,000, shall register such transaction, also when it is executed involving more than a single operations, in circumstances suggesting that these operations are linked together”.

Article 9

1. In order to fulfill the registration duty, obligated institutions shall identify their clients whenever they receive from them instruction or order to execute a transaction in written, oral or electronic form.

2. The identification referred to in Paragraph 1 above shall involve the following:

(1) in the case of natural persons or their representatives – determining and noting the distinguishing features of a document confirming the person’s identity pursuant to separate regulations, or of a passport, as well as the first name, last name, the citizenship and address of the person executing the transaction, and furthermore the PESEL (national citizens’ registry) number in the case of the identification on the base of identity card or country code in the case of the passport. In the case of the person in whose name or on whose behalf the transaction is being executed – determining and noting her first name, last name and address;

(2) in the case of legal entities: noting of up-to-date information from a court registry extract or some other document specifying the name (firm), the organizational form of the legal entity, its seat and address, and information from a valid document confirming the authority of the person executing the transaction to represent the legal entity, as well as noting of data described in Paragraph 1 above pertaining to the representing person;

(3) in the case of organizational units lacking legal entity status: noting of information from a document indicating the organizational form of the entity, its seat and address, and information from a document confirming the authority of the person carrying out the transaction to represent the entity, as well as noting of data described in Paragraph 1 above pertaining to the representing person.

3. The identification requirement referred to in Paragraph 1 above shall extend also to beneficiaries of the transaction and include the determination and noting their name (firm) or first name, last name and address, in the extent possible to determine by the obligated institution performing with due diligence.

3a. If circumstances of the transaction suggest, that the person executing it does not act in her own name, the obligated institution should try to identify the entities, in the name or on behalf of which the person executing the transaction is acting.

4. The information acquired as part of the identification procedure shall be kept for a period of five years, starting from the first day of the year following the year in which the last entry concerning the given transaction was made. In the event of liquidation, merger, division or transformation of the obligated institution, for keeping the said documents provisions of Article 76 of the Act referred to in Article 8, Paragraph 4 herein shall apply.

Article 10

1. An obligated institution, within 30 days following the day of commencing the performance of its activity, shall provide the General Inspector with a written information about performing the activity, containing the indication of its name (firm) or first name and last name, seat, address and REGON (Statistical) number, as well as determination of the type of activity performed.
2. General Inspector shall keep the list of obligated institutions.

Chapter 4

Principles of Providing the General Inspector with the Information

Article 11

1. The obligated institutions shall provide the General Inspector with the information about transactions registered according to Article 8, Paragraphs 1 and 3 above. This provision consists in transmitting or providing data from the register of transactions referred to in Article 8 Paragraph 4, and also using electronic carriers of information.³⁾
2. The duty to register and inform the General Inspector does not extend to transactions executed by state and local self-government units as part of their budget spending.
3. Information about transactions, registered according to Article 8 Paragraph 1, may be transmitted to the General Inspector through economic chambers associating obligated institutions and banks associating co-operative banks.

Article 12

1. Information about transactions, registered according to Article 8 Paragraphs 1 and 3 shall in particular contain the following data:
 - (1) date and place of the execution of the transaction;
 - (2) first name, last name, citizenship, address, PESEL number or country code and the distinguishing features of the document used to confirm the identity of the person executing the transaction;

³ The Article 11 Paragraph 1, in the scope of transactions registered according to the Article 8 Paragraph 1, shall come into force on the 1 July 2004.

- (3) the sum, currency and the nature of the transaction;
 - (4) the number of the bank account used for the execution of the transaction, along with data concerning the account owner or disposer;
 - (5) data concerning the natural person, legal entity or organizational unit lacking legal entity status in whose name the transaction was executed;
 - (6) first name, last name or name (firm) and address of the transaction beneficiary, and in the case the determination of his/her address is not possible – name (firm) of his/her bank;
 - (7) justification, in the case of transmitting information about the transaction, referred to in Article 8 Paragraph 3.
2. Information about transactions, registered according to Article 8 Paragraphs 1 and 3, containing the data specified in Paragraph 1, shall be transmitted to the General Inspector:
- 1) within 14 days following the lapse of every calendar month – in the case of transactions, referred to in Article 8 Paragraph 1,
 - 2) forthwith – in the case of transactions, referred to in Article 8 Paragraph 3.

Article 13

The minister responsible for financial institutions, acting in consultation with the minister responsible for internal affairs and taking into account the relevant opinion of the President of the National Bank of Poland, shall issue regulations describing:

- (1) the form of the registry referred to in Article 8, Paragraph 4 herein, the manner of maintaining it, and the procedure for providing the General Inspector with the registry data;
- (2) the procedure for providing the General Inspector with information about transactions referred to in Article 1, Paragraphs 1 and 3 herein using electronic means of data transmission.

Article 13 a.

1. Obligated institution shall forthwith make available the information concerning transactions subjected to the provisions of the Act, also upon a written demand by the General Inspector. Making available shall consist in particular in transmitting information about the parties of a transaction, content of the documents, including those concerning balances and turnover on the account, delivering their certified copies or providing relevant documents for inspection by authorized employees of the unit referred in Article 3 Paragraph 4, for the purpose of preparing notes or copies.

2. Information, referred to in Paragraph 1, shall be transmitted to the General Inspector free of charge.

Article 14

1. (deleted)

2. The public prosecutor's office, the Home Security Agency and units subordinated to or supervised by the minister responsible for internal affairs shall inform the General Inspector forthwith of any proceedings initiated in connection with the offence referred to in Article 299 of the Penal Code.

3. Information, referred to in Paragraph 2, shall indicate in particular the circumstances concerning the perpetration of the offence and the persons participating therein.

Article 15

Upon request of the General Inspector, co-operating units shall, within the scope of their statutory competence, make available information and confirmed copies of documents necessary to the accomplishment of his tasks of preventing the offence referred to in Article 299 of the Penal Code and specified in Article 2 Paragraph 7.

Article 15a.

Co-operating units, excluding the authorities referred to in Article 14 Paragraph 2, shall co-operate with the General Inspector within the scope of their statutory competence in preventing the offence referred to in Article 299 of the Penal Code, namely by:

(1) informing the General Inspector forthwith of any suspicion of introducing into financial circulation of property values derived from illegal or undisclosed sources;

(2) transmitting certified copies of documents pertaining to transactions suspected of being linked to the offence referred to in Article 299 of the Penal Code, and providing information about the persons executing such transactions;

2. Co-operating units are obliged to issue instructions for actions to be taken in cases referred to in Paragraph 1.

3. Authorities of fiscal control, tax and customs authorities shall also notify forthwith the General Inspector about any circumstances disclosed in the course of their activities, which may indicate the performance of actions aimed at introducing property values derived from illegal or undisclosed sources into financial circulation.

4. The notification, referred to in Paragraph 1 Subparagraph 1 and Paragraph 3, shall contain in particular the description of disclosed circumstances together with reasons, for which the notifying party judged, that they may indicate the performance of actions aimed at introducing property values derived from illegal or undisclosed sources into financial circulation.

Article 15b.

In justified cases the General Inspector may apply to the tax office or to the fiscal control office for examination of legality of specific property values origin. Information on results of the actions carried out shall be delivered to the General Inspector forthwith.

Chapter 5

Transaction Suspension and Account Blocking Procedure

Article 16

1. Obligated institution, which received an instruction or an order to execute a transaction, or intending to execute a transaction in circumstances justifying a suspicion that this transaction may be linked to a perpetration of the offence referred to in Article 299 of the Penal Code shall forthwith inform the General Inspector about this fact in writing, providing the data mentioned in Article 12 Paragraph 1 Subparagraphs 1-6, with indicating the premises supporting the suspension of this transaction, and indicate the planned date of the transaction.
2. Upon receipt of this notification, the General Inspector shall confirm the receipt thereof in writing, immediately.
3. The notification and the confirmation of the receipt referred to in Paragraphs 1 and 2 above may be sent with the use of electronic carriers of information.

Article 16a.

1. The General Inspector, on the basis of possessed information, shall transmit to the obligated institutions the information on entities, if there is a well-grounded suspicion they are linked to the offence referred to in Article 2 Subparagraph 7.
2. Obligated institution shall inform the General Inspector forthwith about keeping an account on behalf of entity, referred to in Paragraph 1 above, and on transactions, to which this entity appears as party.

Article 17

If the notification referred to in Article 16, Paragraph 1 herein cannot be sent prior to the execution or during the execution of instruction or order to execute transaction, the obligated institution concerned shall inform about the transaction immediately after it was executed, explaining the reasons for the lack of prior notification.

Article 18

1. The General Inspector, when notified or in possession of information suggesting that a transaction to be executed may be linked to the offence referred to in Article 299 of the Penal Code, may, within 12 hours following the receipt of the notification referred to in Article 16, Paragraph 2 herein, demand the obligated institutions concerned, in writing, to suspend the said transaction or to block the account for a period not exceeding 48 hours following notification receipt. At the same time the General Inspector shall notify the proper public prosecutor about the suspected offence and shall forward to him the information and the documents relating to the suspended transaction or the account blocked.
2. Transaction suspension may be demanded only by the General Inspector or by two employees of the unit referred to in Article 3, Paragraph 4 herein, duly authorized by him in writing and acting together.
3. The obligated institution shall suspend the transaction immediately after receiving the written demand referred to in Paragraph 1 above.
4. The suspension of a transaction by an obligated institution pursuant to Paragraphs 1 and 3 above shall not expose it to disciplinary, civil, penal or any other liability provided for by separate regulations.

Article 19

1. In the case of receiving from the General Inspector the notification, referred to in Article 18 Paragraph 1 second sentence the public prosecutor may, by decision, suspend the transaction or proceed with blocking the account for a definite period, however not exceeding 3 months following notification receipt.
2. The decision, referred to in Paragraph 1 above, shall specify the scope, manner and term of transaction suspension or account blocking. The transaction may be complained against to the court competent for the consideration of the matter.

3. In particularly justified cases, publication of the decision, referred to in Paragraph 1, may be postponed for a definite period necessary regarding the welfare of the case. Then the obligated institution is forthwith notified about the issuance of the decision.
4. The transaction suspension or the account blocking shall expire, if the decision of seizure of property decision is not issued within three months following the receipt of notification, referred to in Article 18 Paragraph 1 second sentence.
5. For issues concerning the transaction suspension or the account blocking not regulated in this Act, the provisions of the Code of Penal Proceedings shall apply.

Article 20

The State Treasury shall be liable for any damages resulting from blocking the account, or transaction suspension in violation of the applicable laws, pursuant to provisions of the Civil Code.

Article 20a.

1. In the case of receiving information, referred to in Article 16a Paragraph 2, General Inspector may transmit to the obligated institutions a written demand of blocking the account.
2. The provisions of Articles 18-20 shall apply respectively.

Article 20b.

The provisions of Article 19 and 20 shall apply respectively also in the course of penal proceeding instituted for offences mentioned in Article 2 Subparagraph 7, when the notification of an offence received by the public prosecutor derives from other sources.

Article 20c.

Obligated institution, on demand of the party ordering transaction or by the holder of the account, may inform him about the fact of transaction suspending or account blocking and point out the authority, which demanded to suspend the transaction or to block the account.

Chapter 6

Control of Obligated Institutions

Article 21

1. The control of the obligated institutions' compliance with requirements relating to the registration of and notification about transactions governed by this Act, shall be the responsibility of the General Inspector.

2. The control shall be carried out by personnel of the unit referred to in Article 3, Paragraph 4 herein, duly authorized in writing by the General Inspector, hereinafter referred to as "inspectors", following the presentation of their official identity cards of the inspector, referred to hereinafter as "inspector's identity card" and the written authorization.

3. The control referred to in Paragraph 1 above shall also be carried out by the following, as part of their supervisory or control responsibilities, in a manner and according to procedures specified in separate regulations:

(1) the Banking Supervision Commission with regard to banks and branches of foreign banks, and the National Bank of Poland with regard to residents engaged in foreign currency exchange operations;

(2) the Komisja Nadzoru Ubezpieczeń i Funduszy Emerytalnych (Insurance and Pension Funds Supervisory Commission) with regard to insurance companies and main branches of foreign insurance companies;

(3) the Komisja Papierów Wartościowych i Giełd (Securities and Exchanges Commission) with regard to brokerage houses, banks carrying out the brokerage activity and other entities engaged in brokerage activity pursuant to the Public Trading in Securities Law Act, as well as with regard to investment funds, investment funds societies, the Joint Stock Company National Depository for Securities and banks offering securities accounts;

(4) deleted;

(5) the minister responsible for public finances with regard to entities organizing and operating games of chance, mutual betting and automatic machines games;

(6) Presidents of Appeal Courts with regard to notaries public;

(7) the Krajowa Spółdzielcza Kasa Oszczędnościowo-Kredytowa (National Co-operative Savings and Credit Bank) with regard to co-operative savings and credit banks.

4. Results of the control of compliance with this Act, referred to in Paragraph 3 above, shall be presented to the General Inspector in writing within 14 days of the control's conclusion.

5. The minister responsible for financial institutions shall issue regulations specifying the form of the inspectors' official identity cards and rules for their issue and replacement.

Article 22

1. On demand by an inspector, obligated institutions shall make available all documents and materials needed to carry out the control referred to in Article 21, Paragraph 1 herein, with the exception of documents and materials containing state secrets.

2. Obligated institutions shall provide inspectors with working conditions needed to carry out the control effectively. In particular, they shall present the demanded documents and materials for inspection forthwith and shall ensure timely explanations by their personnel.

3. Inspectors shall have the right to:

(1) enter the premises of the obligated institution in the company of the controlled party;

(2) examine documents and other evidence material relevant to the scope of the performed control and to receive confirmed copies thereof;

(3) demand oral and written explanations from personnel of the obligated institutions relevant to the scope of the performed control.

4. In connection with the performance of control activities, inspectors shall be under protection provided by the Penal Code for public officers.

Article 23

Inspectors shall have the right to move about freely **in** the premises of the obligated institution without the need to obtain a pass, and they shall not be subject to personal control.

Article 24

1. Director of the unit, referred to in Article 3 Paragraph 4, shall present the results of the control in a control report to the head of the obligated institution or to a person authorized by the latter, within 30 days following the day of control conclusion.

2. The control report shall contain the findings on the actual state, assessment of the controlled activity, irregularities disclosed therein and indication of persons responsible for them, and conclusions aimed at removing the irregularities.

Article 25

1. The head of the obligated institution or a person authorized by him shall have the right to present his justified objections to the findings of the control report.

2. The said objections shall be submitted in writing to the General Inspector within 14 days following control report receipt.

3. Upon examination of objections, the General Inspector shall present his position in writing to the entity submitting the objections, within 30 days following the receipt of objections.

Article 26

(deleted)

Article 27

The General Inspector shall inform the following, in writing, about the results of the control referred to in Article 21, Paragraph 1 herein:

(1) authorities supervising the obligated institutions;

(2) authorities responsible for the prosecution of offences and petty offences whenever there is a justified suspicion of the perpetration of the said offences.

Chapter 7

Protection and Disclosure of Gathered Data

Article 28

Obligated institutions shall devise internal procedures for preventing the introduction into financial circulation of property values derived from illegal or undisclosed sources, in particular relating to the fulfilling of the requirement of a client's identification and keeping of information gathered as part of the identification process, shall provide personnel with training in identifying transactions potentially linked to the offence referred to in Article 299 of the Penal Code, and shall name individuals responsible for fulfilling the obligations resulting from this Act.

Article 29

Regulations limiting access to confidential information shall not apply to disclosing by obligated institutions of any information relating to transactions pursuant to this Act, except for data subject to state secrecy.

Article 30

All information obtained and transmitted by financial information authorities pursuant to this Act shall be protected in keeping with other Acts regulating information protection.

Article 31

Should the General Inspector conclude from the information in hand, or from the processing and analysis thereof, that there are well-founded grounds for suspecting the offence referred to in Article 299 of the Penal Code or mentioned in Article 2 Subparagraph 7, the General Inspector shall inform the public prosecutor of his suspicions and provide him with evidence supporting such suspicion.

Article 32

1. Information about transactions subjected to the provisions of the Act shall be provided by the General Inspector to courts and public prosecutors for use in criminal proceedings, upon their request in writing.
2. In order to verify the data contained in the notification, referred to in Article 299 of the Penal Code or mentioned in Article 2 Subparagraph 7, the public prosecutor may demand the General Inspector to provide him with the information legally protected, including those being a bank or insurance secrecy, also in verification proceedings conducted pursuant to Article 307 of the Code of Penal Proceedings.

Article 33

1. The General Inspector shall provide, subject to Paragraph 1a below, the possessed information on transactions subjected to the provisions of the Act on the written and grounded request by:
 - (1) the minister responsible for internal affairs or persons authorized by him;
 - (2) Heads of: Home Security Agency, Intelligence Agency and Military Information Services or persons authorized by them, within the scope of their respective statutory powers.
- 1a. The General Inspector shall provide the minister responsible for internal affairs and Heads of Home Security Agency, Intelligence Agency and Military Information Services with information, referred to in Article 8 Paragraph 1, on the written and grounded request, submitted with the consent of the Public Prosecutor General.
2. The information about transactions subjected to the provisions of the Act herein may be provided by the General Inspector on the written and grounded request by:

- (1) directors of fiscal chambers and directors of fiscal control offices or their deputies, only in cases relating to tax obligations;
- (2) the Chairman of the Banking Supervision Commission or persons authorized by him, only in cases relating to the execution of banking supervision;
- (3) the directors of customs chambers, only in cases relating to collection of customs dues and outstanding taxes resulting from foreign trade;
- (4) the General Customs Inspector and persons authorized by him, only to the extent necessary to conduct preparatory proceedings in counteracting offences and petty offences in foreign trade;
- (5) the President of the Insurance and Pension Funds Supervisory Commission or persons authorized by him, only in cases relating to executing of supervision of insurance operations;
- (6) (deleted);
- (7) the President of the National Co-operative Savings and Credit Bank or persons authorized by him, only in cases relating to supervision of the activity of co-operative savings and credits banks;
- (8) the Chairman of the Securities and Exchanges Commission or persons authorized by him, only in cases relating to supervision of the operation of brokerage houses, the brokerage activity of banks and other entities engaged in brokerage activity pursuant to the Public Trading in Securities Law Act, as well as with regard to investment funds and investment funds societies, the Joint Stock Company National Depository for Securities and banks offering securities accounts;
- (9) (deleted)
- (10) the President of the Supreme Chamber of Control to the extent necessary to conduct control proceedings.

3. In cases referred to in Paragraphs 1 and 2 above, the General Inspector may provide the information about transaction subjected to the provisions of the Act herein also on his own initiative.

4. The General Inspector shall provide information constituting bank secrecy to authorities referred to in Paragraph 2 above in keeping with the powers and procedures provided for by the Act of 29 August 1997 The Banking Law (*Journal of Laws*, No. 140, item 939; 1998, No. 160, item 1063; No. 162, item 1118; 1999, No. 11, item 95; No. 40, item 399; 2000, No. 93, item 1027; No. 94, item 1037; No. 114, item 1191).

5. The General Inspector, may provide information relating to the introduction into financial circulation of the property values derived from illegal or undisclosed sources and to the

financing of terrorism to foreign institutions, referred to in Article 4 Subparagraph 7, reciprocally and pursuant to bilateral agreements concluded by the General Inspector.

6. Persons obtaining information about transaction subjected to the provisions of the Act herein pursuant to Paragraphs 1-3 above shall be required to protect the information legally protected as provided for by separate regulations. The confidentiality requirement shall remain in force also after termination of the employment relationship, performing the activities on the basis of civil law contracts or end of the service period.

7. The obligation to keep secret the information acquired on the basis of the Act, to which the provisions of separate laws regulating the principles of their protection do not apply, shall include also the employees of obligated institutions, economic chambers associating obligated institutions, bank associating co-operative banks and persons performing activities on their behalf on the basis of civil law contracts. The confidentiality requirement shall remain in force also after termination of employment, after termination of performing activities on the basis of the civil law contracts or termination of the period of service.

Article 34

Any disclosure to unauthorized parties, including also parties to the transaction or holders of the account, of the fact that the General Inspector was informed about transactions suspected of involving property values derived from illegal or undisclosed sources or about accounts of the entities towards which there exist a well-founded ground, that they are connected with commitment of terrorist acts, and about transactions **executed** by these entities, shall be prohibited.

Chapter 8

Penal Provisions

Article 35

1. Any person acting in the name or in the interest of an obligated institution who in violation of this Act, fails to:

(1) register transactions or keep the transaction registers and the documents relating to the transaction;

(2) identify the client in keeping with the procedures referred to in Article 28 herein or keep the identification information;

(3) notify the financial information authority about the transaction or about keeping the account on behalf of the entity, referred to in Article 16a Paragraph 1;

(4) suspend a transaction or block the account,

shall be liable to a penalty of deprivation of liberty for a period of up to three years.

2. This same penalty shall be imposed on any person acting in the name or in the interest of an obligated institution who, in violation of this Act, should disclose any information obtained pursuant to this Act to unauthorized persons, holders of the account or persons involved in a transaction, or should otherwise use this information in violation of this Act.

3. Should the offence referred to in Paragraphs 1 **or** 2 above be committed unintentionally, its perpetrator shall be liable to a fine.

Article 36

1. Any person acting in the name or in the interest of an obligated institution who, in violation of this Act, shall:

(1) refuse to provide the General Inspector with information or documents;

(2) provide the General Inspector with untrue data or withhold true data relating to transactions, accounts or persons;

shall be liable to a penalty of deprivation of liberty for a period of three months to five years.

Article 37

Persons committing acts referred to in Article 35, Paragraphs 1 **or** 2, or in Article 36 hereto which shall lead to considerable damages shall be liable to a penalty of deprivation of liberty for a period of six months to eight years.

Article 37a

1. Any person, who foils or obstructs the performing of control activities, referred to in Chapter 6, shall be liable to a fine.

2. Any person, who does not accomplish the obligation to devise internal procedures for preventing the introduction into financial circulation of property values derived from illegal or undisclosed sources shall be liable to the same penalty.

Chapter 9

Amendments to Regulations in Force, Transitory and Final Provisions

Article 38

The Act of 28 July 1990 on Insurance Activity (*Journal of Laws* 1996, No. 11, item 62; 1997, No. 43, item 272; No. 88, item 554; No. 107, item 685; No. 121, items 769 and 770; No. 139, item 934; 1998, No. 155, item 1015; 1999, No. 49, item 483; No. 101, item 1178; No. 110, item 1255; 2000, No. 43, item 483; No. 48, item 552; No. 70, item 819, No. 114, item 1193) shall be amended as follows:

(1) the following Subparagraph (5a) shall be added to Article 9, Paragraph 2:

“(5a) the General Inspector of Financial Information, within the scope of his statutory responsibilities;”

(2) the following shall be added at the end of Article 82a, Paragraph 2, Subparagraph 3: “also as regards the conformity of their activity with regulations on counteracting the introduction into financial circulation of property values derived from illegal or undisclosed sources.”

Article 39

The following §4 shall be added to Article 18 of the Act of 14 February 1991 The Notaries Services Law (*Journal of Laws* No. 22, item 91; 1997, No. 28, item 153; 1999, No. 101, item 1178; 2000, No. 48, item 551; No. 94, item 1037):

“§4. The confidentiality requirement shall not apply to information provided pursuant to regulations on counteracting the introduction into financial circulation of property values derived from illegal or undisclosed sources.”

Article 40

The following Subparagraph (1a) shall be added in Article 34a Paragraph 1, after Subparagraph 1 of the Act of 28 September 1991 on Fiscal Control (*Journal of Laws* 1999, No. 54, item 572; No. 83, item 931; 2000, No. 70, item 816, No. 104 item 1103):

“(1a) the General Inspector of Financial Information, pursuant to regulations on counteracting introduction into financial circulation of property values derived from illegal or undisclosed sources.”

Article 41

In Article 11, Paragraph 6 of the Act of 29 July 1992 on Games of Chance, Mutual Betting and Automatic Machines Games (*Journal of Laws* 1998, No. 102, item 650; No. 145, item 946; No. 155, item 1014; No. 160, item 1061; 2000, No. 9, item 117, No. 70, item 816) the words “General Inspector of Financial Information” shall be added, following a comma, after the words “minister responsible for public finances.”

Article 42

The following Subparagraph (6) shall be added to Article 15, Paragraph 2 of the Act of 13 October 1995 on Principles of Registration and Identification of Taxpayers and Payers (*Journal of Laws*, No. 142, item 702; 1997, No. 88, item 554; 1998, No. 162, item 1118; 1999, No. 83, item 931):

“(6) the General Inspector of Financial Information, to enable the performance of his duties resulting from regulations on counteracting introduction into financial circulation of property values derived from illegal or undisclosed sources.”

Article 43

The following amendments shall be made in Article 299 of the Act of 6 June 1997 The Penal Code (*Journal of Laws*, No. 88, item 553; No. 128, item 840; 1999, No. 64, item 729, No. 83, item 931; 2000, No. 48, item 548, No. 93, item 1027):

(1) §1 shall read:

“§1. Persons accepting, conveying or taking abroad, and assisting in ownership or possession transfers of media of payment, securities or other foreign exchange values, rights to assets or movable or fixed property gained as a result of illegal acts, or taking any other action that may prevent or considerably hinder the demonstration of their illegal origin, the determination of their place of keeping, their finding, seizure or forfeiture

shall be liable to a penalty of deprivation of liberty for a period of six months to eight years;”

(2) §2 shall read:

“§2. The penalty specified in §1 above shall also be imposed on employees of banks, financial or credit institutions or any other entity obligated by law to register transactions and individuals executing transactions, should these employees, acting in violation of applicable regulations, accept money or other currency values in cash, transfer, convert or accept such assets in other circumstances raising a justified suspicion that they are objects of acts referred

to in §1 above, or should these employees perform other services serving to conceal the criminal origins of the said assets, or services intended to protect them from seizure;”

(3) §7 shall read:

“§7. In the event of a conviction for the offences specified in § 1 or 2 above, the court shall decree the forfeiture of objects originating directly or indirectly from the committed offence as well as the forfeiture of any benefits derived from this offence or an equivalent thereof, even if these are not the property of the offender. Complete or partial forfeiture shall not be decreed if an object, benefit or equivalent thereof is subject to restitution to the offence victim or some other entity.”

Article 44

The following Paragraph 5 shall be added to Article 161 of the Public Trading in Securities Law Act of 21 August 1997 (*Journal of Laws* No. 118, item 754 and No. 141, item 945; 1998, No. 107, item 669 and No. 113, item 715; 2000, No. 22, item 270, No. 60, items 702 and 703, No. 94, item 1037, No. 103, item 1099, No. 114, item 1191):

“5. The scope of confidential information and professional secrets to be provided by the Commission to the General Inspector of Financial Information and the rules of this information conveyance are regulated by a separate Act.”

Article 45

The Act of 29 August 1997 The Banking Law (*Journal of Laws*, No. 140, item 939; 1998, No. 160, item 1063; No. 162, item 1118; 1999, No. 11, item 95; No. 40, item 399; 2000, No. 93, item 1027; No. 94, item 1037, No. 114, item 1191) shall be amended as follows:

(1) In Article 104, Paragraph 2 the words “and in Article 106, Paragraph 3” shall be deleted;

(2) Article 105, Paragraph 2 shall read:

“2. The scope of information to be provided by banks to tax authorities, the General Inspector of Financial Information or fiscal control authorities, and the rules of this information conveyance are regulated by separate Acts.”

(3) In Article 106:

(a) Paragraph 2 shall read:

“2. The actions to be taken by the bank should the circumstances referred to in Paragraph 1 occur are described in a separate Act.”

(b) Paragraphs 3-5 shall be deleted;

(4) Article 107 shall read:

“Article 107. Bank employees who, in violation of their duties, fail to inform about the circumstances enumerated in Article 106, Paragraph 1 herein, shall be liable to a penalty for breach of order which shall not rule out criminal liability if their acts should bear attributes of an offence.”

(5) In the first sentences of Article 108, the words “and 3” shall be deleted.

Article 46

The following Subparagraph 2a shall be added after Subparagraph 2 in Article 297, §1 of the Tax Ordinance Act of 29 August 1997 (*Journal of Laws* 137, item 926; No. 160, item 1083; 1998, No. 106, item 668; 1999, No. 11, item 95; No. 92, item 1062; 2000, No. 94, item 1037):
“(2a) the General Inspector of Financial Information pursuant to regulations on counteracting the introduction into financial circulation of property values derived from illegal or undisclosed sources.”

Article 47

The following Subparagraph 2a shall be added after Subparagraph 2 in Article 43, Paragraph 1 of the Personal Data Protection Act of 29 August 1997 (*Journal of Laws*, No. 133, item 883; 2000, No. 12, item 136; No. 50, item 580):

“(2a) processed by the General Inspector of Financial Information,”

Article 47a

In the period from 31st of March 2002 to 31st of December 2002 regulations of this act conform also to exchange of nominal money marks in national currency on nominal money marks in Euro, according to the regulations of Act on 25th May 2001 of the results of introducing in some European Union Member Countries the common currency Euro (*Journal of Laws* nr 63, Item 640), also by the National Bank of Poland.

Article 48

(Deleted)

Article 49

This Act shall come into force six months after publication, with the exception of:

- 1) Articles 3-6, Article 13 and Article 15 which shall come into force 14 days after publication,

2) (deleted)

3) Article 45 Subparagraph 3 letter b) in the scope of Article 106 Paragraph 4 and 5, which shall come into force 31st December 2003.”