

ANTI-MONEY LAUNDERING ACT OF 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 is graciously pleased to proclaim that:

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

This Act contains some provisions restricting the rights and liberties of an individual set forth in of section 29 together with section 35, section 37, section 48 and section 50 of the Constitution of the Kingdom of Thailand, which was endorsed in the enactment of this law.

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Legislative Assembly as follows;

Section 1: This Act shall be cited the “Anti-Money Laundering Act of B.E. 2542.”

Section 2: This Act shall come into force on and after one hundred and twenty days of its publication in the Government Gazette. ♦

Section 3: In this Act,
“Predicate offense” means

- (1) Offenses relating to narcotics under the Narcotics Control Act or the Act on Measures for the Suppression of Offenders in an Offense relating to Narcotics.
- (2) Offenses relating to sexuality under the Penal Code, in particular to sexual offenses pertaining to procuring, seducing, or taking or enticing for indecent act on women or children in order to gratify the sexual

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desire of another person, and offenses relating to the trafficking in children or minors, or offenses under the Measures to Prevent and Suppress Trading of Women and Children Act, or offenses under the Prevention and Suppression of Prostitution Act, in particular related to offenses of procuring, seducing, enticing or kidnapping a person for the purpose of prostitution trade, or offenses relating to being an owner of a prostitution business, or an operator, or a manager of place of prostitution business, or supervising persons who commit prostitution for trade in a prostitution business,

- (3) Offenses relating to cheating and fraud to the public under the Penal Code or offenses pursuant to the Fraudulent Loans and Swindles Act,
- (4) Offenses relating to embezzlement or cheating and fraud involving assets, or acts of dishonesty or deception as described in the law governing commercial banks, or Act on the Undertaking of Finance Business, Securities Business and Credit Foncier Business, or Act governing Securities and Stock Exchange, which is committed by director, a manager or any person who is in charge of or having any vested interest relating to the management of a financial institution,
- (5) Offenses relating to malfeasance in office, or malfeasance in judicial office under the Penal Code, offenses pertaining to the law governing public officials of a state enterprise or government office, or offenses pertaining to malfeasance or dishonesty in carrying out official duties under other related laws,
- (6) Offenses relating to the commission of extortion or blackmail by a member of an unlawful secret society or organized criminal association as defined in the Penal Code,
- (7) Offenses relating to customs evasion under the Customs Act,

“Transaction” means any activity related to juristic act, contract, or any commitment with other persons dealing with finance, business or involving assets;

“Suspicious transaction” means a transaction that is more complicated than the norm by which that transaction is usually conducted, a transaction that lacks economic rationale; a transaction where there is probable cause to believe that it was conducted for the purpose of avoiding the compliance of this Act; or a transaction related to or possibly related to a commission of any predicate offense, whether the commission of such transaction is conducted once or more;

“Asset involved in an offense” means:

- (1) money or property derived from a commission of a predicate offense, or from aiding or abetting in the commission of a predicate offense;
- (2) money or property derived from the sale, distribution, or transfer in any manner of the money or asset in (1); or
- (3) fruits of the money and property in (1) or (2)

Notwithstanding how many times the asset in (1), (2), or (3) has been sold, distributed, transferred, or transformed, or found in whosoever possession, or being transferred to whomever, or bearing in registration or record under whosoever ownership.

“Financial institutions” means

- (1) The Bank of Thailand under the Bank of Thailand Act, a commercial bank under the Commercial Bank Act, or a bank established under the provisions of a specific law.
- (2) Finance business and credit foncier companies under the Act on the Undertaking of Finance Business, Securities Business and Credit Foncier Business, and securities companies under the Securities and Exchange Act,
- (3) The Industrial Funds Corporation of Thailand under the Industrial Funds Corporation of Thailand Act, and the small and medium enterprise funds corporation under the Small and Medium Enterprise Funds Corporation Act,
- (4) Life insurance companies under the Life Insurance Act, and casualty insurance companies under the Casualties Insurance Act,
- (5) Saving cooperative companies under the Savings Cooperatives Development Act, or
- (6) Any juristic person undertaking non-bank business related to finance as provided by the Ministerial Regulations.

“Board” means the Anti-Money Laundering Board.

“Board Member” means a member of the Anti-Money Laundering Board and includes its chairman.

“Competent official” means the person appointed by the Minister to act in accordance with this Act.

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

“Deputy secretary-general” means the Deputy secretary-general of the Anti-Money Laundering Board.

“Office” means the Anti-Money Laundering Office.

“Minister” means the Minister who is in charge of the enforcement of this Act.

Section 4: The Prime Minister shall be in charge of the enforcement of this Act and has the power to appoint competent officials, and to issue Ministerial Regulations, Rules, and Notifications in accordance with this Act.

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

Chapter 1

General Provision

Section 5: Whoever

(1) transfers, receives the transfer, or changes the form of an asset involved in the commission of an offense, for the purpose of concealing or disguising the origin or source of that asset, or for the purpose of assisting another person either before, during, or after the commission of an offense to enable the offender to avoid the penalty or receive a lesser penalty for the predicate offense; or

(2) acts by any manner which is designed to conceal or disguise the true nature, location, sale, transfer, or rights of ownership, of an asset involved in the commission of an offense shall be deemed to have committed a money laundering offense.

Section 6: Whoever commits a money laundering offense, even if the offense is committed outside the Kingdom, shall receive the penalty in the Kingdom, as provided in this Act, if:

(1) either the offender or co-offender is a Thai national or resides the Kingdom;

(2) the offender is an alien and has taken action to commit an offense in the Kingdom or is intended to have the consequence resulting therefrom in the Kingdom, or the Royal Thai Government is an injured party; or

(3) the offender is an alien whose action is considered an offense in the State where the offense is committed under its jurisdiction, and if that individual appears in the Kingdom and is not extradited under the Extradition Act, Section 10 of the Penal Code shall apply mutatis mutandis.

Section 7: Pursuant to the offense of money laundering, whoever undertakes one of the following acts shall receive the same penalty as a principal offender of such offense:

(1) aiding in the commission of an offense or abetting the offender, either before or during the commission of the offense; or

(2) procuring or supporting with money or assets, means of transportation, shelter, or any other object, or undertaking any other acts in order to assist the offender to escape or to avoid the punishment from such offense, or to gain a benefit from the commission of an offense.

The Court may not impose a lesser punishment than that provided by the law for such offense where the person who procures or provides money or assets, shelter, or hiding place in order to assist his or her father, mother, son or daughter, wife or husband to avoid apprehension.

Section 8: Whoever attempts to commit an offense of money laundering shall receive the same penalty as provided by the law for a successfully committed offense.

Section 9: Two or more persons who conspire to commit the offense of money laundering shall each receive half of the punishment provided by the law for such offense.

If a money laundering offense is committed as a result of a conspiracy under the first paragraph, the conspirator shall receive the punishment provided by the law for such offense.

If a conspirator in the commission of an offense withdraws from the conspiracy or intervenes to prevent the commission of the offense and such committed offense does not achieve its end, the conspirator who withdrew from the conspiracy or intervened to prevent it shall receive the punishment provided in the first paragraph.

If an offender, described in first paragraph, admits to the conspiracy to a competent official prior to the commission of the offense that he or she conspired to commit, the Court may or may not impose a penalty less severe than that provided by the law for such offense.

Section 10: Whoever, in the capacity as a public official, member of the House of Representatives, member of the House of Senators, member of a Local Administration Council, Local Administrator, Government Official, Employee of a local administration organization, or employee of organization or a public agency, member of a board, manager, or executive official, or employee of a state enterprise, or member of a board, manager, or any individual who is responsible in the management of financial institution, or member of any organizations under the Constitution commits an offense under this chapter shall receive two times the punishment provided by law for such offense.

Any Member of the Board, or Member of Sub-Committee, or Member of the Transaction Committee, or Secretary-general, or Deputy Secretary-general, or competent official empowered to act in accordance with this Act, who commits an offense under this chapter shall receive three times the punishment provided by law for such offense.

Section 11: Any Member of the Board, or Member of Sub-Committee Board, or Member of the Transaction Committee, or Secretary-general, or Deputy Secretary-general, or competent official, or public official empowered to act in accordance with this Act, who commits any malfeasance in office, or malfeasance in judicial office as provided in the Penal Code in connection with the commission of an offense provided in this chapter shall receive three times the penalty provided by law for such offense.

Section 12: For purposes of this Act, Member of the Board, Member of a Sub-Committee, Transaction Committee, Secretary-general, Deputy Secretary-general and competent official are also competent officials under the Penal Code.

Chapter 2 Reporting and Identification

Section 13: Whenever a transaction takes place at a financial institution, the financial institution has a responsibility to file a report of that transaction with the Office, if any transaction appears to be one of the following:

- (1) A transaction involving cash in an amount equal to or exceeding the significant amount set forth in the Ministerial Regulations;
- (2) A transaction involving an asset equal to or exceeding the significant value set forth in the Ministerial Regulation; or
- (3) Any suspicious transaction, whether or not it is in accordance with (1) or (2).

A financial institution has a continuing obligation following the filing of a report to provide to the Office without delay any additional facts or significant information about which it becomes aware that is relevant to the reported transaction or to confirm or deny the original information about the reported transaction.

Section 14: Where a financial institution subsequently obtains probable cause to believe that any transaction previously carried out which was not reported in accordance with section 13 appears to have been a transaction that financial institution must report in accordance with section 13, then the financial institution shall report that transaction to the Office without delay.

Section 15: The Land Office of Bangkok Metropolitan, the Provincial Land Office, the Branch of Land Office, and the District Land Office, have a duty to report to the Office whenever a request for registration of rights and juristic act involving an immovable asset when a financial institution is not involved as any party to such request, and the transaction appears to involve any of the following:

(1) When payment is made in cash exceeding the significant amount as set forth in the Ministerial Regulations;

(2) When an immovable asset has an estimated value on the registration of rights and juristic act in an amount exceeding the significant amount set forth in the Ministerial Regulations, except in the case of transfer by succession to a statutory heir; or

(3) When it is a suspicious transaction.

Section 16: A person who is engaged in a business of operating, or advising to engage in investment transactions, or the movement of capital has a duty to report to the Office when there is probable cause to believe that such transaction may relate to asset involved in a commission of offense or is a suspicious transaction.

A person identified in the first paragraph who is subject to the reporting rules under this section has a continuing obligation following the filing of a report to provide to the Office without delay any additional facts or significant information about which it becomes aware that is relevant to the reported transaction or to confirm or deny the original information about the reported transaction.

Section 17: The reporting under the provisions of section 13, 14, 15 and 16 shall be made in accordance with the format, interval, guidelines and methods prescribed in the Ministerial Regulations.

Section 18: Any transaction that the Minister deems fit to exempt from the reporting requirement under the provision of section 13, 15 and 16 shall be in conformity with the Ministerial Regulations.

Section 19: A report submitted in accordance with section 13, 14, 15 and 16 in good faith by any individual capacity if it appears to cause damage to any person, that individual shall not liable for any damage.

Section 20: A financial institution shall require all customers to show identification prior to conducting any transaction on behalf of a customer, as provided by Ministerial Regulations, unless that customer has previously identified.

The customer identification under the first paragraph shall be in accordance with the procedures as the Minister may prescribe.

Section 21: A financial institution that conducts a transaction described in section 13 shall request that the customer provide all facts in connection with such transaction.

If a customer refuses to fill out a form to provide all facts in accordance with the first paragraph, the financial institution shall record such refusal and report to the Office immediately.

The fact and information requirement under the first and second paragraphs shall be the form, content, guidelines, and methods prescribed in the Ministerial Regulations.

Section 22: Financial institution shall maintain all customer identification records under section 20, and a record of facts and information under section 21 for a period of five years from the date that the account was closed or the termination of relation with the customer, or from the date that such transaction occurred, whichever is longer, unless the competent official notifies that financial institution in writing to do otherwise.

Section 23: The provisions in this chapter shall not apply to the Bank of Thailand governed by the Bank of Thailand Act.

Chapter 3 **Anti-Money-Laundering Board**

Section 24: There shall be an Anti-Money Laundering Board consisting of the Prime Minister as Chairman, Minister of Finance as Vice-Chairman, the Permanent Secretary of the Ministry of Justice, the Attorney-General, the Commissioner-General of the Royal Thai Police, the Secretary-general of the Office of Narcotics Control Board, the Director-General of the Fiscal Policy Office, the Director-General of the Department of Insurance, the Director-General of the Department of Lands, the Director-General of the Customs Department, the Director-General of the Revenue Department, the Director-General of Department of the Treaties and Legal Affairs, the Governor of the Bank of Thailand, the President of the Thai Banking Association; the Secretary-general of the Securities Exchange Commission 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 Representative and the Senate respectively as a member of the Board and the Secretary-general of the Office as Secretary of the Board.

The Board shall appoint no more than two government officials in the Office as the Assistant Secretary of the Board.

In case where the Chairman or Member of the Board in paragraph one can not attend the board meeting. one shall delegate a deputy who is knowledgeable relating to duties of the Board to attend that particular meeting.

Section 25: The Board shall have the duty to:

- (1) propose to the Cabinet on measures to combat money laundering;
 - (2) recommend to the Minister regarding Ministerial Regulations, Rules and Notifications to enforce this Act;
 - (3) set rules pertaining to the custody, maintenance, sale by public auction, optimum usage, and damage evaluation, and depreciation of the assets in accordance with section 57;
 - (4) promote cooperation from the public in providing information to combat money laundering;
 - (5) monitor and evaluate the effectiveness of the enforcement of this Act;
- and
- (6) perform other duties as provided in this Act or in other laws.

Section 26: The qualified experts appointed by the Cabinet shall serve a term of four years from the date of appointment, and shall be eligible to serve only one term.

Section 27: Apart from the term limit set forth in section 26. The appointment of a qualified expert by the Cabinet shall terminate from office upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Cabinet by the consent of the House of Representative and the Senate respectively;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent person;
- (6) being imprisoned by a final judgement to a term of imprisonment.

If a qualified expert is appointed during the term, whether as an addition or a replacement, that qualified expert shall serve the remainder of that term.

Section 28: If a qualified expert has fully served the term and no new qualified expert been appointed, such qualified expert shall remain in office until such time as a new qualified expert has been appointed.

Section 29: The meeting of the Board shall require of no less than one half of member of the Board in the presence to constitute a quorum.

The Chairman of the Board shall chair the meeting. If the Chairman is unable to attend the meeting or cannot execute the duty, then the Vice-Chairman

shall chair the meeting. If the Vice-Chairman is unable to attend the meeting or cannot execute the duty, the members of the Board who are in the presence shall elect one of the members of the Board to chair the meeting.

A resolution of the meeting shall pass by a majority of the votes cast. Each member of the Board shall have one vote. In the event of a tie, the Chairman shall cast an additional vote to be the deciding vote.

Except, however, a decision by the Arbitrary Sub-Committee under resolution to pass under paragraph three of section 49 shall require a majority of two third of the votes cast of participating members of the Sub-Committee.

Section 30: The Board may appoint a Sub-Committee to study and submit recommendations on any particular subject, or to undertake any action on behalf of the Board. Section 29 shall apply mutatis mutandis to any meeting of the Sub-Committee.

Section 31: Members of the Board and Members of Sub-Committee may receive remuneration as determined by the Cabinet.

Chapter 4 **Transaction Committee**

Section 32: There shall be a Transaction Committee consisting of the Secretary-general as the Chairman of the Committee and four other qualified experts whom the Board appointed as members.

Qualification or disqualification of the Transaction Committee shall be as provided by the Minister's Announcement.

A member of Transaction Committee appointed by the Board shall serve a two year term. A member of Transaction Committee whose term is ended may be reappointed and the provision of section 27 and 28 shall apply mutatis mutandis, except that termination from office in accordance with section 27 (3) shall not apply.

Section 33: The meetings of the Transaction Committee shall be in accordance with section 29 mutatis mutandis.

Section 34: The Transaction Committee has the following duties:

- (1) to audit transactions or assets involved in the commission of an Offense;
- (2) to restrain a transaction under section 35 or 36;
- (3) to restrain or seize in accordance with section 48;
- (4) to report to the Board on its work performed under this Act; and
- (5) to undertake other functions designated by the Board.

Section 35: In case where there is probable cause that any transaction is involved or may be involved in the commission of a money laundering offense, the Transaction Committee shall have the power to issue a written order to restrain such transaction, within the time prescribed but not exceeding three business days.

In the case where it is necessary or in an emergency, the Secretary-general shall have the power to issue an order to restrain a transaction in accordance with the provision under the first paragraph, and then report to the Transaction Committee.

Section 36: In the case where there is evidence to believe that any transaction is involved or may be involved in the commission of a money laundering offense, the Transaction Committee shall have the power to issue a written order to restrain that transaction temporarily within the time prescribed but not exceeding ten business days.

Section 37: When the Transaction Committee or the Secretary-general, whichever it may be, issues a restraining order in accordance with section 35 or 36, then the Transaction Committee shall file a report to the Board.

Section 38: In order to undertake a duty in accordance with this Act, the Transaction Committee, the Secretary-general and competent official designated by the Secretary-general in writing shall have the power to do the following:

(1) inquire in writing or compel a financial institution, government agency, organization, or public office or state enterprise, whichever is the case, to send a relevant official to testify, to submit a written explanation, or to submit an account, document or any other evidence for examination or consideration;

(2) issue a written inquiry or summon anyone to appear to testify, to submit an explanation note, or account, document or any evidence for examination or consideration;

(3) have access into a residence, place, or any transporting conveyance in which there is probable cause to suspect that any asset involved in the commission of an offense, or evidence involved in money laundering offense is hidden or kept, in order to search or for the purpose of tracing, monitoring, seizing or attaching any asset or any evidence. Such access is authorized when it is too late to obtain a search warrant and the asset or evidence may be moved, concealed, destroyed, or transformed from its origin nature of appearance.

In the performance of duty under (3), the competent official designated under paragraph (1) shall produce his or her identification card and assignment document to individual concerned.

The identification card according to paragraph (2) shall be in the form prescribed by the Minister, which is published in the Government Gazette.

The Secretary-general shall be responsible for the custody and use of all information derived from testimony, written explanation, account, document, or any other evidence which has the characteristic of being specific information of an individual, financial institution, government agency, government organization or state enterprise.

Section 39: Members of the Transaction Committee may receive remuneration as prescribed by the Cabinet.

Chapter 5

The Office of Anti-Money Laundering

Section 40: There shall be an Office of Anti-Money Laundering in the Office of the Prime Minister which shall have the power to:

- (1) act in accordance with the resolutions of the Board and the Transaction Committee, and to carry out other administrative functions;
- (2) receive transaction reports which delivered in accordance with the requirements in chapter two, and to issue an acknowledgement of such report;
- (3) collect, trace, monitor, study, and to analyze reports or any other information related to financial transactions;
- (4) collect evidence in order to prosecute any violator under the provisions of this Act;
- (5) launch an education program in order to disseminate information, educate and provide training pertaining to the undertaking of this Act, or assist or support both public and private sectors to launch such programs; and
- (6) carry out other functions in accordance with the provisions of this Act or other laws.

Section 41: There shall be a Secretary-general who has the duty and responsibility to report directly to the Prime Minister, to oversee the performance of the Office in general, and to supervise the public official of the Office. There shall be Deputy secretary-general to assist the overseeing and supervising of the performance of the Office.

Section 42: The Secretary-general shall be a civil servant who is appointed by His Majesty the King by and with the advice and consent of the Cabinet and the House of Representative and the Senate respectively.

Section 43: The Secretary-general shall have the qualifications as follows:

- (1) knowledge and expertise in the field of economics, finance, fiscal policy or law;
- (2) be a Deputy secretary-general or a civil servant at a position classification level not less than or equivalent to a Director-General;

(3) not be a member of any Board of any state enterprise or any other government agency; and

(4) not be a member of the board, or manager, or consultant, or hold any similar position or have any vested interest in any limited partnership, company, financial institution, or work in any profession, vocation, or any other establishment which is in contradiction to this Act.

Section 44: The Secretary-general shall hold office for a term of four years from the date of the order of His Majesty the King.

The Secretary-general shall not be reappointed upon completion of the term served.

Section 45: Notwithstanding serving out the term as provided in section 44, the Secretary-general shall be terminated from the position in the case of:

- (1) death;
- (2) resignation;
- (3) disqualification in accordance with section 43, or
- (4) by the order of His Majesty the King, by and with the advice of the cabinet and the House of Representative and the Senate respectively.

Section 46: Where there is probable cause to believe that a customer's account at a financial institution, equipment or communication device, or any computer has been used or may be used for the purpose of the commission of a money laundering offense, the competent official, designated in writing by the Secretary-general, shall submit a petition to the Civil Court to issue a warrant to have access to obtain information from the account, communication data, or computer files.

In accordance with paragraph one, the Court may authorize the competent official who submits such petition to use any appropriate instrument or access device. The warrant in each endorsement shall not exceed ninety days.

Once the Court has issued a warrant in accordance with paragraph one or two, individual concerned with the account, the communication data or the computer file shall cooperate to comply with the provisions of this section.

Section 47: The Office of Anti-Money Laundering shall submit an annual performance report to the Cabinet. The annual performance report shall contain essential details including but not limited to:

- (1) a report on the management of asset and all proceedings in accordance with this Act,
- (2) problems or obstacles encountered in carrying out the responsibilities of the Office; and
- (3) a report on fact or observations made in carrying out the responsibilities of the Office, including opinions and recommendations.

The Cabinet shall submit the annual performance report described in paragraph one together with the Cabinet's observations to the House of Representative and the Senate.

Chapter 6 **The Asset Management**

Section 48: In examining reports and data on financial transactions, if there is probable cause to believe that there may be a transfer, distribution, placement, layering, or concealment of any asset related to the commission of an offense, the Transaction Committee shall have a power to restrain or seize that asset temporarily for a period not exceeding ninety days.

In case where it is necessary or in an emergency the Secretary-general may issue an order to restrain or seize such asset in accordance with paragraph one and then report to the Transaction Committee.

The examination of reports and transaction data in accordance with paragraph one shall be as prescribed in the ministerial regulations.

Any individual who conducts any transaction or an individual who has a vested interest in the asset being seized or restrained shall produce evidence to prove that the money and asset in the transaction are not related to the commission of an offense, so that the restraint or seizure order can be withdrawn. The proceeding and guidelines shall be administered in accordance with the Ministerial Regulations.

When the Transaction Committee or the Secretary-general, whoever it may be, orders the restraint or seizure of an asset, or withdraws such an order, then the Transaction Committee shall report to the Board.

Section 49: Under the provision of paragraph one of section 48, in the case where there is evidence to believe that an asset is related to the commission of an offense, the Secretary-general shall forward the case to the prosecutor for consideration to file a petition to the Court to order the forfeiture of such asset for the benefit of the State without delay.

In a case where the prosecutor deems that the evidence is inadequate to file a petition to the Court for the forfeiture of the asset, in whole or in part, the prosecutor shall inform the Secretary-general of such inadequate evidence so that he may proceed to obtain additional information.

The Secretary-general shall proceed without delay in response to paragraph two and submit additional evidence for the prosecutor to reconsider. Should the prosecutor deem that the evidence is still inadequate to file a petition to the Court for the forfeiture of an asset in whole or in part, the prosecutor shall inform the Secretary-general in order to forward the matter to Arbitrary Committee for

consideration. The Arbitrary Committee shall deliver the decision within thirty days as from the date of receipt from the Secretary-general.

The prosecutor and the Secretary-general shall follow the decision of Arbitrary Committee. When Arbitrary Committee fails to issue a decision within the prescribed time limit, then the prosecutor's determination will be a final.

Where the prosecutor's determination pertaining to paragraph three has been fulfilled then it shall be final. There shall be no more motion against that individual in connection with the same asset unless new crucial evidence has arisen to convince the Court to order the forfeiture of that individual asset to the State.

When the prosecutor has filed a petition to the Court, the Court shall order to post a notice at the Court and have it published for two consecutive days in a local well known newspaper so that individuals who may claim ownership or have a vested interest in the asset can file an objection to the petition to the Court prior to the issuance of an order. In addition, the Court shall send a copy of such notice to the Secretary-general to post at the Office and at the police station where the asset is located. If there is an evidence of individual who may claim ownership or has a vested interest in the asset then the Secretary-general shall send a notice to that individual and inform of his rights. The notice shall be delivered via certified registered mail to the individual's last known address.

Notwithstanding paragraph one, under a probable cause to act in order to protect the right of a complainant in the predicate offense, the Secretary-general may forward the matter to the competent official who is investigated the commission of that offense on the undertaking of such law to protect the right of the victim.

Section 50: An individual who claims ownership of the asset which the prosecutor has filed a petition to forfeit to the State in accordance with section 49, may file a petition before the Court issues an order under section 51 showing to the Court that:

- (1) he or she is the true owner and the asset is not related to any offense or
- (2) he or she has received the transfer of ownership honestly and with compensation, or he has acquired the asset honestly and morally, or by charity.

An individual who claims to have a vested interest in an asset on which the prosecutor has filed a petition to forfeit to the State under section 49 may file a petition for a protection of his rights before the Court issues an order. The petitioner must satisfy the Court that he or she is an honest recipient and a bona fide purchaser or that he or she has acquired the interest honestly and morally, or by charity.

Section 51: If, after investigating the petition of the prosecutor in accordance with section 49, the Court believes that the asset named in the petition is related to, an offense and the petition of the claimant filed pursuant to, section

50, paragraph one, has no merit, the Court shall order the forfeiture of the asset to the State.

According to this section, if the claimant in section 50, paragraph one is related to or used to be related to any person who committed the predicate offense or the offense of money laundering, the presumption shall be that the money or asset related to an offense or has been transferred dishonestly, whichever the case may be.

Section 52: Where the Court has ordered the forfeiture of the asset to the State according to section 51, and it subsequently has inquired and believes that the petition of the claimant in section 50 paragraph two has merit, the Court may issue an order to protect the rights of the recipient claimant with or without conditions.

According to this section, if the claimant of being a recipient in section 50 paragraph two is related to or used to be related to any person who committed the predicate offense or the offense of money laundering, the presumption shall be that the claimant has acquired his vested interest in possession dishonestly.

Section 53: If, after the Court has ordered the forfeiture of the asset to the State in accordance with section 51, the claimant, either be an owner or holder or a vested interest recipient of that asset, can establish the validity of his claim under section 50 to the satisfaction of the Court, the Court may order the return of the asset or may set any condition in order to protect the rights of the claimant. If the asset can not be returned or protected any right, then the claimant shall be entitled to compensation or damage, whichever the case may be.

The petition under paragraph one shall be filed within one year from the date of the final Court order of forfeiture. The claimant has to prove that he could have filed the petition under section 50 because he or she did not know of the notification or written notice of the Secretary-general or if with any other reasons.

The Court shall inform the Secretary-general regarding the petition before issuing any order under paragraph one. The public prosecutor may object to the claimants.

Section 54: In the case that the Court has ordered the forfeiture of an asset to the State according to section 51, if there are additional assets related to the offense, the public prosecutor may file a motion requesting the Court to order the forfeiture of those assets to the State.

The provisions of this chapter shall apply mutatis mutandis.

Section 55: After the public prosecutor has filed a petition with the Court under section 49, if there is probable cause to believe that there may be a transfer, distribution, placement of any asset related to an offense, the Secretary-general may submit the facts to the public prosecutor to file a petition to the Court to order a provisional seizure or restraint of the asset prior to issuing the order under section

51. The Court shall consider such petition immediately. If the petition is supported by probable cause, the Court shall issue the order without delay.

Section 56: Once the Transaction Committee or the Secretary-general, as the case may be, issues an order to seize or restrain any asset under section 48, the designated competent official shall execute the seizure or restraining order. There will be a report of the execution along with the assessment of the value and condition of such asset.

The seizure or restraint of the asset, and the assessment of the value of the asset seized shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulations;

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

Section 57: The custody and maintenance of the asset seized or restrained by the order of the Transaction Committee or the Secretary-general, as the case may be, shall be in accordance with the Rules prescribed by the Board.

In the case that the asset under paragraph one is unsuitable to keep in custody, or there will be more burden to the Government rather than the utilization thereof for other purposes, the Secretary-general may order those who have a vested interest in the asset to maintain and utilize the asset and may require any collateral or security assurance. There will be a report to the Board if such asset is ordered to be sold by auction or used for official purposes.

The custody, maintenance, utilization of forfeited asset by those who have a vested interest, or a sale by auction, or the utilization of the asset for official purposes under paragraph two shall be in accordance with the Rules prescribed by the Board.

If it appears thereafter that the asset sold by auction, or utilized for official purposes under paragraph two, was not the asset involved in the commission of an offense, the Board shall return the asset to the rightful owner or legal custodian together with compensation and the depreciation value. If the seized asset can not be returned, then the restitution shall apply in an amount equivalent to the price of the seized asset as assessed on the day of seizure or restraint on that asset or the value realized at the auction, whichever case may be. The rightful owner or custodian person shall receive an interest based on the amount of the restitution or compensation at the highest rate of the fixed deposit savings account of the Government Savings Bank as the case may be.

The assessment of the compensation and the depreciation value under paragraph four shall be in accordance with the Rules prescribed by the Board.

Section 58: Where the asset involved in the commission of an offense is subject to another legal process which has not yet commenced or is pending or if it would be more effective to proceed under this Act, then the Government shall proceed as provided in this Act.

Section 59: The Court proceeding under this chapter shall be filed with the civil court and the Civil and Commercial Code shall apply mutatis mutandis.

The prosecutor is exempted from all court fees in the undertaking of all proceeding.

Chapter 7 ~~Penalty Provisions~~

Section 60: Any individual who is found guilty of the crime of money laundering shall receive a term of imprisonment of one to ten years, or a fine of twenty thousand to two hundred thousand Baht, or both.

Section 61: Any juristic person which is found guilty of an offense under sections 5, 7, 8, or 9 shall receive a fine in the amount of two hundred thousand to a million Baht.

A Director, Manager, or any person responsible for the operation of the juristic person under the first paragraph which is found guilty of an offense shall receive a term of imprisonment of one to ten years, or a fine of twenty thousand to two hundred thousand Baht, or both, unless he can prove that he had no part in the commission of such offense of the juristic person.

Section 62: Any individual who is found guilty of an offense under sections 13, 14, 16, 20, 21, 22, 35, or 36 shall receive a fine not exceeding three hundred thousand Baht.

Section 63: Whoever reports or makes a statement according to section 13, 14, 16, or 21 paragraph two with the assertion of a falsehood or the concealment of the facts which should be revealed to the officials shall receive a term of imprisonment not exceeding two years, or a fine of fifty thousand to five hundred thousand Baht, or both.

Section 64: Any individual who fails to appear or refuses to testify, or to submit an explanation in writing, or to submit the account document, or evidence required under section 38 (1) or (2), or who obstructs, or fails to cooperate under section 38 (3) shall receive a term of imprisonment not exceeding one year, or a fine not exceeding twenty thousand Baht, or both.

Any individual acts by any means to leak restricted information to others under section 38 paragraph four, except in the course of doing one's job or according to the law, shall receive penalty set forth in paragraph one.

Section 65: Any person who diverts, damages, destroys, conceals, take away, loses or renders useless the document, memoranda, information, or asset which has been ordered seized or restrained by official action, or which one knows or should have known will be forfeited to the State according to this Act, shall

receive a term of imprisonment not exceeding three years, or a fine not exceeding three hundred thousand Baht, or both.

Section 66: If any person who knows or should have known confidential government information in proceeding according to this Act, acts in any means to let others know or may have the knowledge of that confidential information, except in the course of conducting one's work or according to the law, he or she shall receive a term of imprisonment not exceeding five years, or a fine not exceeding one hundred thousand Baht, or both.

Countersigned by
Chuan Leekpai
Prime Minister

Principle and rationale accompanying The Anti-Money Laundering Act of B.E.2542

Principle

To enact a law to prohibit money laundering Rationale

Presently offenders who violate certain laws have benefited from money or asset obtained from the offenses via money laundering.

In addition, money laundering can enable these offenders to use this money or assets to further their criminal activity and to commit other offenses.

This situation has caused problems for law enforcement officers.

Existing laws are not adequate to suppress either money laundering or illegal use of crime-related money and assets.

Thus, in order to cut off this vicious circle of crimes, measures to effectively combat money laundering must be established.

Therefore, this law must be enacted.