

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

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

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

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

Whereas it is aware that this Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29, in conjunction with section 35, section 37, section 48 and section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

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

Section 1 This Act is called the "Anti-Money Laundering Act, B.E. 2542 (1999)".

Section 2¹ This Act shall come into force after one hundred and twenty days as from the date of its publication in the Government Gazette.

Section 3 In this Act: "predicate offence" means any offence

- (1) relating to narcotics under the law on narcotics control or the law on measures for the suppression of offenders in offences relating to narcotics;
- (2) relating to sexuality under the Penal Code only in respect of procuring, seducing or taking away for an indecent act a woman and child for sexual gratification of others, offence of taking away a child and a minor, offence under the law on measures for the prevention and suppression of women and children trading or offences under the law on prevention and

¹ Published in Government Gazette, Vol. 116, Part 29a, page 45, dated 21st April 1999.

suppression of prostitution only in respect of procuring, seducing or taking away such persons for their prostitution, or offence relating to being an owner, supervisor or manager of a prostitution business or establishment or being a controller of prostitutes in a prostitution establishment;

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

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

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

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

(7) relating to smuggling under the customs law.

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

(9)³ relating to gambling under the law on gambling, limited to offense relating to being an organizer of a gambling activity without permission and there are more than one hundred players or gamblers at one time, or the total amount of money involved exceeds ten million Baht.

“Transaction” means an activity related to an entry into a juristic act, a contract or the execution of any act with others in financial or commercial matters, or the operation in connection with asset.

“Suspicious transaction” means a transaction of a differently complicated nature from similar transactions ordinarily made, transaction lacking economic feasibility, transaction reasonably believed to have been made in order to avoid the applicability of this Act, or transaction

² Section 3 definition of “predicate offense” (8) added in accordance with provision of Royal Decree on Amendment to the Anti- Money Laundering Act of B.E. 2542 (1999) B.E. 2546 (2005)

³ Section 3 definition of “predicate offense” (9) added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

connected or possibly connected with the commission of a predicate offence, irrespective of whether such transaction is made once or more than once.

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

(1)⁴ money or asset 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 asset that was used or possessed to be used for a commission or aiding and abetting of the commission of an act constituting a predicate offence under (8) of the definition of “predicate offence”;

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

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

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

“Financial institution” means:

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

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

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

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

(5)⁵ 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

⁴ Section 3 definition of “asset connected with the commission of an offense” (1) amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

⁵ Section 3 definition of “financial institution” (5) amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

to acceptance of deposits, lending of loans, mortgage, or pawning or acquiring of money or asset by any means.;

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

“Fund”⁶ means the Anti-Money Laundering Fund

“Board” means the Anti-Money Laundering Board.

“Member” means a member of the Anti-Money Laundering Board and shall also includes the Chairman of the Anti-Money Laundering Board.

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

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

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

“Office” means the Anti-Money Laundering Office.

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

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

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

CHAPTER I

General Provisions

Section 5 Any person who:

(1) transfers, accepts a transfer of or converts the asset connected with the commission of an offence for the purpose of covering or concealing the origin of that asset or, whether before

⁶ Section 3 definition of “fund” added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

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 asset connected with the commission of an offence or the acquisition of rights therein, shall be said to commit an offence of money laundering.

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

- (1) the offender or any of the co-offenders is a Thai national or has a residence in Thailand;
- (2) the offender is an alien and commits the offence with the intent that the consequence thereof shall have occurred in the Kingdom, or the Thai Government is the injured person; or
- (3) the offender is an alien and the act so committed is an offence under the law of the State in whose jurisdiction the act occurs, provided that such person remains his or her appearance in the Kingdom without being extradited in accordance with the law on extradition.

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

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

- (1) aiding and abetting the commission of the offence or assisting the offender before or at the time of the commission of the offence,
- (2) providing or giving money or asset, a vehicle, place or any article or committing any act for the purpose of assisting the offender to escape or to evade punishment or for the purpose of obtaining any benefit from the commission of the offence.

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

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

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

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

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

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

Section 10⁷ Any official, member of the House of Representatives, senator, member of a local assembly, local administrator, Government official, official of a local government organisation, official of a state organisation 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 liable to twice as much penalty as that provided for such offence.

Any member, member of a sub-committee, member of the Transaction Committee, Secretary-General, Deputy Secretary-General or competent official under this Act who commits an

⁷ Section 10 paragraph one amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

offence in this Chapter shall be liable to three times as much penalty as that provided for such offence.⁸

Section 11 Any member, member of a sub-committee, member of the Transaction Committee, Secretary-General, Deputy Secretary-General, competent official, official or Government official who commits an offence of malfeasance in office or malfeasance in judicial office as provided in the Penal Code which is connected with the commission of the offence in this Chapter shall be liable to three times as much penalty as that 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 conspire with a person under paragraph one to commit an offense, whether as a principal, an agent provocateur or a secondary party shall receive equivalent punishment as persons in paragraph one.

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 an official under the Penal Code.

CHAPTER II

Report and Identification

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

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

In the case where there appears any fact which is relevant or probably beneficial to the confirmation or cancellation of the fact concerning the transaction already reported by the

⁸ Section 11 paragraph two added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

financial institution, that financial institution shall report such fact to the Office without delay.

Section 14 In the case where there subsequently appears a reasonable ground to suspect 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, Changwad Land Office, Branch Land Office and Amphoe Land Office shall report to the Office when it appears that an application is made for registration of a right and juristic act related to immovable asset to which a financial institution is not a party and which is of any of the following descriptions:

- (1) requiring cash payment in a larger amount than that prescribed in the Ministerial Regulation;
 - (2) involving a greater value of immovable asset than that prescribed in the Ministerial Regulation, being the assessment value on the basis of which fees for registration of the right and juristic act are levied, except in the case of a transfer by succession to a statutory heir; or
 - (3) being made in connection with a suspicious transaction.
- Section 16 Any person engaging in the business involving the operation of or the consultancy in a transaction related to the investment or mobilisation of capital shall report to the Office in the case where there is a reasonable ground to believe that such transaction is associated with the asset connected with the commission of an offence or is a suspicious transaction.

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

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

Section 18 Exemption, as the Minister thinks fit, of any transaction from being reported under section 13, section 15 and section 16 shall be as prescribed in the Ministerial Regulation.

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

Section 20 A financial institution shall cause its customers to identify themselves on every occasion of making a transaction prescribed in the Ministerial Regulation unless the customers have previously made such identification.

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

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

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

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

Section 22⁹ Unless otherwise notified in writing by the competent official, a financial institution shall retain information as follows;

(1) relating to customer identification under section 20 for a period of 5 years from the date that the account was closed or the termination of relationship with the customer.

(2) relating to financial transaction or a record of facts under Section 21 for a period of five years from the date the transaction or the recording of the facts occurred.

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

⁹ Section 22 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

CHAPTER III
Anti-Money Laundering Board

Section 24¹⁰ There shall be an Anti-Money Laundering Board, consisting of Prime Minister as Chairman, Minister of Justice and Minister of Finance as Vice Chairmen, Permanent Secretary of the Ministry of Justice, Attorney General, Commissioner General of the Royal Thai Police, Secretary General of the Narcotic Control Board, Director of the Fiscal Policy Office, Director General of the Department of Land, Director General of the Royal Thai Customs, Director General of the Department of Revenue, Director General of the Department of Treaties and Legal Affairs, Governor of the Bank of Thailand, Secretary General of the Office of Insurance Commission, Secretary General of the Securities and Exchange Commission, President of the Thai Bankers' Association, and nine qualified experts appointed by the Cabinet from those who have expertise in economics, monetary affairs, finance, law or any other related fields beneficial to the execution of this Act with the consent of the House of Representatives and the Senate respectively as a member of the Board and the Secretary General of the Office as member and secretary of the Board.

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

In the case where the Chairman or an ex officio member under paragraph one is unable to attend any particular meeting by reason of necessity, such person may entrust a holder of inferior office who possesses the knowledge and understanding of the Board's performance of duties to attend that meeting.

Section 25¹¹ The Board shall have powers and duties as follows:

- (1) to propose to the Council of Ministers measures for money laundering control;
- (2) to consider and give opinions to the Minister with regard to the issuing of Ministerial Regulations, rules and notifications for the execution of this Act;
- (3) to set rules pertaining to the returning of the asset in accordance with section 49 and

¹⁰ Section 24 paragraph one amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

¹¹ Section 25 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

section 51/1, the custody, maintenance, sale by public auction, optimum usage, and damage evaluation, and depreciation of the assets in accordance with section 57 and set rules pertaining to the Fund in accordance with Section 59/1, Section 59/4, Section 59/5 and Section 59/6;

(4) to promote public co-operation in connection with the giving of information for the purpose of money laundering control and set rules pertaining to the procedure on information or document to be used as evidence in execution of this Act;

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

(6) to perform other acts prescribed in this Act or other laws. Section 26 A qualified member appointed by the Council of Ministers shall hold office for a term of four years as from the date of appointment and shall serve for only one term.

Section 27 In addition to vacating office on the expiration of term under

Section 26, a qualified member appointed by the Council of Ministers vacates office upon:

(1) death;

(2) resignation;

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

(4) being a bankrupt;

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

(6) being imprisoned by a final judgment.

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

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

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

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

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

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

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

CHAPTER IV

Transaction Committee

Section 32¹² There shall be a Transaction Committee consisting of five committee members which the Board appoint from persons whose name designated by the Judiciary of Thailand, the Court of Justice, the Auditor General of Thailand, National Human Rights Committee, and Attorney Committee. If any of the said committee could not designate a person from the respective committee to be a transaction committee member within forty five days from the date notified by the Anti-Money Laundering Office, the Board shall designate an appropriate person to be a transaction committee member instead. A Chairman of the Committee shall be elected among the designated committee members and the Secretary General shall be a committee member and the secretary of the Committee.

The Committee members shall have expertise in economics, monetary affairs, finance, law or any other related fields beneficial to the execution of this Act and shall possess qualification

¹² Section 32 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

and shall not have disqualifying attribute as follow;

- (1) Age not over 70 years old
- (2) Be or was a Government official level 10 or equivalent or higher, or be or was official of a state enterprise or a government agency in the position of vice head of that state enterprise or that government agency or in an equivalent position or be or was a lecturer in the field and has or had the status of an assistant professor or higher.
- (3) Not a member of a political party or a committee member or an officer of a political party
- (4) Not a member of the House of Representatives, House of Senates, member of a local Administrative Council, Local Administrator or a political official or member of a committee of a state enterprise.
- (5) Not a member of a committee of a public agency, unless approved by the Board.
- (6) Not a member, a manager, a counselor or be in the equivalent capacity or having relative beneficiary in a partnership, a company or a financial institution or having occupation or profession or undertake any activity in conflict with execution of this Act.

A member of Transaction Committee appointed by the Board under paragraph one shall serve a three year term. A member of Transaction Committee whose term is ended may be reappointed, but shall not serve more than two consecutive terms, and the provision of Section 27 and 28 shall apply mutatis mutandis, except in the case of the termination from office in accordance with section 27 (3) the committee member appointed by the Board shall vacate the office upon the removal by the Board.

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

Section 34¹³ The Transaction Committee shall have the powers and duties as follows:

- (1) to examine a transaction or asset connected with the commission of an offence;
- (2) to give an order withholding the transaction under section 35 or section 36;
- (3) to carry out the acts under section 48;
- (4) to submit to the Board and the National Counter Corruption Commission a report on the result of the execution of this Act;
- (5) to supervise the independence and neutrality of the Office and the Secretary General;
- (6) to perform other acts as entrusted by the Board.

¹³ Section 34 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

Section 35¹⁴ In the case where there is a probable evidence to believe that any transaction is connected or possibly connected with the commission of an offence of money laundering, the Transaction Committee shall have the power to give a written order withholding such transaction for a fixed period of time which shall not be longer than three working days.

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

Section 36¹⁵ In the case where there is convincing evidence that any transaction is connected or possibly connected with the commission of an offence of money laundering, the Transaction Committee shall have the power to give a written order withholding such transaction for the time being for a fixed period of time which shall not be longer than ten working days.

Section 36/1¹⁶ In the execution of section 34, section 35 or section 36, the Transaction Committee or Secretary General shall make written record in the minutes of each Transaction Committee Meeting to indicate evidence and the requesting person of the order issued in the execution of the Act.

Section 37¹⁷ When the Transaction Committee or Secretary-General, as the case may be, has given an order withholding the transaction under section 35 or section 36, the Transaction committee shall report it to the Board and the National Counter Corruption Commission.

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

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

¹⁴ Section 35 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

¹⁵ Section 36 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

¹⁶ Section 36/1 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

¹⁷ Section 37 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

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

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

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

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

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

Section 38/1¹⁸ Under the Penal Code, in execution of this Act, Secretary General, Deputy Secretary General, and competent officials assigned in writing by Secretary General shall have power to arrest a person who committed a predicate offense or money laundering offense and record the person's statement as preliminary evidence and transfer the person to a police investigator without delay but shall not exceed twenty-four hours.

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

¹⁸ Section 38/1 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

Section 39/1¹⁹ For the purpose of performing duties under this Act, the Transaction Committee and Secretary General shall prepare a summary report of the execution of this chapter to the National Counter Corruption Commission every four months.

The report under paragraph one shall at least state the information as follows;

- (1) Persons whose transactions or assets were examined or whose transactions were restrained or whose assets were seized or frozen.
- (2) Evidence that was used against the person under (1)
- (3) Requesting person, agent or a person who direct such act
- (4) Results of the act.

Details under this Section shall be treated as government secret.

Section 39/2²⁰ The National Counter Corruption Commission may appoint an expert to examine such report to establish the appropriateness of the action under this Act, and report to the National Counter Corruption Commission.

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

In the case that the examination under paragraph one found out that there is an act that is against this Act and the National Counter Corruption Commission agreed with the examination finding, the report and the comment of the National Counter Corruption Commission shall be sent to the Transaction Committee for further action.

CHAPTER V

Anti-Money Laundering Office

Section 40²¹ There shall be an Anti-Money Laundering Office, called in short “AML Office”, as an office not under the Prime Minister Office, Ministry, or Sub-Ministry, to function independently and neutrally, which shall have the power to;

- (1) to carry out acts in the implementation of resolutions of the Board and the Transaction Committee and perform other secretarial tasks;

¹⁹ Section 39/1 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

²⁰ Section 39/2 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

²¹ Section 40 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

- (2) to receive transaction reports submitted under Chapter 2 and acknowledge receipt thereof;
- (3) to gather, monitor, examine, study and analyse reports and information in connection with the making of transactions as well as receiving reports and other information related to financial transaction from other source;
- (4) to collect, trace, monitor, study, and to analyze reports, or any other information related to financial transactions;
- (5) Collect evidence in order to prosecute any violator under the provisions of this Act;
- (6) to conduct projects with regard to the dissemination of knowledge, the giving of education and the training in the fields involving the execution of this Act, or to provide assistance or support to both Government and private sectors in organising such projects;
- (7) to perform other activities under this Act or under other laws.

Section 41²² There shall be Secretary-General who, with the duty to independently exercise general supervision of official affairs of the Office, shall be directly answerable to the Minister of Justice and shall be the superior of Government officials of the Office. There shall also be Deputy Secretary-Generals to assist in giving directions and performing official duties.

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

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

- (1) having knowledge and expertise in economics, finance, public finance or law;
- (2) serving in the position of Deputy Secretary-General or being an ordinary Government official of the level not lower than Director-General or its equivalent;
- (3) not being a director in a State enterprise or other State undertaking;
- (4) not being a director, manager, consultant or holding any other position with a similar nature of work, or having an interest in a partnership, company or financial institution or engaging in other occupation or profession or doing any act inconsistent with the performance of duties under this Act;

²² Section 41 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

Section 44²³ The Secretary-General shall hold office for a term of four years as from the date of appointment by the King and shall serve for only one term. The Secretary-General who has vacated office may not be re-appointed, but that Secretary General shall be appointed as a counselor within the Office.

The Secretary General shall be entitled to fringe benefits to ensure independence and neutrality at the rate that, when accumulated with salary and stipend, equivalent to salary and stipend of a Permanent Secretary, until the retirement.

Section 45²⁴ In addition to vacating office at the expiration of term under

Section 44, the Secretary-General vacates office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under any prohibition under section 43;
- (4) being removed by the Cabinet under the recommendation of Minister or the propose of Minister of Justice, under the recommendation of Transaction Committee because of the serious negligence in performing of his duty or lessen of capability or act of corruption evident to the public, nonindependence or unneutrality. The resolution shall state clearly of reasons to remove, and with the approval of the House of Representatives and the Senate respectively.

Section 45/1²⁵ The former Secretary General shall not be appointed as an executive in any state enterprise or any public agency except as a counselor.

The provision in paragraph one shall not be applied to a Secretary General who resigned from government service status.

Section 46²⁶ In the case where there is a probable evidence to believe that any account in a financial institution, telecommunication tool or equipment or a computer was used or may be used to benefit the money laundering offense, a competent official entrusted in writing by the

²³ Section 44 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

²⁴ Section 45 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

²⁵ Section 45/1 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

²⁶ Section 46 paragraph one amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

Secretary-General shall file an ex parte application with the Civil Court for an order permitting the competent official to have access to the account, communicated data or computer data, for the acquisition thereof.

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

Upon the Court's order granting permission under paragraph one or paragraph two, the person concerned with such account, communicated data or computer data to which the order relates shall give co-operation for the implementation of this section.

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

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

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

CHAPTER VI

Assets Management

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

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

The examination of the report and information on transaction-making under paragraph one shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation. The person having made the transaction in respect of which the asset has been seized or attached or the person interested in the asset may produce evidence that the money or asset in such transaction is not the asset connected with the commission of the offence in order that the seizure or attachment order may be revoked, in accordance with the rules and procedure prescribed in the Ministerial Regulations.

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

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

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

The Secretary-General shall take action under paragraph two without delay and refer additional matters to the public prosecutor for reconsideration. If the public prosecutor is still of the opinion that there is no sufficient prima facie case for filing an application with the Court for its order that the whole or part of that asset be vested in the State, the public prosecutor shall notify the Secretary-General thereof without delay for referring the matter to the Board for its determination. The Board shall consider and determine the matter within thirty days as from its receipt from the Secretary-General, and upon the Board's determination, the public prosecutor and Secretary-General shall act in compliance with such

determination. If the Board has not made the determination within such time-limit, the opinion of the public prosecutor shall be complied with.

When the Board has made the determination disallowing the filing of the application or has not made the determination within the time specified and action has already been taken in compliance with the public prosecutor's opinion under paragraph three, the matter shall become final and no action shall be taken against such person in respect of the same asset unless there is obtained fresh and material evidence likely to prompt the Court to give an order that the asset be vested in the State. In such case, where there is no claimant to the restrained asset within two year from the date the Transaction Committee decided not to file a petition or fails to issue the decision within the prescribed time limit, the Office shall transfer the asset to the Fund and in the case where a claimant filed a petition under other law which has longer than two years of limitation, the Office shall return the asset to the claimant. If the asset is in the condition that can not be returned, instead, the money shall be paid from the Fund. If there is no claimant within twenty years, the asset shall fall into the Fund. Rules and guidelines in custody and maintenance of asset or money that is yet to be claimed shall be in accordance with the rules prescribed by the Board.²⁷

Upon receipt of the application filed by the public prosecutor, the Court shall order the notice thereof to be posted at that Court and the same shall be published for at least two consecutive days in a newspaper widely distributed in the locality in order that the person who may claim ownership or interest in the asset may file an application before the Court gives an order. The Court shall also order the submission of a copy of the notice to the Secretary-General for posting it at the Office and at the Police Station where the asset is located. If there is evidence that a particular person may claim ownership or interest in the asset, the Secretary-General shall notify it to that person for the exercise of rights therein. The notice shall be given by registered post requiring acknowledgement of its receipt and given to such person's last recorded address.

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

²⁷ Section 49 paragraph four amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

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

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

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

Section 51²⁸ When the Court has conducted an inquiry into an application filed by the public prosecutor under section 49, if the Court is satisfied that the asset to which the application relates is the asset connected with the commission of the offence and that the application of the person claiming to be the owner or transferee thereof under section 50 paragraph one is not tenable, the Court shall give an order that the asset be vested in the State.

Asset under paragraph one, if it is money, the Office shall forward one half to the Fund and another half to Ministry of Finance. If it is other type of asset , rules of cabinet shall be followed.

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

Section 51/1²⁹ If the court sees that asset in the petition is not related to commission of an offense, the court shall return the said asset. In such case, where there is no claimant to the

²⁸ Section 51 amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

²⁹ Section 51/1 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

restrained asset within two year from the date the Court made the return order, the asset shall fall into the Fund.”

In the case where a claimant filed a petition under other law which has longer than two years of limitation, the Office shall return the asset to the claimant. If the asset is in the condition that can not be returned, instead, the money shall be paid from the Fund. If there is no claimant within twenty years, the asset shall fall into the Fund. Rules and guidelines in custody and maintenance of asset or money that is yet to be claimed shall be in accordance with the rules prescribed by the Board”

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

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

Section 53 In the case where the Court has ordered that the asset be vested in the State under section 51, if it subsequently appears from an application by the owner, transferee or beneficiary thereof and from the Court's inquiry that it is the case under the provisions of section 50, the Court shall order a return of such asset or determine conditions for the protection of the rights of the beneficiary. If the return of the asset or the protection of the right thereto is not possible, payment of its price or compensation therefore shall be made, as the case may be.

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

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

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

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

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

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

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

Section 57³⁰ The retention and management of the asset seized or attached by an order of the Transaction Committee or the Secretary-General or the court, under this chapter, as the case may be, shall be in accordance with the rules prescribed by the Board.

³⁰ Section 57 paragraph one amended in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

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

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

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

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

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

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

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

CHAPTER VI/I
Anti-Money Laundering Fund³¹

Section 59/1³² There shall be an Anti-Money Laundering Fund within the Office for the purpose of anti-money laundering as follows;

- (1) Facilitate the execution of investigation, prosecution, search, seizure or restrain, asset management, information sharing, witness protection, or other matters related to anti-money laundering, including assisting other related agencies and the public in the said actions;
- (2) Enhance cooperation with other related agencies or persons and the public in awareness raising and information sharing, meetings or trainings, domestic and international cooperation, and operation to support anti- money laundering policy.
- (3) Carry out other acts as necessary to achieve the objectives of this Act. Under Section 59/6 the Board shall have power to set rules in using money in the Fund to achieve objectives in paragraph one.

Section 59/2³³ The Fund in Section 59/1 consists of assets as follows;

- (1) Asset forwarded to the Fund under Section 51
- (2) Asset that was not claimed under Section 49 and Section 51/1
- (3) Asset that was given
- (4) Asset received from Thai or foreign government agencies
- (5) Interest derived from asset under (1) (2) (3) and (4)

Section 59/3³⁴ The Fund under section 59/2 belongs to the AMLO and not having to be transferred to the Kingdom as income.

Section 59/4³⁵ Receiving, spending, maintenance of the Fund and asset shall be in accordance with rules set by the Board and endorsed by the Ministry of Finance.

³¹ Chapter VI/I Added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

³² Section 59/1 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

³³ Section 59/2 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

³⁴ Section 59/3 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

³⁵ Section 59/4 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

Section 59/5³⁶ The power in management and benefiting from the asset and other matters related to the Fund's operation shall be in accordance with rules set by the Board and endorsed by the Ministry of Finance.

Section 59/6³⁷ Expenditure or other remuneration necessarily paid to other agencies, competent officials, public officials or other officials that assist or aid the efficiency and effectiveness of the execution under this Act shall be spent from the Fund in accordance with rules set by the Board and endorsed by the Ministry of Finance.

Section 59/7³⁸ Within six months from the end of each fiscal year, the Secretary General shall present an account balance sheet and report on any spending from the Fund of the previous year, which were examined and endorsed by the Office of the Auditor General

CHAPTER VII

Penalties

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

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

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

Section 61/1³⁹ Prime Minister, a Minister or a political character who tells or orders the Transaction Committee, Secretary General, Deputy Secretary General or a competent official

³⁶ Section 59/5 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

³⁷ Section 59/6 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

³⁸ Section 59/7 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

³⁹ Section 61/1 added in accordance with the Anti-Money Laundering Act (No.2) B.E. 2551 (2008)

to examine transaction or asset or to restrain transaction, seize or restrain or act under this Act without reasonable evidence for the purpose of persecution or cause damage to any one or for political reason or doing so mala fides shall receive three to thirty years imprisonment or a fine from sixty-thousand to six hundred thousand baths or both.

Transaction Committee member, Secretary General, Deputy Secretary General or competent official who follow the order in paragraph one unlawfully under this Act shall receive three to thirty years imprisonment or a fine from sixty-thousand to six hundred thousand baths or both.

Section 62 Any person who violates or does not comply with section 13, section 14, section 16, section 20, section 21, section 22, section 35 or section 36 shall be liable to a fine not exceeding three hundred thousand Baht.

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

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

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

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

Section 66 Any person who, having or probably having knowledge of an official secret in connection with the execution of this Act, acts in any manner that enables other persons to have knowledge or probable knowledge of such secret shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand Baht or to both, except in the case of doing such act in the performance of official duties or in accordance with the law.

Countersigned by:

Chuan Leekpai

Prime Minister

Remarks:- At present, criminals committed an offense under certain laws has been dealing with the money and the asset in many ways, which is money laundering, to use money or asset for other crimes, which is difficult to fight using those laws, and the existing law could not sufficiently suppress money laundering or deal with those money or asset. To break the criminal cycle, there shall be measures to sufficiently suppress money laundering, this law must be issued.

Duangjai/amended

8 November 44 (01)

A+B (C)

Patchara Suksumek

Orada Chaowarodom

Hataichanok Supyai

27/05/46(01)

The Emergency Decree on amendment of the Anti-Money Laundering Act B.E. 2542 (1999) B.E. 2546 (2003)⁴⁰

Remarks:- There is an amendment of the Penal Code prescribing offenses relating to terrorism and the financing of terrorism is the factor aiding the more violent terrorism, which affects national security, which the United Nations Security Council urges every countries and jurisdictions to cooperate in fighting against terrorist act, as well as supporting in asset or other means that are intended for use in the terrorist act, to end the terrorist problem.

⁴⁰ The Royal Gazette Volume 120/Part 76 A/Page 4/11 August 2546 (2003)

Terrorism shall be prescribed as a predicate offense under the Anti-Money Laundering Act B.E. 2542 (1999) to coordinate these two laws in action which will enable effectiveness of executing this provision in the Penal Code. There is emergency and necessity which could not be avoided in maintaining the security of the Kingdom and the public, this Emergency Decree must be issued.

Pongpilai/Yongyuth

6 October 2003

Orada/examined

3 March 2004

Pathomporn/Watinee/amended

16 August 2006

The Anti-Money Laundering Act (No.2) B.E. 2551 (2008)⁴¹

Section 28 The Secretary General under the Anti-Money Laundering Act B.E. 2542 (1999), which has been in the position before this act come into force, shall become the Secretary General under this act and perform the duties until the new secretary general is appointed.

Remarks:- Some of the Anti-Money Laundering Act B.E. 2542 (1999) (AMLA)'s provisions are not efficiently and appropriately enforced for eliminating or reducing criminal cycle and as the law targets crimes prescribed in eight predicate offenses, resulting in reducing or eliminating of crimes is not as the law's will. This is because criminals in other criminal offenses are still able to use money or asset derived from such crimes to facilitate the commission of these eight predicate offenses. Furthermore, some of procedures in enforcing the AMLA are not to be used at the desired speed. In order to break the criminal cycles effectively as the law's objectives, while the procedure in enforcement of the Anti-Money Laundering Act is smooth swift efficient and effective, it is necessary to prescribe other criminal offenses that obstruct peace and moral of the society, security and economic stability of the State as predicate offenses, this law must be issued.

⁴¹ The Royal Gazette Volume 125/Part 40 A/Page 14/1 March 2551 (2008)