



Ministry
of Finance

Republic
of Poland



THE POLISH ACHIEVEMENTS IN THE IMPLEMENTATION OF THE NEW EU AML/CTF LEGISLATION

THE AML/CTF LAW

PRESENT

the act of 16 November 2000 on counteracting money laundering and terrorism financing (67 articles)

FUTURE

the new act of 1 March 2018 on counteracting money laundering and terrorism financing (198 articles), published 12 April 2018 (most of provisions will come into force on 13 July 2018).



MAIN CHANGES

1. New types of obliged institutions.
2. Central Register of Beneficial Owners.
3. ML/TF National Risk Assessment (NRA).
4. Details of CDD.
5. Whistleblowing.
6. Duties of obliged institutions concerning STR/SAR.
7. Supervision over obliged institutions.
8. Information exchange at the national and international level.
9. Data protection.
10. Specific restrictive measures.



NEW TYPES OF OBLIGED INSTITUTIONS

providers
offering VCs'
exchange

trust or company
service
providers
(TCSP)

VCs' wallet
providers

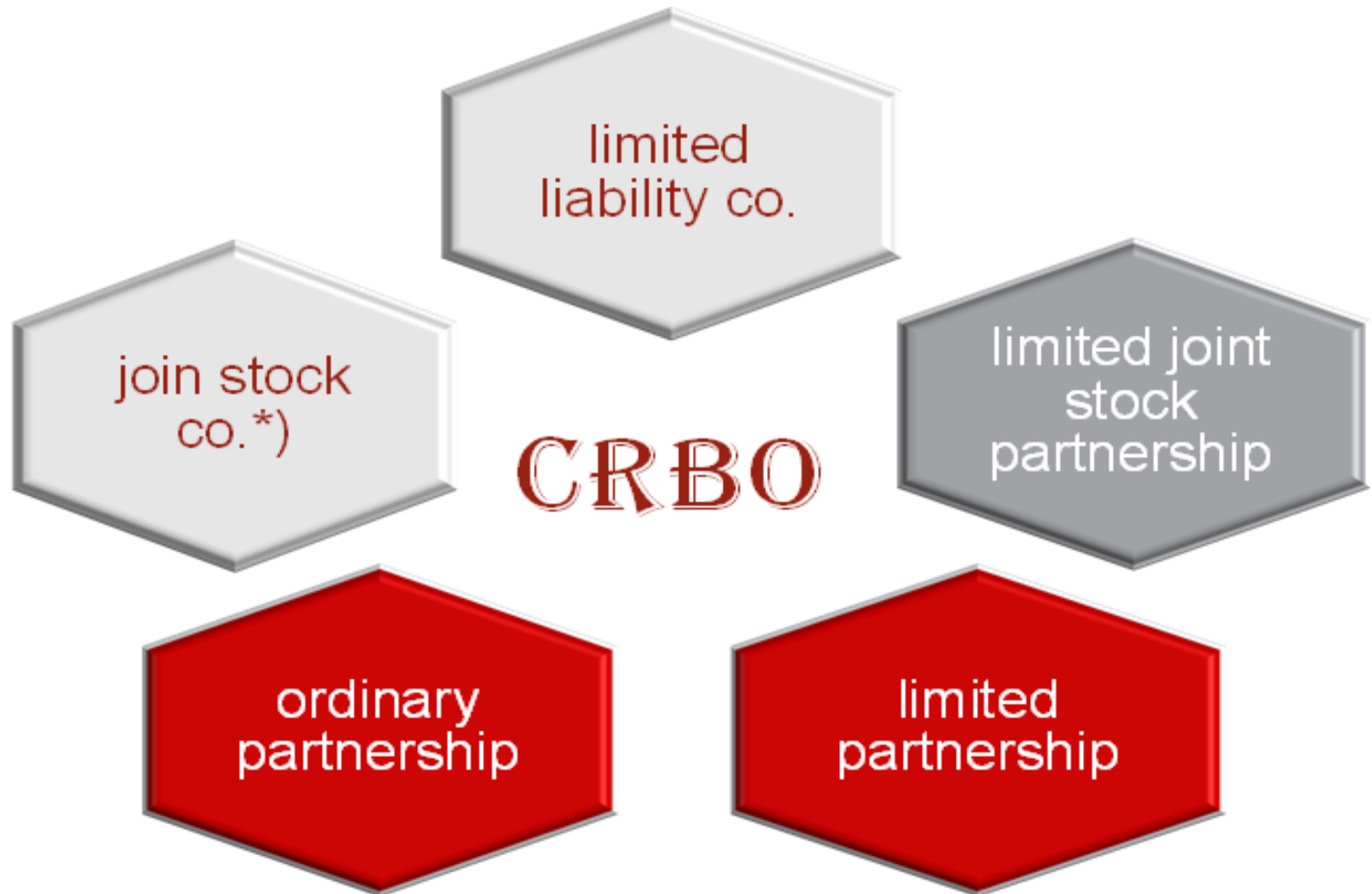
providers
offering safe
deposit boxes

loan entities



CENTRAL REGISTER OF BENEFICIAL OWNERS

Types of entities obliged to notify BOs:



*) Without public join stock companies



CENTRAL REGISTER OF BENEFICIAL OWNERS

Types of information on BOs:

data of companies / partnerships

- name,
- legal form,
- seat,
- number of the National Court Register,
- number of Tax Identification

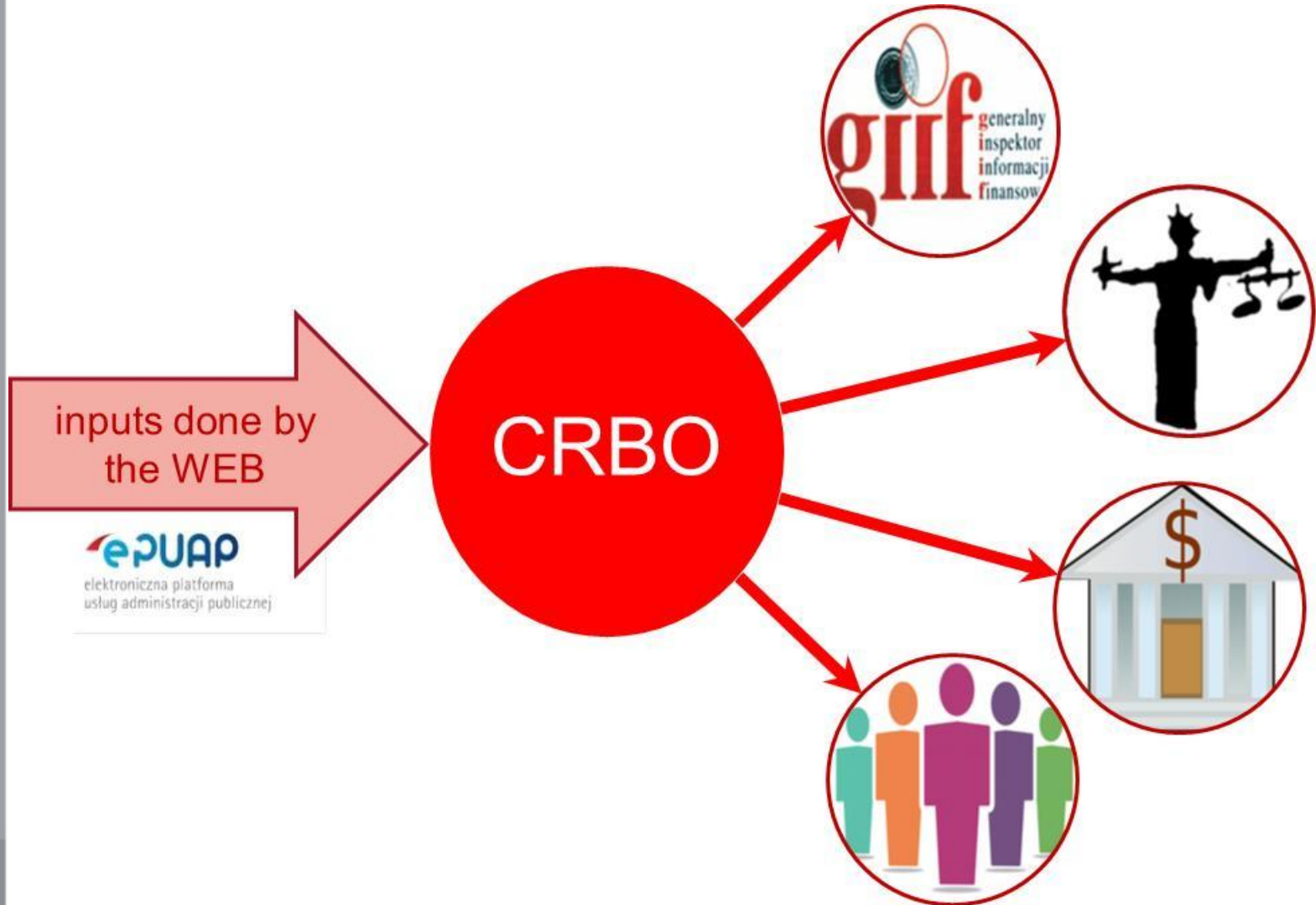
C
R
B
O

information on beneficial owner

- name & surname,
- citizenship,
- country of residence,
- PESEL number or date of birth,
- scale and character of share or vested rights in company / partnership



CENTRAL REGISTER OF BENEFICIAL OWNERS



NRA

Basic principles concerning NRA:

1. GIFI is charged with the preparation of NRA.
2. NRA will include results of SNRA.
3. The first NRA will be prepared within 12 months after the entry into force of the new AML/CT.
4. NRA will be updated if there are needs, but at least once for 2 years.
5. Commitment of cooperative units to providing necessary information and documents (feasibly tied with ML/TF issues).
6. Commitment of obliged institutions to disseminating their risk assessments and other information connected with them to GIFI on his request.



NRA

Basic principles concerning NRA:

7. The Minister of Finance will accept NRA after obtaining the opinion of the Committee of Financial Security.
8. NRA will be published in the Public Information Bulletin (but without confidential information).
9. Conclusions of NRA will be the basis for the strategy of AML/CTF.
10. After obtaining the opinion of the Committee of Financial Security and the acceptance of the Minister of Finance the strategy will be resolved by the Council of Ministers.
11. The strategy will be updated after the change of NRA or in connection with recommendations of the European Commission.



NRA

Content of NRA:

the NRA methodology

**issues connected with
protection of personal
data**

the ML/TF phenomenon

**level of ML risk / level of
TF risk**

the AML/CTF legislation

conclusions of NRA



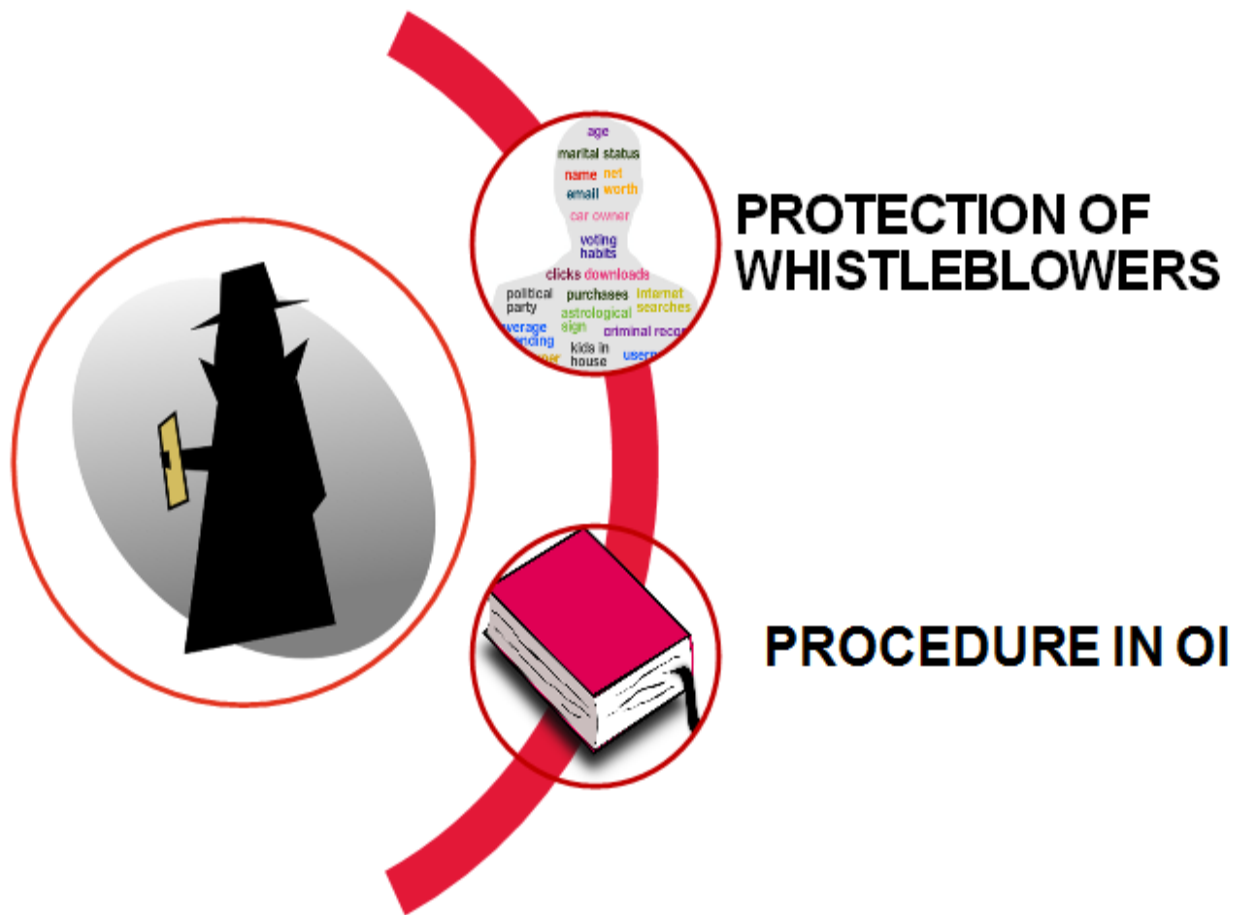
DETAILED CDD

Main changes in the CDD procedure:

1. Clarifying the duty of the BO identification.
2. Enlargement of situations when the CDD should be applied.
3. Clarifying conditions of applying simplified / enhanced CDD.
4. Refining CDD applied in case of PEP.
5. Explaining content of internal procedure.
6. Clarifying situations when IOs can exchange information on ML/CT suspicions and results of analyses.



WHISTLEBLOWING



SARs

2 days after
gaining
suspicion

„usual” SARs
on the circumstances which may
indicate on the ML or TF suspicion

immediately

„special” SARs
on reasoned suspicion that
transaction or assets may be related
to ML or TF

identification
data of clients

information on
clients' accounts

possessed identification
data of other persons /
entities

information on
transactions (*done
& intended*)

justification of SAR
delivery

types & amount
of assets

assets' storage
locations

information on
ML/TF suspicion

possessed information on
ML/TF risks & possible
predicate offences

indication on EEA country
to which cross-border
transaction is related

information on foreseen
time of performing
transaction



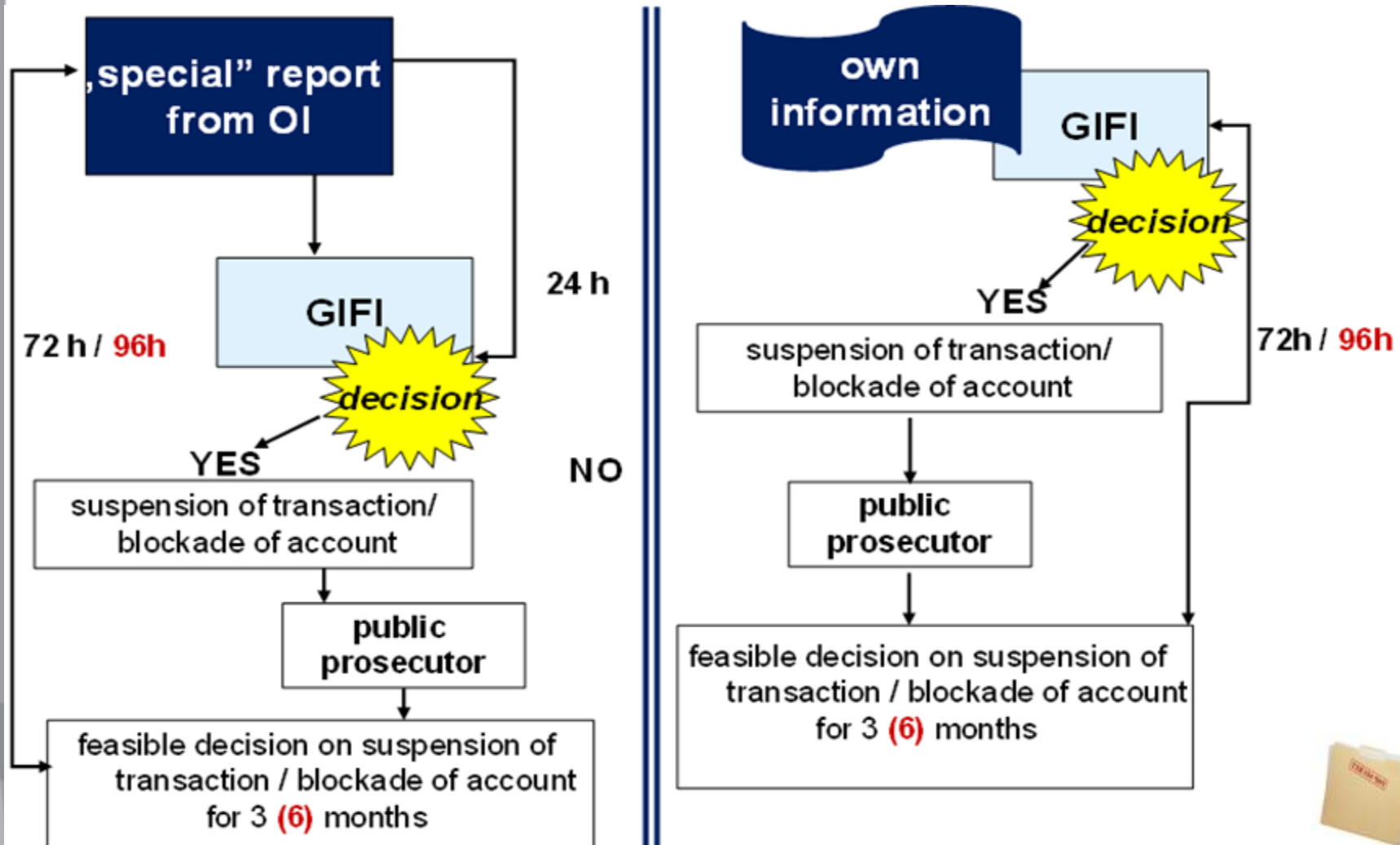
ADDITIONAL INFORMATION FROM OIs

1. Threshold transactions of value equal to or exceeding the equivalent of 15.000 EURO:
 - cash deposits / withdrawals,
 - money transfers (with some exceptions),
 - transactions of buying / selling „foreign exchange values” by currency exchange offices,
 - some notarial deeds.
2. Information on the request of the GIFI (concerning first of all: customers, transactions, assets, applying CDD, IP addresses) – the possibility to oblige OI for monitoring activities of suspicious customers (their accounts) and informing immediately the GIFI about them.



THE NATIONAL COOPERATION – MAIN CHANGES

1. BLOCKADE OF ACCOUNTS / SUSPENSION OF TRANSACTIONS BY THE GIFI



THE NATIONAL COOPERATION – MAIN CHANGES

2. BLOCKADE OF ACCOUNTS / SUSPENSION OF TRANSACTIONS BY THE PUBLIC PROSECUTORS

Present

According to the Bank Code and the law on cooperative savings and credit unions the public prosecutors are entitled to block accounts or suspend transactions for the period of 3 months in justified case of committing other crime than ML or TF (e.g. fraud or unauthorized access to accounts) on the basis of notification obtained from financial institution (*which initially block suspicious accounts or suspend suspicious transactions*).

Financial institution means national bank, branch of foreign bank, branch of credit institution or cooperative savings and credit union.

Future

According to the new AML/CTF law the public prosecutors will be entitled to block accounts or suspend transactions for the period of **6** months in justified case of committing other crime than ML or TF in other obliged institution than indicated above regardless of obtaining appropriate notification from such obliged institution.

Similar changes concerning rules have been done in the Bank Code. The provisions of the law on cooperative savings and credit unions are being changed in this domain.



THE NATIONAL COOPERATION – MAIN CHANGES

3. COOPERATION ON THE NATIONAL LEVEL

- a) Direct indication of LEAs authorized to gain information from the GIFI on the written and justified request.
- b) Information on threshold transactions will be disclosed to LEAs without the prior consent of the Attorney General.
- c) Indication of conditions under of which the GIFI can refuse disclosing information to LEAs.
- d) Clear obligation of the GIFI to notify LEAs on the suspicion of other crimes (incl. tax crimes) than ML/TF as well as the Polish Financial Supervision Authority on the suspicion of breaches of the legal rules concerning the financial market.
- e) Clear obligation of LEAs and the Polish Financial Supervision Authority to inform the GIFI how they use above mentioned information.
- f) Clear obligation of the public prosecutors to disclose to the GIFI information on issued decisions within criminal proceedings initiated or run in connection with notifications of the GIFI on the suspicion of ML /TF.



THE INTERNATIONAL COOPERATION – MAIN CHANGES

1. Clear authorization of the GIFI:

- to exchange information with foreign FIUs without bilateral memorandum of understanding - on a reciprocal basis,
- to gather additional information in order to exchange them with foreign FIUs,
- to disseminate SARs concerning cross-border transactions to the FIU of the appropriate EU member.
- to allow an foreign FIU to use disclosed information for other purposes than the ones resulting from AML/CTF tasks of the FIUs or disseminate them to another authority or FIU,
- to block account or suspend transaction on the basis of the justified request of a foreign FIU.



THE INTERNATIONAL COOPERATION – MAIN CHANGES

2. The obligation of the GIFI for usage protected channels of communication and IT systems which allow to match data in an anonymous way and in a manner that ensures full protection of personal data,
3. Information stemmed from an foreign FIU can be disseminated by the GIFI to other national authorities / FIUs or used for other purposes than AML/CTF ones only on the grounds of a permission received from this FIU.
4. Indication of conditions under of which the GIFI can refuse disclosing information for a foreign FIU.
5. Indication of the possibility for the GIFI to exchange information with EUROPOL and other foreign or international organizations / authority / institution on the basis of the MoU.



SUPERVISION OVER IOs

SUPERVISION

the GIFl as a coordinator of Ols' controls in the AML/CTF field

the possibility of off-site controls

PUNISHMENT

new types of penalties apart from penal and pecuniary ones

authorities imposing penalties (*not only the GIFl, but also the President of the NBP, the PFSA*)

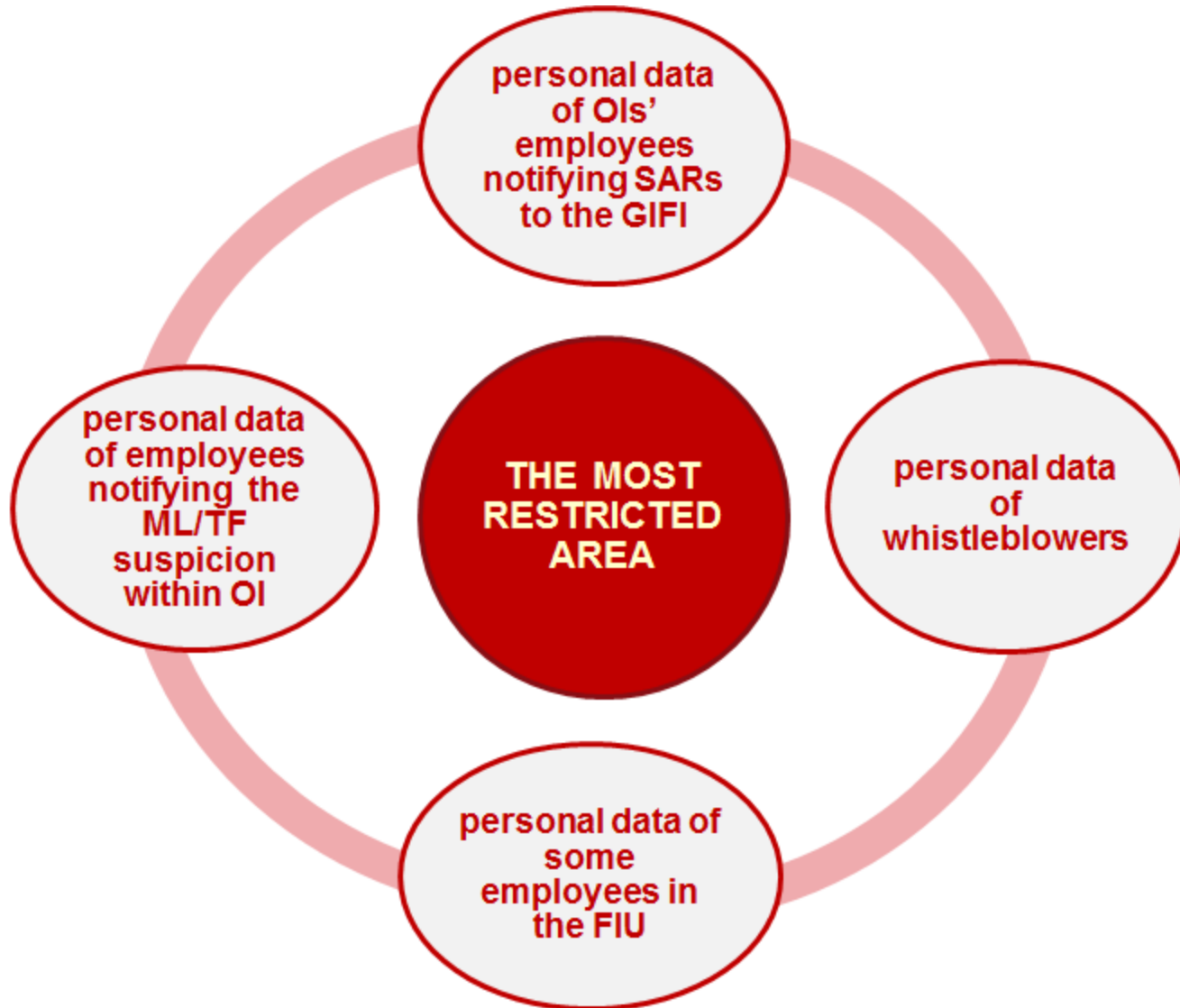


DATA PROTECTION

1. Plenipotentiary for control of personal data processing by the GIFI (nominated by the Ministry of Finance).
2. Control by the District Court in Warsaw in the scope of gaining telecommunication data (i.e. IP addresses & information on their connection with IT systems of OIs) by the GIFI.
3. Notion of „the secret of financial information” (SFI):
 - all information gathered & disclosed by the FIU are included in the field of SFI,
 - the information are disclosed only in compliance with the AML/CTF law,
 - the GIFI / the Minister of Finance, employees and persons performing activities for the FIU are required to maintain the confidentiality of the information (even after the termination of the employment / dismissal).
 - the same requirement of maintaining the information confidentiality is demanded from the authorities (and employees / officers / persons performing activities for them) which obtain data from the GIFI.



DATA PROTECTION



CHANGES IN THE FIELD OF SPECIFIC RESTRICTIVE MEASURES

1. Publishing by the GIFI lists of persons and entities against which the specific restrictive measures shall be applied (*i.e. lists on the basis of the UN Security Council Resolutions, issued under Chapter 7 of the UN Charter, which contents concern terrorism and its financing & national lists*).
2. Clear indication of obligation to refrain from making assets available (*directly or indirectly*) to such persons and entities or to their benefit.
3. Details of the cooperation between the GIFI and the Financial Security Committee (*acting as the opinion-making and advisory body in the scope of AML/CTF*).





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THANK YOU FOR YOUR ATTENTION

