

**ANTI-MONEY LAUNDERING ACT,
B.E. 2542 (1999)**

BHUMIBOL ADULYADEJ, REX.
Given on the 10th Day of April B.E. 2542;
Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on anti-money laundering;

This Act contains certain provisions in relation to the restriction of right and liberty of person, in respect of which section 29, in conjunction with section 35, section 37, section 48 and section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act is called the “Anti-Money Laundering Act, B.E. 2542”.

Section 2.¹ This Act shall come into force after the expiration of one hundred and twenty days as from the date of its publication in the Government Gazette.

Section 3. In this Act:

“predicate offence” means any offence

(1) relating to narcotics under the law on narcotics control or the law on measures for the suppression of offenders in offences relating to narcotics;

(2) relating to sexuality under the Penal Code only in respect of procuring, seducing or taking away for an indecent act a woman and a child for sexual gratification of others, offence of taking away a child and a minor, offence under the law on measures for the prevention and suppression of women and children trading or offence under the law on prevention and suppression of prostitution only in respect of procuring, seducing or taking away such persons for their prostitution, or offence relating to being an owner, supervisor or manager of a prostitution business or establishment or being a controller of prostitutes in a prostitution establishment;

(3) relating to public fraud under the Penal Code or offence under the law on loans of a public fraud nature;

(4) relating to misappropriation or fraud or exertion of an act of violence against property or dishonest conduct under the law on commercial banking, the law on the operation of finance, securities and credit foncier businesses or the law on securities and stock exchange committed by a manager, director or any person responsible for or interested in the operation of such financial institutions;

¹ Published in the Government Gazette, Vol. 116, Part 29a, page 45, dated 21st April B.E. 2542 (1999).

(5) of malfeasance in office or malfeasance in judicial office under the Penal Code, offence under the law on offences of officials in State organisations or agencies or offence of malfeasance in office or dishonesty in office under other laws;

(6) relating to extortion or blackmail committed by claiming an influence of a secret society or criminal association under the Penal Code;

(7) relating to smuggling under the customs law;

(8)² relating to terrorism under the Penal Code;

(9)³ relating to gambling under the law on gambling only in respect of offences relating to being an organiser of gambling activities without permission and there are more than one hundred players or gamblers at one time, or the total amount of money involved exceeds ten million Baht;

“transaction” means an activity relating to an entry into a juristic act, a contract or the execution of any act with others in financial or commercial matters, or the operation in connection with property;

“suspicious transaction” means a transaction of a differently complicated nature from similar transactions ordinarily made, transaction lacking economic feasibility, transaction reasonably believed to have been made in order to avoid the applicability of this Act, or transaction connected or possibly connected with the commission of a predicate offence, irrespectively of whether such transaction is made once or more than once;

“property connected with the commission of an offence” means:

(1)⁴ money or property obtained from the commission of an act constituting a predicate offence or offence of money laundering or from aiding and abetting or rendering assistance in the commission of an act constituting a predicate offence or offence of money laundering, and shall also include money or property used or possessed to be used in, or for aiding and abetting the commission of an act constituting a predicate offence under (8) of the definition of “predicate offence”;

(2) money or property obtained from the distribution, disposal or transfer in any manner of the money or property under (1); or

(3) fruits of the money or property under (1) or (2).

Provided that it is immaterial whether the property under (1), (2) or (3) is distributed, disposed of, transferred or converted on how many occasions and whether the same is in possession of any person or transferred to any person or evidently registered as belonging to any person;

“financial institution” means:

(1) the Bank of Thailand under the law on Bank of Thailand, a commercial bank under the law on commercial banking and such bank as specifically established by law;

(2) a finance company and credit foncier company under the law on the operation of finance, securities and credit foncier businesses, and a securities company under the law on securities and stock exchange;

(3) the Industrial Finance Corporation of Thailand under the law on Industrial Finance Corporation of Thailand and a small industrial finance corporation under the law on small industrial finance corporations;

² As added by section 3 of the Royal Decree on Amendment to the Anti-Money Laundering Act of B.E. 2542 (1999) B.E. 2546 (2003)

³ As added by section 3 of the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

⁴ As amended by section 4, *ibid*.

(4) a life insurance company under the law on life insurance and an insurance company under the law on insurance;

(5)⁵ a cooperatives under the law on a cooperative only in respect of a cooperative with operating capital exceeding two million Baht of total share value or more, and having objectives of its operation relating to acceptance of deposits, lending of loans, mortgage, pawning or acquiring of money or property by any means;

(6) a juristic person carrying on such other businesses relating to finance as prescribed in the Ministerial Regulation.

“Fund”⁶ means the Anti-Money Laundering Fund;

“Board” means the Anti-Money Laundering Board;

“member” means a member of the Anti-Money Laundering Board and shall also include the Chairperson of the Anti-Money Laundering Board;

“competent official” means a person appointed by the Minister to perform an act under this Act;

“Secretary-General” means Secretary-General of the Anti-Money Laundering Board;

“Deputy Secretary-General” means Deputy Secretary-General of the Anti-Money Laundering Board;

“Office” means the Anti-Money Laundering Office;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 4. The Prime Minister shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulations, Rules and Notifications for the execution of this Act.

Such Ministerial Regulations, Rules and Notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I General Provisions

Section 5. Any person who:

(1) transfers, accepts a transfer of or converts the property connected with the commission of an offence for the purpose of covering or concealing the origin of that property or, whether before or after the commission thereof, for the purpose of assisting other persons to evade criminal liability or to be liable to lesser penalty in respect of a predicate offence; or

(2) acts in any manner whatsoever for the purpose of concealing or disguising the true nature, acquisition, source, location, distribution or transfer of the property connected with the commission of an offence or the acquisition of rights therein, shall be said to commit an offence of money laundering.

⁵ As amended by section 5, *ibid.*

⁶ As added by section 6, *ibid.*

Section 6. Any person who commits an offence of money laundering shall, even if the offence is committed outside the Kingdom, be punished under this Act in the Kingdom if it appears that:

(1) the offender or any of the co-offenders is a Thai national or has a residence in Thailand;

(2) the offender is an alien and commits the offence with the intent that the consequence thereof shall have occurred in the Kingdom, or the Thai Government is the injured person; or

(3) the offender is an alien and the act so committed is an offence under the law of the State in whose jurisdiction the act occurs, provided that such person remains his or her appearance in the Kingdom without being extradited in accordance with the law on extradition.

For this purpose, section 10 of the Penal Code shall apply *mutatis mutandis*.

Section 7. In an offence of money laundering, any person who commits any of the following acts shall be liable to the same penalty as that to which the principal committing such offence shall be liable:

(1) aiding and abetting the commission of the offence or assisting the offender before or at the time of the commission of the offence,

(2) providing or giving money or property, a vehicle, place or any article or committing any act for the purpose of assisting the offender to escape or to evade punishment or for the purpose of obtaining any benefit from the commission of the offence.

In the case where any person provides or gives money or property, a shelter or hiding place in order to enable his or her father, mother, child, husband or wife to escape from being arrested, the Court may inflict on such person no punishment or lesser punishment to any extent than that provided by law for such offence.

Section 8. Any person who attempts to commit an offence of money laundering shall be liable to the same penalty as that provided for the offender who has accomplished such offence.

Section 9. Any person who enters into conspiracy to commit an offence of money laundering shall, when there are at least two persons in the conspiracy, be liable to one-half of the penalty provided for such offence.

If the offence of money laundering has been committed in consequence of the conspiracy under paragraph one, the person so conspiring shall be liable to the penalty provided for such offence.

In the case where the offence has been committed up to the stage of its commencement but, on account of the obstruction by the conspiring person, has not been carried out through its completion or has been carried out through its completion without achieving its end, the conspiring person rendering such obstruction shall only be liable to the penalty provided in paragraph one.

If the offender under paragraph one changes his or her mind and reveals the truth in connection with the conspiracy to the competent official prior to the commission of the offence to which the conspiracy relates, the Court may inflict on such person no punishment or lesser punishment to any extent than that provided by law for such offence.

Section 10.⁷ Any official, member of the House of Representatives, senator, member of a local assembly, local administrator, Government official, official of a local government organisation, State official, official of a State organisation or agency, director or executive or official of a State enterprise, director, manager or any person authorised to manage the operation of a financial institution, or any member of an organ under the Constitution who commits an offence under this Chapter shall be liable to twice as much penalty as that provided for such offence.

Any member, member of a sub-committee, member of the Transaction Committee, Secretary-General, Deputy Secretary-General or competent official under this Act who commits an offence under this Chapter shall be liable to three times as much penalty as that provided for such offence.

Section 11. Any member, member of a sub-committee, member of the Transaction Committee, Secretary-General, Deputy Secretary-General, competent official, official or Government official who commits an offence of malfeasance in office or malfeasance in judicial office as provided in the Penal Code which is connected with the commission of the offence under this Chapter shall be liable to three times as much penalty as that provided for such offence.

Any political official, member of the House of Representatives, senator, member of a local assembly or local administrator who conspires with a person under paragraph one to commit an offence, whether as a principal, instigator or supporter shall be liable to the same penalty as persons under paragraph one.⁸

Section 12. In the execution of this Act, a member, member of a sub-committee, member of the Transaction Committee, Secretary-General, Deputy Secretary-General and competent official shall be an official under the Penal Code.

CHAPTER II

Report and Identification

Section 13. When a transaction is made with a financial institution, the financial institution shall have the duty to report that transaction to the Office when it appears that such transaction is:

- (1) a transaction funded by a larger amount of cash than that prescribed in the Ministerial Regulation;
- (2) a transaction connected with the property worth more than that value prescribed in the Ministerial Regulation; or
- (3) a suspicious transaction, whether it is the transaction under (1) or (2) or not.

In the case where there appears any fact which is relevant or probably beneficial to the confirmation or cancellation of the fact concerning the transaction already reported by the financial institution, that financial institution shall report such fact to the Office without delay.

Section 14. In the case where there subsequently appears a reasonable ground to believe that any transaction already made without being reported under

⁷ As amended by section 7, *ibid.*

⁸ As amended by section 8, *ibid.*

section 13 is a transaction required to be reported by a financial institution under section 13, that financial institution shall report it to the Office without delay.

Section 15. A Land Office of Bangkok Metropolitan, *Changwad* Land Office, Branch Land Office and *Amphoe* Land Office shall report to the Office when it appears that an application is made for registration of a right and juristic act related to an immovable property to which a financial institution is not a party and which is of any of the following descriptions:

- (1) requiring cash payment in a larger amount than that prescribed in the Ministerial Regulation;
- (2) involving a greater value of an immovable property than that prescribed in the Ministerial Regulation, being the assessment value on the basis of which fees for registration of the right and juristic act are levied, except in the case of a transfer by succession to a statutory heir; or
- (3) being made in connection with a suspicious transaction.

Section 16.⁹ The traders as prescribed below shall have the duty to report to the Office in the case where there is a transaction funded by a larger amount of cash than that prescribed in the Ministerial Regulation or a suspicious transaction. Provided that trader under (2), (3), (4) and (5) must be a juristic person, unless there is a reasonable ground with appropriate evidence to suspect that a transaction is made relating or possibly relating to the commission of a predicate offence or offence of money laundering with trader under (2), (3), (4) and (5) that is not a juristic person, the Office shall have the power to give a written order to such trader to report the transaction to the Office:

- (1) trader that is not a financial institution under section 13, engaging in the business involving the operation of or the consultancy or the provision of advisory service in a transaction relating to the investment or mobilisation of capital under the law on securities and stock exchange;
- (2) trader dealing in the business of gems, diamonds, colored stones, gold, or ornaments decorated with gems, diamonds, colored stones, gold;
- (3) trader dealing in the business of selling or leasing of cars;
- (4) trader dealing in the business of immovable property broker or agent;
- (5) trader dealing in the business of antiques trade under the law on Control of Sale by Auction and Antique Trade;
- (6) trader dealing in the business of personal loan under supervision for businesses that is not a financial institution under the Notification of the Ministry of Finance determining on Personal Loan Businesses under Supervision or under the law on financial institution business;
- (7) trader dealing in the business of electronic money card that is not a financial institution under the Notification of the Ministry of Finance determining on electronic money card or the law on financial institution business;
- (8) trader dealing in the business of credit card that is not a financial institution under the Notification of the Ministry of Finance determining on credit card or the law on financial institution business;
- (9) trader dealing in the business of electronic payment service under the law on the supervision of electronic payment service business;

⁹ As amended by section 3 of the Anti-Money Laundering Act (No. 3) B.E. 2552 (2009)

In the case where there appears any fact which is relevant or probably beneficial to the confirmation or cancellation of the fact concerning the transaction which had reported under paragraph one, that person shall report such fact to the Office without delay.

Section 17. The report under section 13, section 14, section 15 and section 16 shall be in accordance with the form, period of time, rules and procedures as prescribed in the Ministerial Regulation.

Section 18. Any transaction that the Minister deems appropriate to be exempted from reporting under section 13, section 15 and section 16 shall be as prescribed in the Ministerial Regulation.

Section 19. In the case where the report under section 13, section 14, section 15 and section 16 has been made in good faith by the reporter, if the report causes injury to any person, the reporter shall not be responsible therefore.

Section 20.¹⁰ Financial institutions and traders under section 16 shall require all customers to identify themselves prior to making a transaction as prescribed in the Ministerial Regulation, unless such customers have previously made such identification. There shall also be a measure to eliminate obstacles in identification of the disabled or incapacitated.

The identification under paragraph one shall be in accordance with the procedure prescribed by the Minister.

Section 20/1.¹¹ Financial institutions and traders under section 16 (1) and (9) shall establish customer acceptance policy and risk management possibly relating to customer's money laundering and shall verify customer identification on the first transaction-making and periodically review until the account is closed or relationship with its customer terminates.

The scope of verification of customer identification under paragraph one shall be in accordance with the rules and procedures as prescribed by the Ministerial Regulation pertaining to identifying and verifying customer identification, reviewing customer's account and monitoring the movement of customer's account that are informed by the Office.

Section 21. In making a transaction under section 13, a financial institution shall also cause a customer to record statements of fact with regard to such transaction.

In the case where a customer refuses to prepare a record of statements of fact under paragraph one, the financial institution shall prepare such record on its own motion and notify the Office thereof forthwith.

The record of statements of fact under paragraph one and paragraph two shall be in accordance with the form, contain such particulars and be in accordance with the rules and procedures as prescribed in the Ministerial Regulation.

¹⁰ As amended by section 4, *ibid.*

¹¹ As added by section 5, *ibid.*

Section 22.¹² Unless otherwise notified in writing by the competent official, a financial institution shall retain information as follows:

(1) relating to customer identification under section 20 for the period of five years as from the date the customer account is closed or the relationship with its customer terminates.

(2) relating to the making of transaction or a record of statements of fact under section 21 for the period of five years as from the date such transaction or record is made.

The provision of paragraph one shall be applied to traders under section 16.¹³

Section 22/1.¹⁴ Financial institutions and traders under section 16 (1) and (9) shall keep details of the verification of customer identification under section 20/1 for the period of five years as from the date the customer account is closed or the relationship with its customer terminates, unless where there is a necessary and reasonable matter for the benefit of the execution of this Act, the Secretary-General shall have the power to notify in writing to extend the period in respect of a specific customer and then report such act to the Board.

Section 23. The provisions of this Chapter shall not apply to the Bank of Thailand under the law on Bank of Thailand.

CHAPTER III **Anti-Money Laundering Board**

Section 24.¹⁵ There shall be an Anti-Money Laundering Board, consisting of the Prime Minister as Chairperson, Minister of Justice and Minister of Finance as Vice Chairpersons, Permanent Secretary of the Ministry of Justice, Attorney General, Commissioner-General of the Royal Thai Police, Secretary-General of the Narcotics Control Board, Director of the Fiscal Policy Office, Director-General of the Department of Lands, Director-General of the Customs Department, Director-General of the Department of Revenue, Director-General of the Department of Treaties and Legal Affairs, Governor of the Bank of Thailand, Secretary-General of the Office of Insurance Commission, Secretary-General of the Securities and Exchange Commission, President of the Thai Bankers' Association, and nine qualified persons appointed by the Council of Ministers, with the approval of the House of Representatives and the Senate respectively, from those who possess knowledge and experience in economics, monetary, public finance, law or other related fields beneficial for the execution of this Act, as members, and the Secretary-General of the Office as a member and the secretary.

The Board shall appoint not more than two Government officials of the Office as assistant secretaries.

In the case where the Chairperson or an *ex officio* member under paragraph one is unable to attend any particular meeting by reason of necessity, such

¹² As amended by section 9 of the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

¹³ As added by section 6 of the Anti-Money Laundering Act (No.3) B.E. 2552 (2009)

¹⁴ As added by section 7, *ibid.*

¹⁵ As amended by section 10 of the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

person may entrust a holder of inferior office who possesses the knowledge and understanding of the Board's performance of duties to attend that meeting.

Section 25.¹⁶ The Board shall have the powers and duties as follows:

(1) to propose to the Council of Ministers measures for anti-money laundering;

(2) to consider and give opinions to the Minister with regard to the issuing of Ministerial Regulations, rules and notifications for the execution of this Act;

(3) to lay down rules in connection with the returning of the properties in accordance with section 49 and section 51/1, the retention, the sale by auction, the utilisation of the property, the evaluation of compensation and depreciation under section 57, and rules in accordance with the Fund under section 59/1, section 59/4, section 59/5 and section 59/6;

(4) to promote public co-operation in connection with the giving of information for the purpose of anti-money laundering and lay down rules pertaining to information or documents management for the purpose of being used as evidence for the execution of this Act;

(5) to monitor and evaluate the execution of this Act;

(6) to perform other acts prescribed in this Act or other laws or rules for the execution of this Act.

Section 26. A qualified member appointed by the Council of Ministers shall hold office for a term of four years as from the date of appointment and shall serve for only one term.

Section 27. In addition to vacating office on the expiration of term under Section 26, a qualified member appointed by the Council of Ministers vacates office upon:

(1) death;

(2) resignation;

(3) being removed by the Council of Ministers with the approval of the House of Representatives and the Senate respectively;

(4) being a bankrupt;

(5) being an incompetent or quasi-incompetent person;

(6) being imprisoned by a final judgment.

In the case where a qualified member is appointed during the term of the qualified members already appointed, notwithstanding the fact that it is an additional or replacing appointment, the appointee shall hold office for the remaining term of the qualified members already appointed.

Section 28. In the case where qualified members vacate office at the expiration of term but new qualified members have not yet been appointed, the qualified members who have vacated office at the expiration of term shall perform duties for the time being until new qualified members have been appointed.

Section 29. At a meeting of the Board, the presence of not less than one-half of the total number of the members is required to constitute a quorum.

¹⁶ As amended by section 11, *ibid.*

The Chairperson shall preside over the meeting. In the case where the Chairperson is not present at the meeting or is unable to perform the duty, the Vice Chairperson shall preside over the meeting. If the Vice Chairperson is not present at the meeting or is unable to perform the duty, the members present shall elect one among themselves to preside over the meeting.

A decision of a meeting shall be by a majority of votes. In casting votes, each member shall have one vote. In case of an equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote, except that the decision under section 49 paragraph three shall be voted for by not less than two-thirds of the total number of the existing members.

Section 30. The Board may appoint a sub-committee for considering and giving opinions on any particular matter or performing any particular act on behalf of the Board, and section 29 shall apply to a meeting of the sub-committee *mutatis mutandis*.

Section 31. A member and of a member of sub-committee shall receive such remuneration as prescribed by the Council of Ministers.

CHAPTER IV **Transaction Committee**

Section 32.¹⁷ There shall be a Transaction Committee consisting of five committee members appointed by the Board from persons nominated one each by the Judicial Commission of the Court of Justice, the State Audit Commission, the National Human Rights Commission, and the State Attorney Committee. In the case where any commission or committee could not nominate a person of its own part to be appointed as a member of the Transaction Committee within forty five days from the date notified by the Office, the Board shall appoint an appropriate person as a member of Transaction Committee instead. Members of the Transaction Committee shall select one among themselves to be a Chairperson of the Committee, and the Secretary-General shall be a member and the secretary of the Committee.

The Transaction Committee shall have knowledge and experience in economics, monetary, public finance, law or other related fields beneficial for the execution of the law on anti-money laundering and shall have qualification and not be under any of prohibition as follows:

- (1) being not exceeding seventy years of age;
- (2) being or having been a government official holding a position not lower than Level 10 or its equivalent, or being or having been an official of State enterprise or State agency holding a position not lower than a deputy head of State enterprise or State agency or its equivalent, or being or having been a lecturer in the field and holding or having held a position of an associate professor or more;
- (3) not being a member or committee member or official of a political party;
- (4) not being a member of the House of Representatives, senator, member of a local assembly, local administrator or political official or director of a State enterprise;

¹⁷ As amended by section 12 *ibid*.

(5) not being a member of a public agency's committee, unless approved by the Board;

(6) not being a director, manager, consultant or holding any other position with a similar nature of work, or having an interest in a partnership, company or financial institution or engaging in any other occupation or profession or doing any act inconsistent with the performance of duties under the law on anti-money laundering.

A member of Transaction Committee appointed by the Board under paragraph one shall hold office for a term of three years. A member of Transaction Committee who vacates office may be reappointed, but not more than two consecutive terms, and section 27 and section 28 shall apply *mutatis mutandis*, except that with respect to the vacation of office under section 27 (3), a member of the Transaction Committee appointed by the Board shall vacate the office upon removal by the approval of the Board.

Section 33. Section 29 shall apply *mutatis mutandis* to a meeting of the Transaction Committee.

Section 34.¹⁸ The Transaction Committee shall have the powers and duties as follows:

(1) to examine a transaction or property connected with the commission of an offence;

(2) to give an order withholding the transaction under section 35 or section 36;

(3) to carry out the acts under section 48;

(4) to submit to the Board and the National Counter Corruption Commission a report on the result of the execution of this Act;

(5) to supervise the independence and impartiality of the Office and the Secretary-General;

(6) to perform any other acts as entrusted by the Board.

Section 35.¹⁹ In the case where there is a reasonable ground to suspect and appropriate evidence to believe that any transaction is connected or possibly connected with the commission of a predicate offence or offence of money laundering, the Transaction Committee shall have the power to give a written order withholding such transaction for a specified period of time which shall not be longer than three working days.

In case of compelling necessity or urgency, the Secretary-General may give a prior order withholding the transaction under paragraph one and report it to the Transaction Committee.

Section 36.²⁰ In the case where there is convincing evidence that any transaction is connected or possibly connected with the commission of a predicate offence or offence of money laundering, the Transaction Committee shall have the power to give a written-order withholding such transaction for the time being for a specified period of time which shall not be longer than ten working days.

¹⁸ As amended by section 13, *ibid.*

¹⁹ As amended by section 13, *ibid.*

²⁰ As amended by section 13, *ibid.*

Section 36/1.²¹ In the execution of section 34, section 35 or section 36, the Transaction Committee or Secretary-General shall make a record in a minute of the Transaction Committee meeting or order of the Secretary-General to indicate evidence, and the person who has asked for, given direction of or ordered the execution under such provisions.

Section 37.²² When the Transaction Committee or the Secretary-General, as the case may be, has given an order withholding the transaction under section 35 or section 36, the Transaction Committee shall report it to the Board and the National Counter Corruption Commission.

Section 38. For the purpose of performing duties under this Act, a member of the Transaction Committee, the Secretary-General and the competent official entrusted in writing by the Secretary-General shall have the powers as follows:

(1) to address a written inquiry towards or summon a financial institution, Government agency, State organisation or agency or State enterprise, as the case may be, to send officials concerned for giving statements or furnish written explanations or any account, document or evidence for examination or consideration;

(2) to address a written inquiry towards or summon any person to give statements or furnish written explanations or any account, document or evidence for examination or consideration;

(3) to enter any dwelling place, place or vehicle reasonably suspected to have the property connected with the commission of an offence or evidence connected with the commission of an offence of money laundering hidden or kept therein, for the purposes of searching for, pursuing, examining, seizing or attaching the property or evidence, when there is a reasonable ground to believe that the delay occurring in the obtaining of a warrant of search will cause such property or evidence to be moved, hidden, destroyed or converted from its original state.

In performing the duty under (3), the competent official entrusted under paragraph one shall produce to the persons concerned the document evidencing the authorisation and the identification.

The identity card under paragraph two shall be in accordance with the form prescribed by the Minister and published in the Government Gazette.

All information obtained from the statements, written explanations, any account, document or any evidence having the characteristic of specific information of an individual person, financial institution, Government agency, State organisation or agency or State enterprise shall be under the Secretary-General's responsibility with respect to its retention and utilisation.

Section 38/1.²³ Subject to the Criminal Procedure Code, in the execution of this Act, the Secretary-General, Deputy Secretary-General, and competent official entrusted in writing by the Secretary-General shall have the power to arrest a person committed an offence of money laundering and record the statement of arrestee as preliminary evidence, then transfer the arrestee to an inquiry official without delay but shall not exceed twenty-four hours.

²¹ As added by section 14, *ibid.*

²² As amended by section 15, *ibid.*

²³ As added by section 16, *ibid.*

Section 39. A member of the Transaction Committee shall receive such remuneration as prescribed by the Council of Ministers.

Section 39/1.²⁴ For the purpose of execution of this Act, the Transaction Committee and the Secretary-General shall prepare a summary report of the performance of duties under this Chapter for submission to the National Counter Corruption Commission every four months.

The report under paragraph one shall at least specify the details as follows:

- (1) a person whose transaction or property was examined or whose transaction was restrained or whose property was seized or attached;
 - (2) evidence used against the person under (1);
 - (3) a person who asked, gave direction or ordered someone to perform such act;
 - (4) result of the execution.
- Details under this section shall be treated as official secrets.

Section 39/2.²⁵ The National Counter Corruption Commission may appoint an expert to examine aforementioned report that whether the execution specified in the report is comply with this Act for submission to the National Counter Corruption Commission.

The provision under section 38 shall be applied to the examination under paragraph one.

In the case where the examination under paragraph one discovers that there is an act does not comply with this Act and the National Counter Corruption Commission agrees with the examination, the result of examination and the opinion of the National Counter Corruption Commission shall be submitted to the Transaction Committee for further proceeding.

CHAPTER V Anti-Money Laundering Office

Section 40.²⁶ There shall establish the Anti-Money Laundering Office, called as “AMLO” in brief, to be a Government agency which is not under the Prime Minister Office, Ministry, or Sub-Ministry, to perform the duties independently and impartially, which shall have the powers and duties as follows:

- (1) to carry out acts in the implementation of resolutions of the Board and the Transaction Committee and perform other secretariat work;
- (2) to receive transaction reports submitted under Chapter II and acknowledge receipt thereof, as well as receive reports and information related to transactions from other sources;
- (3) to receive or send reports or information related to transactions in order to comply with this Act or other laws;

²⁴ As added by section 17, *ibid.*

²⁵ As added by section 17, *ibid.*

²⁶ As added by section 18, *ibid.*

(4) to gather, compile, monitor, examine, study, evaluate and analyse reports and information in connection with the making of transactions;

(5) to gather evidence for the purpose of taking legal proceedings against offenders under this Act;

(6) to conduct projects with regard to the dissemination of knowledge, the giving of education and the training in any fields in accordance with the execution of this Act, or to provide assistance or support to both Government and private sectors in organising such projects; and

(7) to perform any other acts under this Act or other laws.

Section 41.²⁷ There shall be a Secretary-General who, with the duty to exercise general supervision of official affairs of the Office independent and impartial, shall be directly answerable to the Minister of Justice and shall be the superior of Government officials of the Office. There shall also be Deputy Secretaries-General to assist in giving directions and performing official duties.

Section 42. The Secretary-General shall be an ordinary Government official appointed by the King upon the recommendation of the Council of Ministers and with the approval of the House of Representatives and the Senate respectively.

Section 43. The Secretary-General shall possess qualifications and shall not be under prohibitions as follows:

(1) having knowledge and expertise in economics, finance, public finance or law;

(2) serving in the position of Deputy Secretary-General or being an ordinary Government official of the level not lower than Director-General or its equivalent;

(3) not being a director in a State enterprise or other State undertaking;

(4) not being a director, manager, consultant or holding any other position with a similar nature of work, or having an interest in a partnership, company or financial institution or engaging in any other occupation or profession or doing any act inconsistent with the performance of duties under this Act.

Section 44.²⁸ The Secretary-General shall hold office for a term of four years as from the date of appointment by the King and shall serve for only one term. The Secretary-General who has vacated office shall not be reappointed, but there shall prescribe a position of a consultant of the Office for the Secretary-General who has vacated office.

The Secretary-General shall be entitled to the additional allowance to ensure independence and impartiality at the rate that, when accumulated with the salary and emoluments, is equivalent to the salary and emoluments of a Permanent Secretary. The additional allowance shall be paid until retirement.

Section 45.²⁹ In addition to vacating office at the expiration of term under section 44, the Secretary-General vacates office upon:

(1) death;

²⁷ As amended by section 18, *ibid.*

²⁸ As amended by section 19, *ibid.*

²⁹ As amended by section 19, *ibid.*

(2) resignation;
 (3) being disqualified or being under any prohibition under section 43;
 (4) being dismissed by the resolution of the Council of Ministers upon the recommendation of the Minister or the submission of the Minister upon the recommendation of the Transaction Committee due to the serious negligence in the performance of duty or incapacity or dishonesty, dependence or partiality in the discharge of duty which is apparent to the public. The aforementioned resolution shall state clearly the reasons for the removal with the approval of the House of Representatives and the Senate respectively.

Section 45/1.³⁰ The former Secretary-General shall not be appointed as an executive of any Government agency, State enterprise or State agency except as a consultant of the Office.

The provision in paragraph one shall not be applied to a former Secretary- General who had left the Government service.

Section 46.³¹ In the case where there is appropriate evidence that any account of a financial institution's customer, communication device or equipment or computer is used or may be used in the commission of an offence of money laundering, the competent official entrusted in writing by the Secretary-General may file an *ex parte* application with the Civil Court for an order permitting the competent official to have access to the account, communicated data or computer data, for the acquisition thereof.

In the case of paragraph one, the Court may give an order permitting the competent official who has filed the application to take action with the aid of any device or equipment as deemed appropriate, provided that the permission on each occasion shall not be for the period of more than ninety days.

Upon the Court's order granting permission under paragraph one or paragraph two, the person concerned with such account, communicated data or computer data to which the order relates shall render cooperation for the implementation in accordance with the provision of this Section.

Section 47. The Office shall prepare an annual report on the result of its work performance for submission to the Council of Ministers. The annual report on the result of work performance shall at least contain the following material particulars:

(1) a report on the result of the performance with regard to property and other performance under this Act;
 (2) problems and obstacles encountered in the work performance;
 (3) a report on facts or remarks with regard to the discharge of functions as well as opinions and suggestions.

The Council of Ministers shall submit the annual report on the result of work performance under paragraph one together with its remarks to the House of Representatives and the Senate.

³⁰ As added by section 20, *ibid.*

³¹ As amended by section 21, *ibid.*

CHAPTER VI

Property Proceedings

Section 48. In conducting an examination of the report and information on transaction-making, if there is a reasonable ground to believe that any property connected with the commission of an offence may be transferred, distributed, moved, concealed or hidden, the Transaction Committee shall have the power to order a provisional seizure or attachment of such property for the period of not more than ninety days.

In case of compelling necessity or urgency, the Secretary-General shall order a seizure or an attachment of the property under paragraph one for the time being and then report it to the Transaction Committee accordingly.

The examination of the report and information on transaction-making under paragraph one shall be in accordance with the rules and procedures as prescribed in the Ministerial Regulation.

The person having made the transaction in respect of which the property has been seized or attached or any interested person in the property may produce evidence that the money or property in such transaction is not the property connected with the commission of the offence in order that the seizure or attachment order may be revoked, in accordance with the rules and procedures as prescribed in the Ministerial Regulation.

When the Transaction Committee or the Secretary-General, as the case may be, has ordered a seizure or an attachment of the property or ordered revocation thereof, the Transaction Committee shall report it to the Board.

Section 49. Subject to Section 48 paragraph one, in the case where there is convincing evidence that any property is the property connected with the commission of an offence, the Secretary-General shall refer the case to the public prosecutor for consideration and filing a petition to the Court for an order that such property be vested in the State without delay.

In the case where the public prosecutor considers that the case is not so sufficiently complete as to justify the filing of a petition to the Court for its order that the whole or part of that property be vested in the State, the public prosecutor shall notify the Secretary-General thereof without delay for taking further action. For this purpose, the incomplete items shall also be specified.

The Secretary-General shall take action under paragraph two without delay and refer additional matters to the public prosecutor for reconsideration. If the public prosecutor is still of the opinion that there is no sufficient *prima facie* case for filing a petition to the Court for its order that the whole or part of that property be vested in the State, the public prosecutor shall notify the Secretary-General thereof without delay for referring the matter to the Board for its determination. The Board shall consider and determine the matter within thirty days as from its receipt from the Secretary-General, and upon the Board's determination, the public prosecutor and the Secretary-General shall act in compliance with such determination. If the Board has not made the determination within such time limit, the opinion of the public prosecutor shall be complied with.

When the Board has made the determination disallowing the filing of the petition or has not made the determination within the time specified and action has already been taken in compliance with the public prosecutor's opinion under

paragraph three, the matter shall become final and no action shall be taken against such person in respect of the same property unless there is obtained fresh and material evidence likely to prompt the Court to give an order that the property be vested in the State. And in such case, where there is no person claims for the return of such property within two years as from the date the Board has made the determination disallowing the filing of the petition or has not made the determination within the time specified, the Office shall transfer the property to the Fund. In the case where a person exercises the right under another law able to claim for the return of the property exceeding the period of two years, the Office shall return the property to that person. If the return of the property is not possible, money of the Fund shall be returned instead. If there is no person claims for the return of the property after the period of twenty years, the property shall be vested in the Fund. Provided that rules, procedures, in respect of the retention and management of property or money that is yet to be claimed, shall be in accordance with the rule prescribed by the Board.³²

Upon receipt of the petition filed by the public prosecutor, the Court shall order the notice thereof to be posted at that Court and the same shall be published for at least two consecutive days in a newspaper widely distributed in the locality in order that the person who may claim ownership or interest in the property may file an application before the Court has an order. At the same time, the Court shall also order the submission of a copy of the notice to the Secretary-General for posting it at the Office and at the Police Station where the property is located. If there is evidence of whosoever making any claim of ownership or interest in the property, the Secretary-General shall notify in writing to that person for the exercise of the rights therein. The notice shall be sent by registered post with advice of receipt to such person's latest address as shown in the evidence.

In the case under paragraph one, if there is a reasonable ground to take such action as to protect the rights of the injured person in a predicate offence, the Secretary-General shall refer the case to the competent official under the law which prescribes such offence in order to proceed in accordance with that law for preliminary protection of the injured person's rights.

Section 50. The person claiming ownership in the property in respect of which the public prosecutor has filed a petition for it to be vested in the State under Section 49 may, before the Court gives an order under section 51, file an application satisfying that:

- (1) the applicant is the real owner and the property is not the property connected with the commission of the offence, or
- (2) the applicant is a transferee in good faith and for value or has secured its acquisition in good faith and appropriately in the course of good morals or public charity.

The person claiming to be a beneficiary of the property in respect of which the public prosecutor has filed a petition for it to be vested in the State under Section 49 may file an application for the protection of his or her rights before the Court gives an order. For this purpose, the person shall satisfy that he or she is a beneficiary in good faith and for value or has obtained the benefit in good faith and appropriately in the course of good morals or public charity.

³² As amended by section 22, *ibid*.

Section 51.³³ When the Court has conducted an inquiry into an application filed by the public prosecutor under section 49, if the Court is satisfied that the property to which the petition relates is the property connected with the commission of the offence and that the application of the person claiming to be the owner or transferee thereof under section 50 paragraph one is not tenable, the Court shall give an order that the property be vested in the State.

If the property under paragraph one is money, the Office shall transfer one half to the Fund and another half to the Ministry of Finance. In the case of property other than money, there shall comply with the rules prescribed by the Council of Ministers.

For the purpose of this section, if the person claiming to be the owner or transferee of the property under section 50 paragraph one is the person who is or was associated with an offender of a predicate offence or an offence of money laundering, it shall be presumed that all such property is the property connected with the commission of the offence or transferred in bad faith, as the case may be.

Section 51/1.³⁴ In the case where the court is of the opinion that the property specified in the petition is not connected with the commission of the offence, the Court shall order the return of such property. In that case, if there is no person claims for the return of the property within two years as from the date the Court has made such order, the Office shall transfer the property to the Fund.

In the case where a person exercises the right under another law able to claim for the return of the property exceeding the period of two years, the Office shall return such property to that person. If the return of the property is not possible, money of the Fund shall be returned instead. If there is no person claims for the return of the property after the period of twenty years, the property shall be vested in the Fund. Provided that rules, procedures, in respect of the retention and management of property or money that is yet to be claimed, shall be in accordance with the rule prescribed by the Board.

Section 52. In the case where the Court has ordered that the property be vested in the State under section 51, if the Court conducts an inquiry into the application of the person claiming to be the beneficiary under Section 50 paragraph two and is of the opinion that it is tenable, the Court shall give an order protecting the rights of the beneficiary with or without any conditions.

For the purpose of this section, if the person claiming to be the beneficiary under section 50 paragraph two is the person who is or had, in the past, been associated with an offender of a predicate offence or an offence of money laundering, it shall be presumed that such benefit is the benefit the existence or acquisition of which is in bad faith.

Section 53. In the case where the Court has ordered that the property be vested in the State under Section 51, if it subsequently appears from an application by the owner, transferee or beneficiary thereof and from the Court's inquiry that it is the case under the provisions of section 50, the Court shall order the return of such property or determine conditions for the protection of the rights of the beneficiary. If

³³ As amended by section 23, *ibid.*

³⁴ As added by section 24, *ibid.*

the return of the property or the protection of the right thereto is not possible, payment of its price or compensation thereof shall be made, as the case may be.

The application under paragraph one shall be filed within one year as from the Court's order that the property be vested in the State becoming final and the applicant must prove that the application under section 50 was unable to be filed due to the lack of knowledge of the publication or written notice by the Secretary-General or other reasonable intervening cause.

Before the Court gives an order under paragraph one, the Court shall notify the Secretary-General of such application and give the public prosecutor an opportunity to enter an appearance and file an objection to the application.

Section 54. In the case where the Court has given an order that the property connected with the commission of the offence be vested in the State under section 51, if there appears an additional property connected with the commission of the offence, the public prosecutor may file a petition for a Court's order that such property be vested in the State, and the provisions of this Chapter shall apply *mutatis mutandis*.

Section 55. After the public prosecutor has filed the petition under section 49, if there is a reasonable ground to believe that the property connected with the commission of the offence may be transferred, distributed or taken away, the Secretary-General may refer the case to the public prosecutor for filing an *ex parte* petition with the Court for its provisional order seizing or attaching such property prior to an order under section 51. Upon receipt of such petition, the Court shall consider it as a matter of urgency. If there is convincing evidence that the application is justifiable, the Court shall give an order as requested without delay.

Section 56. When the Transaction Committee or the Secretary-General, as the case may be, has given an order seizing or attaching any property under section 48, the competent official entrusted shall carry out the seizure or attachment of the property in accordance with the order and report it together with the valuation of that property without delay.

The seizure or attachment of the property and the valuation thereof shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Provided that the provisions of the Civil Procedure Code shall apply *mutatis mutandis*.

Section 57.³⁵ The retention and management of the property seized or attached by an order of the Transaction Committee or the Secretary-General or the Court, under this Chapter, as the case may be, shall be in accordance with the rule prescribed by the Board.

In the case where the property under paragraph one is not suitable for retention or will, if retained, be more burdensome to the Government service than its usability for other purposes, the Secretary-General may order that the interested person take such property for his or her retention and utilisation with a bail or security or that the property be sold by auction or put into official use and a report thereon be made to the Board accordingly.

³⁵ As amended by section 25, *ibid*.

The permission of an interested person to take the property for retention and utilisation, the sale of the property by auction or the putting of the property into official use under paragraph two shall be in accordance with the regulation prescribed by the Board.

If it subsequently appears that the property sold by auction or put into official use under paragraph two is not the property connected with the commission of the offence, such property as well as such amount of compensation and depreciation as prescribed by the Board shall be returned to its owner or possessor. If the return of the property becomes impossible, compensation thereof shall be made by reference to the price valued on the date of its seizure or attachment or the price obtained from a sale of that property by auction, as the case may be. For this purpose, the owner or possessor shall be entitled to the interest, at the Government Savings Bank's highest rate for a fixed deposit, of the amount returned or the amount of compensation, as the case may be.

The evaluation of compensation and depreciation under paragraph four shall be in accordance with the regulation prescribed by the Board.

Section 58. In the case where the property connected with the commission of any offence is the property in respect of which action can be taken under another law but no action has been taken against that property under that law or the action taken under that law has failed to achieve its purpose or the action under this Act is more beneficial to the Government service, action shall be taken against that property in accordance with this Act.

Section 59. Lawsuit under this Chapter shall be brought to the Civil Court and the Civil Procedure Code shall apply *mutatis mutandis*.

For this purpose, the public prosecutor shall be exempted from all fees.

CHAPTER VII

Anti-Money Laundering Fund³⁶

Section 59/1. There shall be an Anti-Money Laundering Fund within the Office for the purpose of anti-money laundering as follows:

(1) to facilitate the execution of investigation, prosecution, search, seizure or attachment, property management, indication reporting, witness protection, or other matters connected with anti-money laundering, including supporting other agencies, parties concerned and the public in the said actions;

(2) to promote cooperation with other agencies, parties concerned and the public relating to dissemination and giving of information, meetings or training courses, domestic and international cooperation, and operation to support measures on anti-money laundering measure.

(3) to carry out any other acts as necessary to achieve the objectives of this Act.

Subject to section 59/6, the Board shall have the power to prescribe a rule on disbursement in accordance with the objectives in paragraph one.

³⁶ As added by section 26, *ibid*.

Section 59/2. The Fund under section 59/1 shall consist of property as follows:

- (1) property transferred to the Fund under section 51;
- (2) property retained but not be claimed under section 49 and section 51/1;
- (3) property donated by other person;
- (4) property received from Thai or foreign Government agencies;
- (5) benefit accrued from property under (1), (2), (3) and (4)

Section 59/3. The Fund under section 59/2 shall belong to the Office without being remitted as the State revenue.

Section 59/4. The Receipt, payment, retention of money of the Fund and retention of property shall be in accordance with the rule prescribed by the Board with the approval of the Ministry of Finance.

Section 59/5. The powers and duties of administration, management, investment, disposal of property and other matters relating to the Fund's operation shall be in accordance with the rule prescribed by the Board with the approval of the Ministry of Finance.

Section 59/6. Expenditure or other remuneration which is necessary to pay an agency, third party, competent official, Government official or other official performing duty, assisting or supporting the performance of duty for an efficient and effective execution under this Act shall be disbursed from the Fund in accordance with the rule prescribed by the Board with the consent of the Ministry of Finance.

Section 59/7. Within six months as from the last day of the fiscal year, the Secretary-General shall submit to the Board and the Minister a balance sheet and a report on payment of the Fund for the previous year which have been audited and certified by the Office of the Auditor-General.

CHAPTER VII

Penalties

Section 60. Any person who commits an offence of money laundering shall be liable to imprisonment for a term of one year to ten years or to a fine of twenty thousand Baht to two hundred thousand Baht or both.

Section 61. Any juristic person who commits offences under section 5, section 7, section 8 or section 9 shall be liable to a fine of two hundred thousand Baht to one million Baht.

Any director, manager or person responsible for the conduct of business of the juristic person under paragraph one who commits the offence shall be liable to imprisonment for a term of one year to ten years or to a fine of twenty thousand Baht to two hundred thousand Baht or to both unless that person can prove that he or she takes no part in the commission of the offence of such juristic person.

Section 61/1.³⁷ The Prime Minister, Minister or person holding political positions who gives direction to or orders the Transaction Committee, Secretary-General, Deputy Secretary-General or competent official to examine a transaction or property or withhold transaction, seize or attach property or perform other acts under this Act without appropriate evidence for the purpose of persecution or cause damage to anyone or for political reason or doing so *mala fide* shall be liable to imprisonment from three years to thirty years or to a fine from sixty-thousand to six hundred thousand Baht or to both.

A member of Transaction Committee, Secretary-General, Deputy Secretary-General or competent official who performs the direction or order under paragraph one in violation of this Act shall be liable to imprisonment from three years to thirty years or to a fine from sixty-thousand to six hundred thousand Baht or to both.

Section 62.³⁸ Any person who violates or does not comply with section 13, section 14, section 16, section 20, section 20/1, section 21, section 22, section 22/1, section 35 or section 36 shall be liable to a fine of not exceeding five hundred thousand Baht and a daily fine of not exceeding five thousand Baht a day through the period of violation or until acting correctly.

Section 63. Any person who reports or makes a notification under section 13, section 14, section 16 or section 21 paragraph two by presenting false statements of fact or concealing the facts required to be revealed to the competent official shall be liable to imprisonment for a term not exceeding two years or to a fine of fifty thousand to five hundred thousand Baht or to both.

Section 64. Any person who fails to give statements or to furnish written explanations, accounts, documents or evidence under section 38 (1) or (2) or causes obstruction or fails to render assistance to the acts under section 38 (3) shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

Any person who does any act to enable other persons to have knowledge of the information retained under section 38 paragraph four shall be liable to the penalty specified in paragraph one, except in the case of doing such act in the performance of official duties or in accordance with the law.

Section 65. Any person who moves, damages, destroys, conceals, takes away, causes loss or renders useless any document, record, information or property which is seized or attached by the official or which is known or ought to be known to him as subsequently being vested in the State under this Act shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding three hundred thousand Baht or to both.

Section 66. Any person who, having or probably having knowledge of an official secret in connection with the execution of this Act, acts in any manner that enables other persons have knowledge or probable knowledge of such secret shall be

³⁷ As added by section 27, *ibid.*

³⁸ As amended by section 8 of the Anti-Money Laundering Act (No.3) B.E. 2552 (2009)

liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand Baht or both, except in the case of doing such act in the performance of official duties or in accordance with the law.

Countersigned by:
Chuan Leekpai
Prime Minister

Certified Translation

(Mr.Chukiert Ratanchaichan)
Deputy Secretary-General
Acting for Secretary-General of the Council of State