

(Translation)

Unofficial Translation*

ANTI-MONEY LAUNDERING ACT B.E.2542

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 has the Royal Proclamation to announce that:

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

This Act contains certain provisions relating to the limitation of individual's rights and liberties which is permitted by virtue of the provisions of laws under Section 29 together with Section 35, Section 37, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the Parliament, as follows:

Section 1 This Act shall be called the "Anti-Money Laundering Act B.E. 2542".

Section 2¹ This Act shall come into force when a period of one hundred and twenty days as from the date following the date of its publication in the Government Gazette has been elapsed.

Section 3 In this Act:

"Predicate Offence" means:

- (1) Offence 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) Offence relating to human trafficking under the law governing prevention and suppression of human trafficking or offence under the Criminal Code in sex-related offences only in respect of procuring, seducing or taking away, for an indecent act, a man or a woman for sexual gratification of others, or offence of taking away a child and a minor only in respect of action for profit-making or for an indecent act or in bad faith, buying, selling or picking up a child and a minor who has been taken away, or offence under the law on prevention and suppression of prostitution only in

¹ The Government Gazette, Volume 116 Section 29A, Page 45 dated 21st April 1999

² Section 3 Definitions of "Predicate Offence" (2) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

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respect of procuring, seducing or taking away such persons for prostitution or 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) Offence relating to cheating and fraud to the public under the Criminal Code, or offence under the law governing the borrowing of money which is regarded as cheating and fraud to the public;

(4)³ Offence relating to misappropriation or fraud or commission of an act of violence against property or dishonest conduct under the law on financial institution businesses, or the law on securities and exchange committed by a director, a manager, or any person responsible for or having the related benefits in the operation of such financial institutions;

(5) Offence of malfeasance in official office or malfeasance in judicial office under the Criminal Code, offence under the law on offences of officials in state agencies or public organizations or offence of malfeasance in office or malfeasance under other laws;

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

(7) Offence relating to customs evasion under the customs law;

(8)⁴ Offence relating to terrorism under the Criminal Code;

(9)⁵ Offence relating to gambling under the law on gambling limited to offence relating to organization of gambling activity without permission and with the total amount of commission of offence as from five million Baht or above, or organization of gambling activity through electronic media;

(10)⁶ Offence relating to membership of a secret society under the Criminal Code or participation in an organized crime prescribed by law as offence;

(11)⁷ Offence relating to the receipt of stolen property under the Criminal Code limited to offence relating to facilitation of selling, buying, receipt of pledge or otherwise receiving of property acquired by commission of offence in the manner of trading;

³ Section 3 Definitions of “Predicate Offence” (4) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁴ Section 3 Definitions of “Predicate Offence” (8) has been added by the Royal Ordinance for Amendment of the Anti-Money Laundering Act B.E.2542 B.E.2558.

⁵ Section 3 Definitions of “Predicate Offence” (9) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁶ Section 3 Definitions of “Predicate Offence” (10) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

⁷ Section 3 Definitions of “Predicate Offence” (11) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

⁸ Section 3 Definitions of “Predicate Offence” (12) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

(12)⁸ Offence relating to forgery or conversion of currencies, seals, stamps and bills under the Criminal Code in the manner of trading;

(13)⁹ Offence relating to trading under the Criminal Code only in connection with forgery or infringement of intellectual property of goods or offences under the commercial intellectual property protection law;

(14)¹⁰ Offence relating to forgery of documents of rights, electronic cards or passports under the Criminal Code in the nature of normal business or for commercial purpose;

(15)¹¹ Offence relating to natural resources or environment by means of use, retention or occupation of natural resources or the process of unlawful and commercial exploitation of natural resources;

(16)¹² Offence relating to an act of violence against life or body, resulting in grievous bodily harm under the Criminal Code to acquire the benefits in property;

(17)¹³ Offence relating to unlawful detention of others under the Criminal Code only in the cases of demanding or receiving benefits or for bargaining to receive any benefits;

(18)¹⁴ Offence relating to theft, extortion, blackmail, robbery, gang-robbery, fraud or embezzlement under the Criminal Code in the nature of normal business;

(19)¹⁵ Offence relating to an act of piracy under the law governing prevention and suppression of an act of piracy;

(20)¹⁶ Offence relating to unfair practice on the security trading under the Securities and Exchange Act, or offence relating to unfair practice on futures contracts under the law governing futures contracts, or offence relating to unfair practice which have impacts on the prices of agricultural futures trading or relating to insider trading under the law governing agricultural futures trading;

⁹ Section 3 Definitions of “Predicate Offence” (13) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹⁰ Section 3 Definitions of “Predicate Offence” (14) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹¹ Section 3 Definitions of “Predicate Offence” (15) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹² Section 3 Definitions of “Predicate Offence” (16) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹³ Section 3 Definitions of “Predicate Offence” (17) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹⁴ Section 3 Definitions of “Predicate Offence” (18) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹⁵ Section 3 Definitions of “Predicate Offence” (19) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹⁶ Section 3 Definitions of “Predicate Offence” (20) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

(21)¹⁷ Offence under the law governing firearms, ammunition, explosives, fireworks and imitation of firearms only in the manner of trading of firearms, ammunition and explosives, and offence under the law governing the arms control in the manner of trading of arms for use in terrorism, combat or warfare;

Predicate offences under Paragraph 1 shall also include commission of criminal offences outside the Kingdom which shall be regarded as predicate offences if committed within the Kingdom.

“Transaction” means an activity relating to the execution of a juristic act, contracts or any actions with others in financial or commercial matters, or operation in connection with property;

“Suspicious Transaction”¹⁹ 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, irrespective of whether such transaction is made once or more than once;

“Property in Connection with the Commission of Offence” means

(1)²⁰ Money or property obtained from the commission of an act constituting a predicate offence or from aiding and abetting or rendering assistance in the commission of an act constituting a predicate offence and shall include money or property that was used or possessed to be used for a commission or aiding and abetting of the commission of an act constituting a predicate offense under (8) of the definition of “predicate offense”;

(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 no matter 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)²¹ The Bank of Thailand under the law on Bank of Thailand, a commercial bank under the law on commercial banking and such banks as specifically established by law;

¹⁷ Section 3 Definitions of “Predicate Offence” (21) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

¹⁸ Section 3 Definitions of “Predicate Offence” Paragraph 2 has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹⁹ Section 3 Definitions of “Suspicious Transaction” has been amended by the Anti-Money Laundering Act (No.4) B.E.2556.

²⁰ Section 3 Definitions of “Property in Connection with the Commission of Offence” (1) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

²¹ Section 3 Definitions of “Financial Institution” (1) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

(2)²² 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)²³ (Repealed);

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

(5)²⁴ Cooperatives under the law on cooperative, limited to a cooperative with operating capital exceeding two million Baht of total share value and having objective of its operation relating to acceptance of deposits, lending of loans, mortgage, or pawning or acquiring of money or property by any means.

(6) A juristic person carrying on such other businesses related to finance as prescribed in the Ministerial Regulation;

“Fund”²⁵ means the Anti-Money Laundering Fund;

“Committee” means the Anti-Money Laundering Committee;

“Member” means a member of the Anti-Money Laundering Committee; and it shall also include the Chairman of the Anti-Money Laundering Committee;

“Competent Authority” means the person appointed by the Minister for the execution of this Act.

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

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

“Office” means the Anti-Money Laundering Office;

“Minister” means the Minister taking charge under this Act.

Section 4 The Prime Minister shall take charge under this Act, and shall have powers to appoint the competent authority and to issue Ministerial Regulations, regulations or announcements for the execution of this Act.

Upon their publication in the Government Gazette, such Ministerial Regulations, regulations or announcements shall come into force.

CHAPTER 1 GENERAL PROVISIONS

²¹ Section 3 Definitions of “Financial Institution” (2) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

²² Section 3 Definitions of “Financial Institution” (3) has been repealed by the Anti-Money Laundering Act (No.5) B.E.2558.

²³ Section 3 Definitions of “Financial Institution” (5) has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

²⁴ Section 3 Definitions of “Fund” has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

Section 5 Whoever:

(1) Transferred or accepted a transfer of or converted 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

(3)²⁵ Acquired, occupied or used the property with the knowledge during the acquisition, occupation or use of such property that such property was in connection with the commission of offences;

Such person shall be regarded as having committed an offence of money laundering.

Section 6 Whoever has committed 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.

Provided that the provisions of Section 10 of the Criminal 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.

Whoever has provided or given 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 Whoever has attempted 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.

²⁶ Section 5 (3) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 9 Whoever has attempted 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.

In case, the offence of money laundering has been committed in consequence of the conspiracy under paragraph one, the person so conspiring shall be subject to punishments provided for such offence.

In the event that 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 be subject to punishments provided in Paragraph 1 only.

In case, the offender under Paragraph 1 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 Competent officials, member of the House of Representatives, senator, member of a local assembly, local administrator, Government official, official of a local government organization, official of a state organization or agency, director, executive or official of a State enterprise, director, manager or any person responsible for the operation of a financial institution, or any member of an organ under the Constitution who commits an offence in this Chapter shall be subject to punishments equal to twice of those provided for such offence.

Any member of the Committee, member of a sub-committee, member of the Transaction Committee, Secretary-General, Deputy Secretary-General or competent official under this Act who has committed an offence in this Chapter shall be subject to punishments equal to three times of those provided for such offence.

Section 11 Any member of the Committee, member of a sub-committee, member of the Transaction Committee, Secretary-General, Deputy Secretary-General, competent official, official or Government official who has committed an offence of malfeasance in office or malfeasance in judicial office as provided in the Criminal Code in connection with the commission of the offence in this Chapter shall be subject to punishments equal to three times of those provided for such offence.

A political Official, member of the House of Representative, member of House of Senators, member of a local Administrative Council or Local Administrator who has been an accomplice with person under Paragraph 1 to commit an offense, whether in the capacity of a principal, an instigator or a supporter, shall be subject to punishments equivalent to those provided for persons in Paragraph 1.

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

²⁷ Section 10 Paragraph 1 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

²⁸ Section 11 Paragraph 2 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

CHAPTER 2

REPORTING AND IDENTIFICATION

Section 13 When a transaction is made with a financial institution, the financial institution shall 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 Regulations;
- (2) A transaction connected with the property worth more than the value prescribed in the Ministerial Regulations; or
- (3) A suspicious transaction, no matter whether it is the transaction under (1) or (2).

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

Section 14²⁹ In case, it subsequently appears that there is reasonable cause to believe that any transaction already made without being reported under 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, Provincial Land Office, Branch Land Office and District 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 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 those prescribed in the Ministerial Regulations;
- (2) Involving a greater value of immovable property than that prescribed in the Ministerial Regulations, 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) When it is a suspicious transaction.

Section 15/1³⁰ When any customs officer has been notified of transactions relating to the taking of currency, no matter whether it is a local or foreign currency under the law governing the control of currency exchange, into or out of the country, with the total value equal to those fixed by the Committee, then, such customs officer shall collect and send the notified data to the Office, thus, as per the criteria, methods and the form of notification of transactions as prescribed by the Committee.

²⁹ Section 14 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

³⁰ Section 15/1 Paragraph 2 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

The amount of local or foreign currency as prescribed by the Committee under Paragraph 1 shall not be less than the amount that the person who has taken the currency into or out of the country shall notify the particulars thereof under the law governing the control of currency exchange.

Section 15 Professions stated below shall have the duty to report to the Office any transaction when it is carried out in cash of a value exceeding the amount prescribed in the Ministerial Regulation or is a suspicious transaction. However, profession under (2), (3), (4) and (5) must be a juristic person, unless there is probable cause to suspect under reasonable evidence that such transaction is related or may be related to the commission of a predicate offense or money laundering offense with profession 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 profession to report the transaction to the Office:

(1) Professional operator relating to operation, giving of advice or consultancy in transaction in connection with investment or transfer of fund under the Securities and Exchange Act which is not a financial institution under Section 13;

(2) Professional operator relating to trading of precious stones, diamonds, gems, gold, or ornaments decorated with precious stones, diamonds, gems or gold;

(3) Professional operator relating to trading or hire-purchase of cars;

(4) Professional operator relating to broker or an agent in buying or selling immovable property;

(5) Professional operator relating to trading of antiques under the law governing the control of sale by auction and trading of antiques;

(6) Professional operator relating to personal loans under supervision for business that is not a financial institution under the Announcement of the Ministry of Finance Relating to Personal Loan Business Operation under Supervision or under the law governing financial institution business;

(7) Professional operator relating to electronic money card that is not a financial institution under the Announcement of the Ministry of Finance Relating to Electronic Money Card or under the law governing financial institution business;

(8) Professional operator relating to credit card that is not a financial institution under the Announcement of the Ministry of Finance Relating to Credit Cards or under the law governing financial institution business;

(9) Professional operator relating to electronic payment under the law governing the supervisions of electronic payment service business;

(10)³² Professional operator of financial business under the law governing the control of currency exchange that is not a financial institution; whereby, according to the result of assessment of risks relating to money laundering or giving of financial support to terrorist activities, it appeared that it was risky that such money might be used as a channel for money laundering or giving of financial support to terrorist activities, thus, in accordance with those prescribed in the Ministerial Regulations;

³¹ Section 16 Paragraph 1 has been amended by the Anti-Money Laundering Act (No.3) B.E.2552.

³² Section 16 Paragraph 1(10) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

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In case, it appears that any matter of fact which is relevant or potentially beneficial to the confirmation or cancellation of the matter fact concerning the transaction already reported under Paragraph 1, that person shall report such matter of fact to the Office without delay.

The provisions of Section 14 shall, *mutatis mutandis*, apply to the person who is obliged to report under Paragraph 1, except in the event that such person who is obliged to report has committed an offence of money laundering.³³

Section 16/1³⁴ In case, there is a reasonable cause to suspect with adequate evidence that any foundation, association or non-profit organization has transactions in connection with financial support to terrorist activities, the Office, with the approval of the Transaction Committee, shall have powers to give a written order to such foundation, association or non-profit organization to clarify the matter of facts relating to such transaction or to suspend such transaction for a period of time as fixed by the Office; and in case of necessity, the Secretary-General or the competent authority designated, in writing, by the Secretary-General, may enter the workplace of such foundation, association or non-profit organization during sunrise and sunset to conduct necessary inspection.

Section 17 The reporting under Section 13, Section 14, Section 15 and Section 16 shall be in accordance with the form, period of time, criteria and methods prescribed in the Ministerial Regulations.

Section 18 Any transaction which the Minister has deemed to be exempted from reporting under Section 13, Section 15 and Section 16 shall be in accordance with those prescribed in the Ministerial Regulations.

Section 19 Regarding the reporting under Section 13, Section 14, Section 15 and Section 16 executed by the reporter in good faith, if causing damage to any person, the reporter shall assume no responsibility therefor.

Section 20 Financial institutions and professional operators under Section 16 shall have their customers identify themselves at each time before making transaction as prescribed in the Ministerial Regulations, to eliminate obstacles in identification of people with disabilities or infirmity, unless the customers have earlier identified themselves.

The identification under Paragraph 1 shall be in accordance with the methods prescribed and announced by the Minister.

³³ Section 16 Paragraph 3 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

³⁴ Section 16/1 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

³⁵ Section 20 Paragraph 1 has been amended by the Anti-Money Laundering Act (No.3) B.E.2552.

Section 20/1³⁶ Financial institutions and professional operators under Section 16 (1) and (9) shall determine their policy of acceptance of customers, management of potential risks relating to money laundering of customers, and shall, upon making initial transaction, periodically conduct an inspection to ascertain matters of facts relating to customers until the end of the operation when the account is closed, or the relationship with customers is ended.

The scope of inspection to ascertain the matter of facts relating to customers under Paragraph 1 shall be in accordance with the criteria and methods as prescribed in the Ministerial Regulations relating to the identification and customer due diligence, review of the customer list and follow-up of statements of transaction of customers as notified by the Office.

The provisions in Paragraph 1 and Paragraph 3 shall, mutatis mutandis, apply to professional operators under Section 16 (2) (3) (4) (5) (6) (7) (8) and (10); however, the application to professional operators with any characteristics shall be in accordance with those prescribed in the Ministerial Regulations, thus, without causing excessive troubles to small professional operators and the related parties, and shall be for purpose of anti-money laundering only.³⁷

Section 21³⁸ Upon making transaction under Section 13, the financial institution shall record matters of facts relating to such transaction as per the form, particulars, criteria and methods as prescribed in the Ministerial Regulations.

Section 21/1³⁹ The person who is obliged to report under Section 13 and Section 16 or any person shall be prohibited to disclose the data or to take any action which may cause customers or the third parties informed about customer due diligence, reporting of transactions or sending of any other data to the Office, except for the compliance with the laws or the Court's order or the disclosure of data between the Head Office and branch offices of the person who is obliged to report under Section 13 and Section 16, located in the Kingdom or in a foreign country for action in connection with the execution of this Act.

The report received by the Office under this Chapter shall be regarded as official secrets relating to the execution of this Act; and the Secretary-General shall be responsible for keeping and making use of such data only for the execution of this Act.

³⁶ Section 20/1 has been added by the Anti-Money Laundering Act (No.3) B.E.2552.

³⁷ Section 20/1 Paragraph 3 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

³⁸ Section 21 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

³⁹ Section 21/1 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 21/2⁴⁰ In the event that the person who is obliged to report under Section 13 and Section 16 is unable to conduct customer due diligence, such financial institution and professional operator shall report the same to the Office immediately.

In the event that the Office has checked the report under Paragraph 1 and agreed that there is a reasonable evidence to believe that there is a commission of predicate offence or offence of money laundering, then, the Office shall have powers to order such financial institution and professional operator to suspend the transaction for not exceeding ten working days.

Section 21/3⁴¹ For the purpose of execution of this Act, the Office shall be obliged to organize training on anti-money laundering and prevention and suppression of financial support to terrorist activities to the person who is obliged to report under Section 13 and Section 16.

When the person who is obliged to report under Section 13 and Section 16 has personnel who has received the training under Paragraph 1, such personnel who has received the training shall perform duties to provide reports or to control the provision of reports, identification and customer due diligence correctly in accordance with this Act.

The criteria, methods and conditions on the organization of training under Paragraph 1 and provision of personnel who has received the training under Paragraph 2, shall be in accordance with those prescribed by the Committee.

Section 22⁴² Unless otherwise notified in writing by the competent authority for any action, the financial institution shall take actions, as follows:

- (1) Keep details of identification under Section 20 for a period of five years as from the date of accounting closing or ending of relationship with customers;
- (2) Keep details of transaction and recording of matters of facts under Section 21 for a period of five years as from the date of such transaction or recording of matters of facts.

The provisions contained in (1) shall also apply to professional operators under Section 16.⁴³

Section 22/1⁴⁴ Subject to Section 20/1 Paragraph 3, the person who is obliged to report under Section 13 and Section 16, shall keep details of customer due diligence under Section 20/1

⁴⁰ Section 21/2 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁴¹ Section 21/3 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁴² Section 22 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

⁴³ Section 22 Paragraph 2 has been added by the Anti-Money Laundering Act (No.3) B.E.2552.

⁴⁴ Section 22/1 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

for a period of ten years as from the date of accounting closing or ending of relationship with customers; however, before such period of ten years shall be elapsed, in case of necessity and suitability for the purpose of execution of this Act for any customer, the Secretary-General shall give a written notice to the person who is obliged to report to keep details of such customer for not exceeding five years as from the date when such period of ten years has been elapsed.

The criteria and methods of keeping of details under Paragraph 1 shall be in accordance with those prescribed by the Committee.

Section 23 The provisions of this Chapter shall not be applicable to the Bank of Thailand as per the law governing the Bank of Thailand.

CHAPTER 3

THE ANTI-MONEY LAUNDERING COMMITTEE

Section 24⁴⁵ The Anti-Money Laundering Committee called in brief as “AMLC” shall consist of:

(1) Six expert members as appointed by the Cabinet as per the result of selection under Section 24/1, with the approval of the Senate, as members;

(2) Permanent-Secretary for Finance, Permanent-Secretary for Foreign Affairs, Permanent-Secretary for Justice, the Secretary-General of the National Security Council, the Attorney General, the Commissioner General of Royal Thai Police, the Governor of the Bank of Thailand and the Secretary-General of the Office of Securities and Exchange Commission, as members;

(3) The Secretary-General, as member and secretary;

All fifteen members of the Committee shall elect an expert member under (1) as the Chairperson and another member as the Vice Chairperson.

The Committee shall appoint not exceeding two government officials in the Office as assistant secretary.

A member under (2) may assign a person who holds a lower position or a position of not lower than Director-General or equivalent who has knowledge and understanding relating to the performance of duties in the Committee as a replacement member.

Section 24/1⁴⁶ The Personnel Recruitment Committee shall be expert members consisting of representative of the Supreme Court, representative of the Constitutional Court and representative of the Supreme Administrative Court; whereby, one member shall be selected as

⁴⁵ Section 24 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁴⁶ Section 24/1 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

Chairman of the Recruitment Committee; and the Recruitment Committee shall be obliged to recruit expert members by means of recruitment of personnel who have qualifications and shall not have any prohibited characteristics under Section 24/2, and selecting expert members from the list of applicants, totally six people, and shall propose them to the Cabinet to be appointed as expert members under Section 24(1), thus, within ninety days as from the date of necessity to select personnel to assume such office.

Members of the Recruitment Committee under Paragraph 1 shall not be holders of political positions and shall not have any benefits or interests in contrary to the performance of duties at the time of appointment and during the performance of duties.

The Office shall be responsible for the secretarial work and general affairs for actions under Paragraph 1; and the Recruitment Committee shall receive the meeting allowances and other benefits as prescribed by the Minister.

Section 24/2⁴⁷ The person who has been selected as an expert member shall have the qualifications and shall not have any prohibited characteristics, as follows:

- (1) Having the Thai nationality by birth;
- (2) Not exceeding seventy years of age;
- (3) Holding the office or used to hold the office of the Director-General or Head of government agency at the level of department or above, or being or used to be the Head of State Enterprise Unit or Head of other government agency, or holding the office or used to hold the office of an associate professor or above in any field of study under (4);
- (4) Having knowledge, expertise or experiences in economics, finance, treasury or laws; and having knowledge and expertise in anti-money laundering and countering of financial support to terrorist activities;
- (5) Being or used to be a holder of political position, member of a political party or director or personnel of a political party within a period of five years prior to the date of application;
- (6) Not being a director, manager, advisor or a holder of any other similar position in business of the person who is obliged to report under Section 13 and Section 16 or having related benefits in a partnership, a company or any person who is obliged to report under this Act or operating career or other profession or operating any business in contrary to the performance of duties under this Act;
- (7) Not being a judge of the court of justice, Justice of the Constitutional Court, Justice of the Administrative Court, member of the Election Commission of Thailand, Ombudsman, member of the State Audit Commission, or member of the National Human Rights Commission of Thailand;
- (8) Not being a bankrupt or never be a bankrupt or dishonest person;
- (9) Having never been sentenced by a final judgment to imprisonment, except for offences committed by negligence or petty offences;

⁴⁷ Section 24/2 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

(10) Having never been sentenced by a final judgment for commission of offence of malfeasance, offence of money laundering, offence under the Narcotics Act, offence under the law governing financial institution business, offence under the Securities and Exchange Act, offence under the law governing prevention and suppression of financial support to terrorist activities, offence under the Human Trafficking Suppression and Prevention Act, offence under the law governing the prevention and suppression of participation in transnational organized crime, or offence under the law governing election;

(11) Having never been dismissed, removed or discharged from the governmental service, state agencies or state enterprises due to malfeasance or corruption and misconduct in the government circles;

(12) Having never been sentenced by a final judgment or the Court's order that the ownership of property shall be vested in the State;

Section 25⁴⁸ The Committee shall have powers and duties, as follows:

(1) To propose measures, opinions and recommendations relating to the anti-money laundering and countering of financial support to terrorist activities, to the Cabinet;

(2) To supervise, follow up and assess the results of operation of the Office under this Act or under the law governing prevention and suppression of financial support to terrorist activities;

(3) To supervise and control the Transaction Committee, the Office, and the Secretary-General to perform their duties independently and in an accountable manner, and to cancel or desist any action of the Transaction Committee, the Office, and the Secretary-General, which is considered as discrimination or violation of basic human rights;

(4) To prescribe criteria and methods of assessment of risks relating to money laundering or financial support to terrorist activities which may result from transaction of state agencies or certain types of businesses which are not required to report the transaction under this Act, and to recommend operational guidelines for prevention of such risks;

(5) To issue rules, regulations, announcements, orders, or to prescribe any criteria in connection with powers of the Transaction Committee, and to issue regulations or any other announcements prescribed by this Act to be under powers of the Committee; provided that any rules, regulations, announcements, orders or criteria prescribed for compliance by the general public, shall be published in the Government Gazette before they shall come into force;

(6) To select a person who is proper to assume the office of the Secretary-General to be proposed to the Cabinet for further actions;

(7) To prescribe rules in handling with data or documents to be used as evidence for the execution of this Act or the law governing prevention and suppression of financial support to terrorist activities;

(8) To take other actions under this Act or as provided by law to be under powers and duties of the Committee;

The criteria and methods of selection under (6) shall be in accordance with those prescribed and announced by the Committee.

⁴⁸ Section 25 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 26 An expert member who has been appointed by the Cabinet shall have the term in office of four years as from the date of appointment, and shall assume the office for only one term.

Section 27 In addition to vacating the office at the end of the term under Section 26, an expert member who has been appointed by the Cabinet shall vacate the office upon:

(1) Death;

(2) Resignation;

(3)⁴⁹ Disqualification or having any prohibited characteristics under Section 24/2, or dismissal by the Cabinet, with the approval of the Senate;

(4) Becoming a bankrupt;

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

(6) Having never been sentenced by a final judgment to imprisonment;

In the event that

Section 28 In the event that an expert member has been appointed during the term in office of the appointed expert member, no matter whether it is an additional appointment or an appointment of replacement member, such appointed person shall be in office equal to the remaining term in office of the appointed expert member.

Section 29⁵⁰ A meeting of the Committee shall be attended by not less than half of the total number of members to constitute a quorum.

The Chairman of the Committee shall act as Chairman of the Meeting. In case, the Chairman of the Committee is absent in the Meeting or failing to perform his or her duties, then, the Vice Chairman shall act as Chairman of the Meeting; and in the event that the Chairman and the Vice Chairman are absent in the Meeting or failing to perform their duties, then, members attending the Meeting shall elect a member to act as Chairman of the Meeting.

The adjudication of the Meeting shall be based on the majority votes; whereas, one member shall have one vote. In case of a tie, the Chairman of the Meeting shall have one additional vote as the casting vote; except for the selection of personnel under Section 25(6), the vacation of office of Secretary-General under Section 45 (3) or the adjudication under Section 49 Paragraph 3 shall be passed by votes equal to more than half of the total number of existing members.

Section 30 The Committee shall appoint a subcommittee for consideration and proposition of opinions in any particular matter or for taking any action in lieu of the Committee; and the provisions of Section 29 shall, *mutatis mutandis*, apply to a meeting of subcommittee.

⁴⁹ Section 27(3) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁵⁰ Section 29 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 31 Members of the Committee and members of subcommittees shall receive remunerations as fixed by the Cabinet.

CHAPTER 4 THE TRANSACTION COMMITTEE

Section 32⁵¹ The Transaction Committee shall consist of:

- (1) Four people who have been selected under Section 32/1, as members;
- (2) The Secretary-General, as member and secretary;

All five members of the Transaction Committee shall select one member under (1) as the Chairman of the Committee.

The criteria and methods of meetings and issuing of any order of the Transaction Committee shall be in accordance with the regulations as prescribed by the Transaction Committee, with the approval of the Committee.

Upon their publication in the Government Gazette, such regulations shall come into force.

Section 32/1⁵² The Judicial Commission, the Judicial Committee of the Administrative Court, the State Audit Commission and the Public Prosecutor Commission shall each nominate a person who has honesty and integrity and have knowledge and ability for the purpose of execution of this Act to the Office so that such name list shall be proposed to the Committee for appointment as members of the Transaction Committee. In case, any party of the Committee has failed to nominate a person for appointment as member of the Transaction Committee within forty-five days as from the date of receiving notification from the Office relating to the nomination thereof, then, the Committee shall appoint other proper person as a member of the Transaction Committee in lieu of nomination from such party of the Committee.

The nomination under Paragraph 1 shall be submitted together with the letter of consent of the nominees.

Section 32/2⁵³ A member of the Transaction Committee shall have qualifications and shall not have any prohibited characteristics under Section 24/2 (1) (2) (4) (5) (6) (7) (8) (9) (10) and (12) and shall be, or used to be, government official in the position of not lower than Director-General or equivalent, or the position of Chief Justice or above, or in the position of Director General or above, or shall be, or used to be, chief of state enterprise unit or other state agency unit, or shall hold the office, or used to hold the office, of an associate professor or above in any field of study under Section 24/2 (4);

⁵¹ Section 32 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁵² Section 32/1 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁵³ Section 32/2 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 32/3⁵⁴ A member of the Transaction Committee who has been appointed by the Committee shall have the term in office of three years each; and such member of the Transaction Committee who has vacated the office may be reappointed but for not exceeding two successive terms; and the provisions of Section 27 and Section 28 shall apply *mutatis mutandis*, except for the vacation of office under Section 27 (3), a member of the Transaction Committee who has been appointed by the Committee shall vacate the office upon the dismissal by the Committee due to disqualification or having any prohibited characteristics under Section 32/2.

In the event that a member of the Transaction Committee has vacated the office; and a new member of the Transaction Committee has not yet been appointed to fill the vacancy, then, the remaining members of the Transaction Committee shall continue their performance of duties; provided that such remaining members of the Transaction Committee shall consist of not less than three people.

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

Section 34⁵⁵ The Transaction Committee shall have powers and duties, as follows:

- (1) To audit transaction and property in connection with the commission of offences;
- (2) To order and desist the transaction under Section 35 or Section 36;
- (3) To take actions under Section 48;
- (4)⁵⁶ To submit a report of operations under this Act to the Committee;
- (5)⁵⁷ To supervise and control the Office and the Secretary-General to perform their duties independently and in an accountable manner;
- (5/1)⁵⁸ To issue rules, regulations, announcements, orders, or to prescribe any criteria for operation of the Office in connection with powers of the Transaction Committee, thus, in conformity with the rules, regulations, announcements, orders or criteria as prescribed by the Committee and shall be published in the Government Gazette;
- (6) To take any other actions as assigned by the Committee.

⁵⁴ Section 32/3 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁵⁵ Section 34 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

⁵⁶ Section 34(4) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁵⁷ Section 34(5) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁵⁸ Section 34 (5/1) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 35⁵⁹ In case, there is a reasonable cause to suspect with adequate evidence that any transaction is related to or potentially in connection with the commission of predicate offences or offences of money laundering, then, the Transaction Committee shall have powers to issue a written order to desist such transaction within the prescribed period of time but not exceeding three working days.

In case of necessity or urgency, the Secretary-General shall issue an order to desist the transaction under Paragraph 1, and shall then report the same to the Transaction Committee.

Section 36⁶⁰ In case, there is a reliable evidence that any transaction is related to or potentially in connection with the commission of predicate offences or offences of money laundering, then, the Transaction Committee shall have powers to issue a written order to suspend such transaction within the prescribed period of time but not exceeding ten working days.

Section 36/1⁶¹ The Transaction Committee or the Secretary-General shall record operations under Section 34, Section 35 or Section 36 as evidence in the Minutes of the Meeting of the Transaction Committee or in the command of the Secretary-General, relating to evidences, applicants, instigators or commanders for operation in accordance with such provisions.

Section 37⁶² When the Transaction Committee or the Secretary-General, as the case may be, has issued an order to desist the transaction under Section 35 or Section 36, then, the Transaction Committee shall report the same to the Committee in the next meeting, and shall also report the same to the National Anti-Corruption Commission.

The report under Paragraph 1 shall be specified with at least the following details:

- (1) Person who has been ordered to desist the transaction;
- (2) Evidences used for actions against the person under (1);
- (3) The applicants, instigators or commanders for operation;
- (4) Results of operation;

The report under this Section shall be regarded as official secrets.

In the event that the Committee or the National Anti-Corruption Commission has audited the report under Paragraph 1 and found out that there was non-compliance with this Act, then, the Committee or the National Anti-Corruption Commission shall submit the results of such audit and opinions of the Committee or the National Anti-Corruption Commission, as the case may be, to the Transaction Committee for further actions.

⁵⁹ Section 35 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

⁶⁰ Section 36 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

⁶¹ Section 36/1 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

⁶² Section 37 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 37/1⁶³ In case, the Transaction Committee has deemed it expedient to provide measures of protection and assistance to statement givers or people who have given any clues or data, in any legal case, in favor of operations of the Transaction Committee, then, the Transaction Committee shall notify the related units to provide measures of protection of such people; and it shall be regarded that such people are witnesses who are entitled to receive protection under the law governing witness protection in criminal cases; provided that the Transaction Committee shall propose opinions whether it is expedient to use general measures or special measures under such law for those people.⁶⁴

In case of damage to life, body, health, reputation, property or any rights of people under Paragraph 1, or husband, wife, ascendants, descendants or other people who have close relationship with such people, resulting from intentional commission of criminal offences due to operation or statement giving or giving of clues or data to the competent authority, then, such people shall be entitled to file a petition to the responsible unit to receive remunerations as may be necessary and expedient under the law governing witness protection in criminal cases.

The Office may provide remunerations or any other benefits to people under Paragraph 1 as per the regulations prescribed and announced by the Committee.

Section 38 For the purpose of performance of duties under this Act, members of the Transaction Committee, the Secretary-General and the competent authority as assigned in writing by the Secretary-General shall have powers, as follows:

(1) To issue a letter of inquiry or demand financial institutions, government agencies, public organizations or state agencies or state enterprises, as the case may be, to send the related personnel to give statements, to send written explanations, or to send list of documents or any evidences for audit or consideration;

(2) To issue a letter of inquiry or demand any person to give statements, to send written explanations, or to send list of documents or any evidences for audit or consideration;

(3) To enter dwelling places, premises or any vehicles, in case, there is a reasonable cause to suspect that there is concealment or keeping of property in connection with the commission of offences or evidences relating to the commission of offences of money laundering for searching or for the purpose of follow-up, inspection or seizure or attachment of property or evidences when there is a reasonable cause to believe that, in case, it is delayed to issue a warrant of search, such property or evidence shall then be removed, concealed, destroyed or transformed;

Regarding the performance of duties under (3), the competent authority as assigned under Paragraph 1 shall produce documents of assignment and identification card to the related parties.

Identification cards under Paragraph 2 shall be in accordance with the form prescribed by the Minister and published in the Government Gazette.

Regarding all data obtained from the giving of statement, written explanations, list of documents or any evidences which are specific data of individuals, financial institutions, government agencies, public organizations or state agencies or state enterprises, the Secretary-General shall be responsible for keeping and utilization of such data.

⁶³ Section 37/1 has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

⁶⁴ Section 37/1 Paragraph 1 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 38/1⁶⁵ Subject to the Criminal Procedure Code and for performance of duties under this Act, the Secretary-General, the Deputy Secretary-General and the competent authority who has been assigned in writing by the Secretary-General, shall have powers to arrest the offender of money laundering and to record statements of arrested persons as primary evidence and to send them to the inquiry official without delay but not exceeding twenty-four hours.

Section 38/2⁶⁶ People who have performed duties or their assistants who have been sued or entered with legal actions resulting from operations under their legal powers and duties, shall be entitled to receive assistance as per the regulations prescribed by the Committee, despite having vacated the office or having been discharged from duties.

Section 39 The Transaction Committee shall receive remunerations as fixed by the Cabinet.

Section 39/1⁶⁷ (Repealed);

Section 39/2⁶⁸ (Repealed);

CHAPTER 5 THE ANTI-MONEY LAUNDERING OFFICE

Section 40⁶⁹ The Anti-Money Laundering Office called in brief as “AMLO” shall be established as a government agency not under the affiliation of the Office of the Prime Minister or ministries, to perform duties independently and in a neutral manner, and shall have powers and duties, as follows:

- (1) To take actions in accordance with resolutions of the Committee, the Transaction Committee, and to perform other general affairs;
- (2) To receive reports of transaction sent under Chapter 2, and to response to the receipt of reports; and to receive reports and data relating to transaction obtained by other methods;

⁶⁵ Section 38/1 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

⁶⁶ Section 38/2 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁶⁷ Section 39/1 has been repealed by the Anti-Money Laundering Act (No.5) B.E.2558.

⁶⁸ Section 39/2 has been repealed by the Anti-Money Laundering Act (No.5) B.E.2558.

⁶⁹ Section 40 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

(3)⁷⁰ To receive or send reports or data for operation under this Act or other laws or as per agreements executed between domestic or foreign agencies;

(3/1)⁷¹ To prescribe guidelines for operation, supervision, audit and assessment of results of compliance with this Act of the person who is obliged to report transaction to the Office as per the criteria, methods and operational guidelines according to the regulations prescribed by the Committee;

(3/2)⁷² To assess risks at national level relating to money laundering or financial support to terrorist activities for provision of policies and strategies on anti-money laundering and countering of financial support to terrorist activities to be proposed to the Committee and the Cabinet, and to report the results of assessment of such risks to the regulatory body of the person who is obliged to report under Section 13 and Section 16, and the related agencies for any action relating to anti-money laundering or countering of financial support to terrorist activities;

(3/3)⁷³ To provide action plans with related government agencies and state agencies to be in accordance with policies and strategies on anti-money laundering and countering of financial support to terrorist activities;

(3/4)⁷⁴ To notify the list of persons who are obliged to report under Section 13 and Section 16 who failed to comply with this Act or the law governing anti-money laundering and countering of financial support to terrorist activities, to the regulatory body of the person who is obliged to report under Section 13 and Section 16 for consideration of actions under the related laws;

(3/5)⁷⁵ To promote cooperation of the general public relating to the giving of data for anti-money laundering and countering of financial support to terrorist activities;

(4)⁷⁶ To collect data and statistics, to audit and follow up the assessment of operation under this Act, and to analyze reports or data relating to transaction, and to assess risks relating to money laundering or financial support to terrorist activities;

⁷⁰ Section 40(3) has been amended by the Anti-Money Laundering Act (No.4) B.E.2556.

⁷¹ Section 40(3/1) has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

⁷² Section 40(3/2) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁷³ Section 40(3/3) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁷⁴ Section 40(3/4) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁷⁵ Section 40(3/5) has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

⁷⁶ Section 40(4) has been amended by the Anti-Money Laundering Act (No.4) B.E.2556.

- (5) To collect evidences to enter legal actions against offenders under this Act;
- (6) To provide projects relating to the dissemination of knowledge, education and training in different fields in connection with operation under this Act, or to give assistance or support to both the public sector and the private sector to provide such projects;
- (7) To take other actions under this Act or under other laws;

Section 41⁷⁷ The Secretary-General shall be obliged to generally supervise official affairs of the Office, and shall act as the superior of government officials, employees and workers in the Office, and shall directly report to the Prime Minister; whereas, the Deputy Secretary-General may assist in giving orders and taking actions as assigned by the Secretary-General.

The Secretary-General shall perform duties with freedom as provided in this Act.

Section 42⁷⁸ The Secretary-General shall be a general civil servant that the Cabinet has respectfully informed His Majesty the King to appoint according to the result of selection under Section 25 (6), with the approval of the Senate.

Section 43 The Secretary-General shall have qualifications and shall not have any prohibited characteristics, as follows:

- (1) Having knowledge and expertise in economics, finance, treasury or laws;
- (2)⁷⁹ Holding, or used to hold, the office of the Deputy Secretary-General, or holding, or used to hold, the office of the Director-General, Head of government agency at the level of Department or above, or the Deputy Head of government agency; whereas, the Head of such government agency shall be in the capacity equivalent to the Permanent Secretary;
- (3) Not being a director in state enterprise or other state business;
- (4) Not being a director, manager, advisor, or holding any other position with similar nature of work or having related benefits in a partnership, company, financial institution or operating occupation or other profession or any business operation in contrary to the performance of duties under this Act.

Section 44⁸⁰ The Secretary-General shall have the term in office of four years as from the date of appointment by His Majesty the King, and shall assume the office for only one term.⁸¹

⁷⁷ Section 41 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁷⁸ Section 42 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁷⁹ Section 43(2) has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁸⁰ Section 44 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

⁸¹ Section 44 Paragraph 1 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

The Secretary-General shall receive special allowances as guarantee of independence and neutrality at the rate, inclusive of salary and position allowances, equal to salary and position allowances of the Permanent Secretary, and shall receive special allowances until discharge from the governmental service.

Government officials of the Office who have been appointed as the competent authorities in positions with special circumstances under the Civil Service Act; and the criteria for receiving position allowances with special circumstances shall take account of burdens, obligations, quality of works, and maintaining of justice, in comparison with remunerations of other operators in the administration of justice, thus, in accordance with the regulations prescribed by the Committee, with the approval of the Ministry of Finance.⁸²

Section 45⁸³ In addition to vacating the office at the end of the term, the Secretary-General shall vacate the office upon:

- (1) Discharge from governmental service for any reason whatsoever;
- (2) Disqualification or having any prohibited characteristics under Section 43;
- (3) Dismissal by the Committee's resolution due to serious indiscretion or defective competency, or circumstances of no-confidence in good faith, with the approval of the Senate;
- (4) Being adjudged or subject to the Court's order that the ownership of property shall be vested in the State;

Section 45/1⁸⁴ Within a period of two years as from the date of vacation of office, the person who has vacated the office of the Secretary-General shall be prohibited to hold any position in or to be an employee of the unit which shall be obliged to report under Section 13 and Section 16.

Section 46 In case, there is reasonable evidence that the list of customers of financial institution, communication tools or device, or any computer, has been used or may be used for the purpose of commission of offence of money laundering, the competent authority as assigned in writing by the Secretary-General shall unilaterally file an application to the Civil Court to issue an order of permission to the competent authority to access accounts, communication data, or computer data in order to obtain such data.⁸⁵

In the case under Paragraph 1, the Court shall issue an order of permission to the competent authority who has filed an application for action by using any tools or equipment as it is deemed expedient; provided that such permission shall be given for not exceeding ninety days at each time.

⁸² Section 44 Paragraph 3 has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

⁸³ Section 45 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁸⁴ Section 45/1 has been amended by the Anti-Money Laundering Act (No.4) B.E.2556.

⁸⁵ Section 46 Paragraph 1 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

When the Court has issued an order of permission as per the provisions contained in Paragraph 1 or Paragraph 2, the person involved with accounts, communication data or computer data as per such order, shall give cooperation in accordance with the provisions contained in this Section.

Section 46/1⁸⁶ Regarding the operation under powers and duties, in case, the competent authority needs to provide documents and evidences or undercover operation for the purpose of audit and collection of evidences for handling with the property in connection with the commission of offences, proceeding in the offence of money laundering or actions relating to the financial support to terrorist activities under the law governing anti-money laundering and countering of financial support to terrorist activities. The Secretary-General shall have powers to issue a written order to the competent authority to take such action as per the criteria, methods and conditions as prescribed by the Committee.

Section 46/2⁸⁷ For the purpose of performance of duties under this Act, it shall be regarded that firearms, ammunition, explosives, fireworks and imitation of firearms of the Office, shall be firearms, ammunition, explosives, fireworks and imitation of firearms of military and police service, which are available or used in the governmental service under Section 5 (1) (a) of the Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act B.E.2490, and armaments of the Office shall be armaments of military and police service under Section 6(1) of the Arms Control Act B.E.2530.

The types, sizes and quantity of firearms, ammunition and armaments which shall be possessed by the Office shall be in accordance with those prescribed by the Cabinet.

The possession, use and carrying of firearms, ammunition and armaments for performance of duties of the competent authority shall be in accordance with the regulations prescribed by the Committee.

Section 47 The Office shall provide reports of annual operating results to be proposed to the Cabinet; whereas, the reports of annual operating results shall, at least, consist of essences, as follows:

- (1) Reports of operating results relating to property and other actions under this Act;
- (2) Problems and obstacles from operation;
- (3) Reports of matters of facts or observations from the compliance with powers and duties, together with opinions and recommendations;

The Cabinet shall submit the annual report of operating results under Paragraph 1, together with observations of the Cabinet, to the House of Representatives and the Senate.

CHAPTER 6 OPERATIONS RELATING TO PROPERTIES

⁸⁶ Section 46/1 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁸⁷ Section 46/2 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 48 Regarding the audit of reports and data relating to transaction, in case, there is a reasonable cause to believe that the property in connection with the commission of offences may be transferred, disposed of, removed, concealed or hidden, the Transaction Committee shall have powers to issue an order for temporary seizure or attachment of such property for a period of not exceeding ninety days.

In case of necessity or urgency, the Secretary-General shall issue an order for seizure or attachment of property under Paragraph 1 for the time being and shall report the same to the Transaction Committee.

The audit of reports and data relating to transaction under Paragraph 1 shall be in accordance with the criteria and methods as prescribed in the Ministerial Regulations.

The operator of transaction who has been issued with an order for seizure or attachment of property, or stakeholders in the property may produce evidence that money or property in such transaction is not the property in connection with the commission of offences so that an order for revocation of seizure or attachment of property shall be issued, thus, in accordance with the criteria and methods as prescribed in the Ministerial Regulations.

When the Transaction Committee or the Secretary-General, as the case may be, has issued an order for seizure or freezing of properties, or has issued an order for revocation of seizure or freezing of such properties, the Transaction Committee shall report the same to the Committee.

Section 49 Subject to Section 48 Paragraph 1, in case, it appears that there is reliable evidence that any proper is the property in connection with the commission of offences, the Secretary-General shall refer the matter to the public prosecutor for consideration and filing of a petition to the Court to issue its order that the ownership of such property shall be vested in the State promptly.

In case, the public prosecutor considers that such matter is not complete enough for filing of a petition to the Court to issue its order that the ownership of the whole or parts of such property shall be vested in the State, then, the public prosecutor shall promptly notify the same to the Secretary-General for further actions, and shall fully specify the incompleteness thereof simultaneously.

The Secretary-General shall promptly take actions under Paragraph 2 and shall refer additional matters to the public prosecutor for reconsideration. In case, the public prosecutor still considers that such matter is not complete enough for filing of a petition to the Court to issue its order that the ownership of the whole or parts of such property shall be vested in the State, then, the public prosecutor shall promptly notify the same to the Secretary-General in order to refer the matter to the Committee for adjudication; provided that the Committee shall adjudicate the matter within a period of thirty days as from the date of receiving the matter from the Secretary-General; and when the Committee has adjudicated the matter in any way, the public prosecutor and the Secretary-General shall act accordingly. In case, the Committee fails to adjudicate the matter within the prescribed period of time, then, it shall be in compliance with opinions of the public prosecutor.

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When the Committee has adjudicated not to file a petition or failed to adjudicate the matter within the prescribed period of time, and has complied with opinions of the public prosecutor under Paragraph 3, then, such matter shall be final; and it is prohibited to take action relating to such person in the same property, except there is fresh and significant evidence which may potentially convince the Court to issue an order that the ownership of property of such person shall be vested in the State; and in such case, if there is no person requesting to reoccupy such property within two years as from the date when the Committee has adjudicated not to file a petition or failed to adjudicate the matter within the prescribed period of time, then, the Office shall remit such property to the Fund; and in case, there is a person requesting to reoccupy such property by exercising the rights for reoccupation of the property under other laws, which can be done, though such time limit of two years has been elapsed, then, the Office shall return such property to the applicant for reoccupation thereof. In case, such property may not be returned, then, it shall be returned in cash from the Fund instead. In case, there is no person to reoccupy the property when a period of five years has been elapsed, the ownership of such property shall be vested in the Fund; provided that the criteria and methods of storage and handling with property or money during the period when there is no person reoccupying the same shall be in accordance with the regulations prescribed by the Committee.⁸⁸

When the Court has received the petition filed by the public prosecutor, then, the Court shall issue an order to post up a notice at the Court and advertise the notice for at least two successive days in local newspapers so that people who claimed to be owners or stakeholders of the property shall file a petition before the Court shall issue an order thereof, and the Court shall issue an order to send a copy of such notice to the Secretary-General to be posted up at the Office and local police station where such property is located; and in case, there is evidence that any person may claim to be owner or stakeholder of the property, then, the Secretary-General shall notify such person, in writing, to exercise such rights via response-registered mail to the last address of such person as appeared in the evidence.

In the case under Paragraph 1, if it appears according to the matter of facts that there is a damaged person in the predicate offence, then, the Secretary-General shall request the public prosecutor to file a petition to the Court to issue an order to return the property in connection with the commission of offences or to reimburse money to the damaged person in lieu of an order that the ownership of such property shall be vested in the State simultaneously; and when the Court has issued its order to return the property or to reimburse money to the damaged person under this Paragraph, then, the Office shall take action in accordance with the Court's order promptly.⁸⁹

Section 50 The person who claimed to be the owner of property that the public prosecutor has requested that the ownership of property shall be vested in the State under Section 49, may file a petition before the Court shall issue an order under Section 51, by showing to the Court that:

⁸⁸ Section 49 Paragraph 4 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁸⁹ Section 49 Paragraph 6 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁹⁰ Section 51 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

(1) He or she is the real owner thereof; and such property is not the property in connection with the commission of offences; or

(2) He or she is the transferee thereof in good faith, with compensation or having acquired the property in good faith and in good morals or in public charity;

The person who claimed to be the beneficiary of property that the public prosecutor has requested that the ownership of property shall be vested in the State under Section 49, may file a petition for protection of his or her rights before the Court shall issue an order, by showing to the Court that he or she is the beneficiary in good faith, with compensation or having acquired the benefits in good faith and in good morals or in public charity.

Section 51⁹⁰ When the Court has enquired the petition of the public prosecutor under Section 49, in case, the Court believes that the property as per such petition is the property in connection with the commission of offences, and that the petition of the person who claimed to be the owner of such property or the transferee of property under Section 50 Paragraph 1 is inadmissible, then, the Court shall issue its order that the ownership of such property shall be vested in the State.

The property under Paragraph 1 which is cash and money resulting from the management of seized or attached property, shall be sent by the Office to the Fund for one half, and shall be sent to the Ministry of Finance for the other half. In case of other property, action shall be taken in accordance with the regulations as prescribed by the Cabinet.⁹¹

For the purpose of this Section, in case, the person who claimed to be the owner or transferee of property under Section 50 Paragraph 1, is the person who is involved, or used to be involved, with the offender of predicate offence or the offence of money laundering, it shall be presumed that all of such property are the property in connection with the commission of offences or having been transferred in bad faith, as the case may be.

Section 51/1⁹² In the event that the Court considers that the property as per the petition is not the property in connection with the commission of offences, then, the Court shall issue its order to return such property; and in such case, if there is no person requesting to reoccupy the property within a period of two years as from the date when the Court has issued such order, then, the Office shall send such property to the Fund.

In the event that the applicant for reoccupation of the property has exercised the rights thereof under other laws which can be done though it has exceeded the period of two years under Paragraph 1, then, the Office shall return such property to the applicant for reoccupation of the property. In case, the property may not be returned, then, it shall be returned in cash from the Fund. In case, there is no applicant for reoccupation of the property when a period of five years has been elapsed, then, the ownership of such property shall be vested in the Fund; provided that the criteria and methods of storage and handling with the property or money during the period when there is no applicant for reoccupation of the property, shall be in accordance with the regulations prescribed by the Committee.⁹³

⁹¹ Section 51 Paragraph 2 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

⁹² Section 51/1 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

⁹³ Section 51/1 Paragraph 2 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

Section 52 In the event that the Court has issued an order that the ownership of property shall be vested in the State under Section 51, if the Court has enquired the petition of the person who claimed to be the beneficiary under Section 50 Paragraph 2, and it is admissible, then, the Court may issue an order to protect the beneficiary's rights under the prescribed conditions.

For the purpose of this Section, in case, the person who claimed to be the beneficiary under Section 50 Paragraph 2 is the person, or used to be the person, involved with the offender of the predicate offence or the offence of money laundering, it shall be presumed that such benefits are available or acquired in bad faith.

Section 53 In the event that the Court has issued its order that the ownership of the property shall be vested in the State under Section 40, in case, it appears afterwards by a petition of the owner, the transferee or the beneficiary of such person, if the Court has enquired and agreed that it is in conformity with the provisions of Section 50, then, the Court shall issue its order to return such property or to prescribe conditions of protection of rights of the beneficiary. In case, the property may not be returned or the rights may not be protected, then, the price thereof or damages shall be paid, as the case may be.

The petition under Paragraph 1 shall be filed within one year as from the date when the Court has issued its final order that the ownership of the property shall be vested in the State; and the Petitioner shall prove that the Petitioner may not be able to file the petition of objection under Section 50 because the Petitioner is not informed of the announcement or a written notice of the Secretary-General or that there are other reasonable extenuating circumstances.

Before the Court shall issue its order under Paragraph 1, the Court shall notify the Secretary-General of such petition and shall provide the public prosecutor an opportunity to object such petition.

Section 54 In the event that the Court has issued its order that the ownership of the property in connection with the commission of offences shall be vested in the State under Section 51. In case, it appears that the property in connection with the commission of offence has increased, then, the public prosecutor shall file a petition to the Court to issue its order that the ownership of such property shall be vested in the State; and the provisions contained in this Chapter shall apply *mutatis mutandis*.

Section 55 After the public prosecutor has filed a petition under Section 49, in case, there is a reasonable cause to believe that the property in connection with the commission of offences may be transferred, disposed of, or removed, then, the Secretary-General shall refer the matter to the public prosecutor to unilaterally file a petition to the Court to issue its order for temporary seizure or attachment of such property prior to the issuing of order under Section 51. Upon receiving such petition, the Court shall consider the petition urgently. In case, there is reliable evidence that such petition is reasonable, then, the Court shall issue its order as requested without delay.

⁹⁴ Section 57 Paragraph 1 has been amended by the Anti-Money Laundering Act (No.2) B.E.2551.

Section 56 When the Transaction Committee or the Secretary-General, as the case may be, has issued an order to seize or attach any property under Section 48, then, the competent authority who has been assigned, shall seize or attach the property as per the order and shall report the same and shall estimate the price of such property promptly.

The seizure or attachment of property and the price estimation of the seized or attached property shall be in accordance with the criteria, methods and conditions prescribed in the Ministerial Regulations.

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

Section 57 The storage and handling of property that the Transaction Committee, the Secretary-General or the Court, as the case may be, has issued an order to seize or attach under this Chapter, shall be in accordance with the regulations prescribed by the Committee.⁹⁴

In the event that the property under Paragraph 1 is not proper for storage, or in case, such storage thereof shall incur burdens to the authorities rather than other utilization, then, the Secretary-General may issue an order that the stakeholders may receive such property under their care and utilization with guarantee or security, or may sell such property by auction, or may use the property for benefits of the authorities and may report the same to the Committee.

The approval of stakeholders to receive the property under their care and utilization, the sale by auction of the property or the use of property for benefits of the authorities under Paragraph 2, shall be in accordance with the regulations prescribed by the Committee.

In case, it appears afterward that the property which is sold by auction or used for the benefits of the authorities under Paragraph 2, is not the property in connection with the commission of offences, such property shall be returned, and damages and cost of dilapidation shall be indemnified as per the amount fixed by the Committee, to the owner or the occupier. In case, the property may not be returned, then, the price of such property shall be reimbursed as per the estimated price on the date of seizure or attachment of property, or as per the price from the sale by auction of such property, as the case may be; provided that the owner or the occupier of property shall receive interest at the maximum rate for fixed deposit with the Government Savings Bank, as per the amounts returned or indemnified, as the case may be.

The assessment of damages and cost of dilapidation under Paragraph 4 shall be in accordance with the regulations prescribed by the Committee.

Section 58 In the event that any property in connection with the commission of offences is the property which can be handled under other laws, but there is no handling of such property under such laws, or there is handling thereof under such laws but it is invalid, or the compliance with this Act shall inure benefits to the authorities, then, such property shall be handled continuously under this Act.

⁹⁵ Section 58 Paragraph 2 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

⁹⁶ Chapter 6/1 “Anti-money Laundering Fund” Section 59/1 to Section 59/7 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

⁹⁷ Section 59/1 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

Regarding the consideration and handling of the property in connection with the commission of offences under Paragraph 1, the nature of such commission of offences as handled by the Office shall have severe impacts on the public order and good morals, national security, international relations, or the economic and fiscal systems of the country, or being the commission of transnational offences, or actions of organized crime, or key influential people, as the principals, instigators or supporters; provided that the nature of commission of such offences shall be in accordance with the criteria and conditions as prescribed by the Committee.⁹⁵

Section 59 Regarding the judicial operation under this Chapter, the matter shall be referred to the Civil Court; and the provisions contained in the Civil Procedure Code shall apply *mutatis mutandis*.

For this purpose, the public prosecutor shall be exempted with all costs.

CHAPTER 6/1 ANTI-MONEY LAUNDERING FUND⁹⁶

Section 59/1⁹⁷ The Anti-Money Laundering Fund shall be established in the Office, with the objective of use in the anti-money laundering, as follows:

(1) Support operations relating to the investigation, inquiry, case proceedings, searching, seizure or attachment, management of property, notification of reporting of clues, witness protection, or any other actions relating to the anti-money laundering, including support of other units, the related parties and the general public for such operation;

(2) Promote cooperation with other units, related parties and the general public relating the dissemination and release of news and information, organization of meetings or training, domestic and international cooperation and operations to support anti-money laundering measures;

(3) Operate other necessary businesses to achieve objectives of this Act;

Subject to Section 59/6, the Committee shall have powers to prescribe the regulations relating to the spending of money to be in accordance with the objective under Paragraph 1.

Section 59/2⁹⁸ The Fund under Section 59/1 shall consist of property, as follows:

(1) Property to be remitted to the Fund under Section 51;

(2) Property kept without request for reoccupation under Section 49 and Section 51/1;

(3) Property donated;

(4) Property received from state agencies of Thailand or of foreign countries;

(5) Benefits from the property under (1) (2) (3) and (4);

⁹⁸ Section 59/2 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

⁹⁹ Section 59/3 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

¹⁰⁰ Section 59/4 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

¹⁰¹ Section 59/5 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

¹⁰² Section 59/6 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

Section 59/3⁹⁹ The Fund under Section 59/2 shall belong to the Office and shall not be remitted to the public treasury as the state revenue.

Section 59/4¹⁰⁰ The receipt and payment of money, retention of funds, and retention of property shall be in accordance with the regulations prescribed by the Committee, with the approval of the Ministry of Finance.

Section 59/5¹⁰¹ Powers and duties of administration, management, procurement of benefits, disposal of property and others relating to the business operation of the Fund, shall be in accordance with the regulations prescribed by the Committee, with the approval of the Ministry of Finance.

Section 59/6¹⁰² Expenses or any other remunerations that shall be paid to units, third parties, competent authorities, government officials or authorities for performance of duties, assistance or support of performance of duties for more effective and efficient execution under this Act shall be paid from the Fund, thus, in accordance with the regulations prescribed by the Committee, with the approval of the Ministry of Finance.

Section 59/7¹⁰³ Within six months as from the fiscal year-end date, the Secretary-General shall propose balance sheets and reports of payment of the Fund of the previous year, which shall be audited by the Office of the Auditor General of Thailand and shall be certified to the Committee and the Minister.

CHAPTER 7 STIPULATED PENALTIES

Section 60 Whoever has committed an offence of money laundering shall be imprisoned for a period of one year to ten years or shall be fined for an amount of twenty thousand Baht to two hundred thousand Baht, or both.

Section 61 Any juristic person who has committed an offence under Section 5, Section 7, Section 8 or Section 9, shall be fined for an amount of two hundred thousand Baht to one million Baht.

A member, manager or any person responsible for operations of the juristic person under Paragraph 1 who has committed an offence shall be imprisoned for a period of one year to ten years or shall be fined for an amount of twenty thousand Baht to two hundred thousand Baht, or both, unless it can be proved that he or she is not involved in the commission of offence of such juristic person.

Section 61/1¹⁰⁴ The Prime Minister, the Minister or any holder of political position who has assigned or commanded the Transaction Committee, the Secretary-General, the Deputy Secretary-General or any competent authorities to audit transactions or property or to suspend the transaction, to seize or to attach the property or to take other actions under this Act without producing reasonable evidences to defame or to cause damage to any person, or to seek political interest or to take such action in bad faith, shall be imprisoned for a period of three years to thirty years or shall be fined for an amount of sixty thousand Baht to six hundred thousand Baht, or both.

¹⁰³ Section 59/7 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

¹⁰⁴ Section 61/1 has been added by the Anti-Money Laundering Act (No.2) B.E.2551.

¹⁰⁵ Section 61/2 has been added by the Anti-Money Laundering Act (No.5) B.E.2558.

Members of the Transaction Committee, the Secretary-General, the Deputy Secretary-General or any competent authorities who have unlawfully complied with, assigned, or commanded under Paragraph 1 shall be imprisoned for a period from three years to thirty years or shall be fined for an amount of sixty thousand Baht to six hundred thousand Baht, or both.

Section 61/2¹⁰⁵ Whoever has breached the provisions of Section 45/1 shall be fined for not less than three times but not exceeding six times of the remunerations and other incomes from work calculated on a yearly basis but not less than five hundred thousand Baht.

Section 62¹⁰⁶ Whoever has failed to comply with Section 13, Section 14, Section 16, Section 20, Section 20/1, Section 21, Section 21/2 Paragraph 1, Section 22, Section 22/1, Section 35 or Section 36 or failing to comply with an order given under Section 16/1 or Section 21/2 Paragraph 2, shall be fined for not exceeding one million Baht, and shall also be fined for not exceeding ten thousand Baht per day throughout the period of such breach thereof or until such person shall have correctly complied with the same.

The person who is obliged to report under Section 13 and Section 16 and has failed to comply with Section 21/3 Paragraph 2 shall be fined for not exceeding five hundred thousand Baht.

Section 63¹⁰⁷ Whoever has reported or notified an incident under Section 13, Section 14, Section 16 or Section 21 by giving false information or concealing the matter of facts which shall be given to the competent authority, shall be imprisoned for not exceeding two years or shall be fined for an amount of fifty thousand Baht to five hundred thousand Baht, or both.

Section 64 Whoever has failed to make a statement or failed to submit written explanations or failed to submit a list of documents or evidences under Section 38(1) or (2) or obstructed or failed to give convenience under Section 38(3), shall be imprisoned for not exceeding one year or shall be fined for not exceeding twenty thousand Baht, or both.

Whoever has taken any action which caused others to ascertain the data kept under Section 38 Paragraph 4, except for operations under powers and duties or under the law, shall be subject to punishments under Paragraph 1.

Section 64/1¹⁰⁸ For offences under Section 62, Section 63 and Section 64, the Fines Imposition Committee as appointed by the Committee, shall have powers to impose fines.

The Fines Imposition Committee shall consist of five members including the Secretary-General, as the Chairperson, two representatives of the related government agencies, an inquiry official under the Criminal Procedure Code, and a government official in the Office as assigned by the Secretary-General, as member and secretary.

The Secretary-General shall appoint no more than two government officials in the Office as assistant secretaries.

¹⁰⁶ Section 62 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

¹⁰⁷ Section 63 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

¹⁰⁸ Section 64/1 has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

When the Fines Imposition Committee has imposed fines, and the alleged offender has paid fines as per the amount and within the period of time prescribed by the Fines Imposition Committee, it shall be regarded as settlement of the offence under the Criminal Procedure Code.

Section 64/2¹⁰⁹ For offences which can be imposed with fines under Section 62, if a legal case is not entered to the Court, or fines have not been imposed under Section 64/1 within two years as from the date when the competent authority has detected the commission of offences and reported the same to the Secretary-General for acknowledgment or within five years as from the date of commission of offences, then, they shall be barred by prescription.

Section 65 Whoever has removed or damaged, destroyed, concealed, taken, lost, or caused uselessness of documents or records, data or property seized or attached by the authorities that he or she has the knowledge or should have the knowledge that the ownership of the same shall be vested in the State under this Act, shall be imprisoned for not exceeding three years or shall be fined for not exceeding three hundred thousand Baht, or both.

Section 66¹⁰⁹ Whoever:

- (1) Has breached the provisions in Section 21/1; or
- (2) Has the knowledge or may have the knowledge of official secrets relating to operations under this Act, or has taken any action that has caused others to have the knowledge or may have the knowledge of such secrets, except for operations as per duties or under the law,

Shall be imprisoned for not exceeding five years or shall be fined for not exceeding one hundred thousand Baht, or both.

Counter-Signature:

Chuan Leekpai

Prime Minister

¹⁰⁹ Section 64/2 has been added by the Anti-Money Laundering Act (No.4) B.E.2556.

¹¹⁰ Section 66 has been amended by the Anti-Money Laundering Act (No.5) B.E.2558.

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Note:- Reason for promulgation of this Act: Since, at present, crime organizers who have committed certain types of offences against the law, have used such money or property in connection with the commission of such offences for different patterns of actions which are considered as money laundering so that such money or property shall be used for commission of further offences; as a result, it is difficult to suppress the commission of those offences against the law; and whereas, the money laundering has been inefficiently suppressed, or actions on such money or property in connection with money laundering has been inefficiently taken under the applicable laws; therefore, in order to eliminate the cycle of such criminal activities, it is deemed expedient to determine measures for effective operations relating to the prevention and suppression of money laundering; therefore, it is necessary to enact this Act.

The Royal Ordinance for Amendment of the Anti-Money Laundering Act B.E.2542 B.E.2546¹¹¹

Section 2 This Royal Ordinance shall come into force as from the date following the date of its publication in the Government Gazette.

Note:- Reason for promulgation of this Act: Whereas, there are amendments of the Criminal Code prescribing offences relating to terrorism; and since the financial support to terrorism is a factor supporting more severe terrorism which affect the national security; whereas, the United Nations Security Council has requested for cooperation from all countries to prevent and suppress terrorist actions, including the support of property, or in any other cases with the objectives of use in terrorist actions; in order to solve problems of terrorism, it is deemed expedient to prescribe an offence of terrorism as the predicate offence under the Anti-Money Laundering Act B.E.2542 in order to apply measures under such laws simultaneously, resulting in the effective application of the Criminal Code on this matter; and whereas, it is unavoidable necessity or emergency to maintain the national security and the public safety; therefore, it is necessary to enact this Act.

The Anti-Money Laundering Act (No.2) B.E.2551.¹¹²

Section 28 The Secretary-General under the Anti-Money Laundering Act B.E.2542 who has been in office prior to the date when this Act shall come into force, shall be the Secretary-General under this Act and shall perform his or her duties until a new Secretary-General shall be appointed.

Note:- Reason for promulgation of this Act: Whereas, certain provisions of the Anti-Money Laundering Act B.E.2542 may not be properly and efficiently applicable to the elimination or extenuation of the

¹¹¹ The Government Gazette, Volume 120 Section 72A, Page 4 dated 11th August 2003

¹¹² The Government Gazette, Volume 125 Section 40A, Page 14 dated 1st March 2008

cycle of criminal activities, and since the money-laundering law has emphasized the elimination of the cycle of criminal activities only in eight predicate offences; as a result, the enforcement of laws in the past could not eliminate or extenuate the criminal activities as per the intention of the prescribed laws; provided that since, at present, offenders of fundamental criminal offences other than such eight predicate offences may use money and property acquired from the commission of offences at each time to support the commission of criminal offences in such eight predicate offences. In addition, there are some processes of law enforcement which may not be rapidly carried out; therefore, in order to genuinely and effectively eliminate the cycle of criminal activities, while the processes of anti-money laundering law enforcement may be carried out in a smooth, rapid, efficient and effective manner, it is necessary to prescribe the commission of other criminal offences which are contrary to the public order or good morals or to the national security or the national economic stability as the predicate offence; therefore, it is necessary to enact this Act.

The Anti-Money Laundering Act (No.3) B.E.2552.¹¹³

Section 2 This Act shall come into force when a period of one hundred and twenty days as from the date following the date of its publication in the Government Gazette has been elapsed.

Note:- Reason for promulgation of this Act: Since, at present, organizers of crimes in connection with predicate offences have used channels from certain occupations which are not operations of financial institutions as sources of money laundering. Moreover, there are certain provisions of the Anti-Money Laundering Act B.E.2542 relating to the identification of customers of financial institutions which are not in accordance with the related laws and not covering the audit for learning about matters of facts relating to customers and obtaining more details of data which may be easily used as channels for crime organizers in money laundering; therefore, in order to effectively eliminate the cycle of criminal activities relating to the commission of predicate offences, it is deemed expedient to prescribe that operators of certain types of professions shall be obliged to report transactions to the Anti-Money Laundering Office and to determine measures relating to identification and audit for learning about matters of facts relating to customers of financial institutions and operators of certain types of professions to be recognized at an international level; therefore, it is necessary to enact this Act.

The Anti-Money Laundering Act (No.4) B.E.2556.¹¹⁴

¹¹³ The Government Gazette, Volume 126 Section 46A, Page 1 dated 22nd July 2009

¹¹⁴ The Government Gazette, Volume 130 Section 11A, Page 8 dated 1st February 2013

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Note:- Reason for promulgation of this Act: Whereas, subject to the Anti-Money Laundering Act B.E.2542, the commission of some serious criminal offences is not prescribed as predicate offences; as a result, offenders thereof can use money and property acquired from the commission of offences to support the commission of criminal offences; therefore, it is deemed expedient to prescribe additional predicate offences and to clearly determine scope of predicate offences in order to protect rights and liberties of the general public; moreover, powers and duties of the Anti-Money Laundering Committee and of the Anti-Money Laundering Office have been prescribed in order to determine policies for assessment of risks relating to money laundering and to propose guidelines for prevention of risks and to prescribe measures of witness protection, positions with special reasons to receive additional allowances under the Civil Service Act, and that the Department of Special Investigation shall support the entry of legal actions against offenders or actions against the property in connection with the commission of offences, and to establish the Fines Imposition Committee, thus, for effective operation in accordance with the international standards; therefore, it is necessary to enact this Act.

The Anti-Money Laundering Act (No.5) B.E.2558.¹¹⁵

Section 2 This Royal Ordinance shall come into force as from the date following the date of its publication in the Government Gazette.

Section 51 The Secretary-General who has been in office prior to the date when this Act shall come into force, shall be the Secretary-General under the Anti-Money Laundering Act B.E.2542, amended by this Act; and the period of assumption of office prior to the date when this Act shall come into force, shall be regarded as the period of assumption of office under the Anti-Money Laundering Act B.E.2542, amended by this Act.

When the period of assumption of office of Secretary-General under Paragraph 1 has expired, the Cabinet may issue its resolution to appoint such person to assume the office of the Advisor of the Anti-Money Laundering Office or any other equivalent position in other unit, with payment of salary, position allowances, special allowances and any other benefits not lower than those already received.

Section 52 Members of the Committee and the Transaction Committee under the Anti-Money Laundering Act B.E.2542, amended by this Act, shall be appointed completely within one hundred and twenty days as from the date when this Act shall come into force. During the period when such members thereof have not yet been appointed, then, members of the Committee and the Transaction Committee who have been in office prior to the date when this Act shall come into force, shall continue their performance of duties until new members of the Committee and the Transaction Committee under the Anti-Money Laundering Act B.E.2542, amended by this Act. During such period, in case, there is a vacancy, the Committee or the Transaction Committee shall consist of the existing members thereof.

¹¹⁵ The Government Gazette, Volume 132 Section 98A, Page 1 dated 8th October 2015

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Section 53 During the execution under the Anti-Money Laundering Act B.E.2542, in case, any matter may not be continuously implemented under Section 58 Paragraph 2 of the Anti-Money Laundering Act B.E.2542, amended by this Act, then, the Committee shall consider ceasing the action; and the Office shall return the matter to the related units promptly, unless the Committee shall issue its resolution to take continuous action on a case-by-case basis.

Section 54 The Prime Minister shall take charge under this Act.

Note:- Reason for promulgation of this Act: Whereas, certain provisions of the Anti-Money Laundering Act B.E.2542 may be improper to the anti-money laundering for the time being; therefore, it is deemed expedient to revise the provisions in connection with predicate offences, financial institutions, property in connection with the commission of offences, and the nature of commission of money laundering offence, the reporting of transaction, audit of matters of facts relating to customers and organization of training, and fixing of period of retention of property in connection with the commission of offences, and the protection of rights of the damaged parties in the predicate offences, and assistance to operators under their powers and duties, and the increase of powers and duties of the Anti-Money Laundering Office relating to the assessment of risks, provision of action plans with units, and notification of name list of people who are obliged to report but breached their powers and duties, to the compliance unit, and promotion of cooperation of the general public for anti-money laundering and anti-financial support to terrorism, and action on the undercover operations, availability and use of firearms in the performance of duties; moreover, the provisions relating to components and powers and duties of the Anti-Money Laundering Committee and the Transaction Committee, have been revised, and the method of selection of the Secretary-General of the Anti-Money Laundering Committee has been determined, as well as conditions when the Secretary-General has vacated the office; moreover, the provisions on the related penalties have also been revised, thus, for independent operation of the Committee and of the Secretary-General, and for effective law enforcement in accordance with the international standards; therefore, it is necessary to enact this Act.

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