

THE MONEY LAUNDERING PREVENTION AND SUPPRESSION ACT

B.E. 2542

BHUMIBOL ADULYADEJ, REX.

Given on the 10 th. April, B.E. 2542 .;

Being the 54 th. Year of the present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that :

Whereas it is expedient to enforce the Money Laundering Prevention and Suppression Act

This Act pertains to some limitations of liberty and freedom, personal or otherwise enshrined in Articles 29 35, 37,48 and 50 of the Constitution and provides the enabling power by virtue of this Act.

Be it, therefore enacted an Act by the King, by and with the advice and consent of the

Assembly of the People's Representatives, as follows:

Article 1 : This law shall be called "Money Laundering Prevention and Suppression Act B.E 2542"

Article 2 : This Act shall take effect one hundred and twenty days after it has been announced in the Government Gazette.

Article 3 : In this Act

The term "**Predicate Offenses**"

1. Offenses pertaining to narcotics, under the Narcotics Control Act or Act on Measures for the Suppression of Offenders in an Offence relating to Narcotics.
2. Offenses pertaining to sexuality under the Penal Code, in particular sexual

offenses pertaining to procuring, seducing, and taking women and children away for indecent act in order to gratify the sexual desire of another person, offenses of taking children and minors away from parental power, offenses under the Measures to Prevent and Suppress Trading of Women and Children Act, offenses under the Prevention and

Suppression of Prostitution Act, especially pertaining to procuring, seducing and taking away persons for the purpose of prostitution, offenses pertaining to conducting prostitution businesses as owner, or operator, administrator of prostitution business or prostitution place, or prostitution in places of prostitution.

3. Offenses of cheating and fraud under the Penal Code or offenses pertaining to acquiring loans fraudulently pursuant to the Fraudulent Loans and Swindles Act,
4. Offenses of misappropriation or cheating and fraud under the law governing commercial banks, law governing the conduct of business in finance, money market funds, securities and credit fancier, law governing securities and securities market, which are committed by the managing director or any person who is responsible for or has some interests in conducting the affairs of a financial institution,
5. Offenses pertaining to malfeasance in office or malfeasance in judicial office under the Penal Code, offenses pertaining to law governing officers of the government organization or sector or offenses pertaining to malfeasance or dishonesty in carrying out official duty under other laws,
6. Offenses of extortion or blackmail which are committed by a member of a secret society or criminal organization, under the Penal Code,
7. Offenses of customs evasion under the Customs Law,

"Transaction" means the doing of juristic act, contract or any performance dealing with finance and business, or other proceedings 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 possibility, a transaction which can be believed it was conducted for the purpose of avoiding the subject to the provisions of this Act. A transaction that relates or possibly to a predicate offense, whether the transaction was conducted once or more.

"Assets related to an offense" means:

1. Money or assets that were obtained from commission of a predicate offense, or from supporting or assisting in the commission of a predicate offense;
2. Money or assets that were obtained from the sale, distribution, or transfer in any manners the money or assets in (1); or
3. Yields from the money and assets in (1) and (2). Thus, notwithstanding money and assets in (1), (2) and (3) have been sold, distributed, transferred, or irrespective of

whoever has possession thereof, or to whomsoever possession has been transferred, or under whosesoever ownership the registered evidence exists.

"Financial institutions" means

1. The Bank of Thailand that was established under the law governing the Bank of Thailand, Commercial banks that were established under the Banking Act, or banks that have been established by special legislation,
2. Finance companies and credit fancier companies, established in accordance with the laws governing the conduct of business in finance, money market funds, securities, and credit fancier, and securities companies established in accordance with the law governing securities and securities markets,
3. The Industrial Finance Corporation of Thailand, established in accordance with the law of Industrial Finance Corporation of Thailand and the Small Scale Industrial Finance Corporation established in accordance with the law of Small Scale Industrial Finance Corporation legislation,
 1. Life Insurance companies established in accordance with the law of Life Insurance, and casualties insurance companies established in accordance with the law of Casualties Insurance,
 2. Savings cooperatives established in accordance with the law of Savings Cooperatives, or
 3. Any juristic persons who conduct other businesses pertaining to finance, as defined in the Ministerial Regulations.

" Board " means the Money Laundering Prevention and Suppression Board.

" Board Member" means a member of the Board including the chairman thereof.

"Competent Official" means a person appointed by the Minister for the execution of this Act.

"Secretary - General" means the Secretary - General of the Money Laundering Prevention and Suppression Board.

"Deputy Secretary" - General" means the Deputy Secretary - General of the Money Laundering Prevention and Suppression Board.

"**Office**" means the Office of the Money Laundering Prevention and Suppression Board.

"**Minister**" means the Minister having charge of the execution of this Act.

Article 4 : The Prime Minister shall have charge of the execution of this Act and the power to appoint competent officials, issue Ministerial Regulations, Rules, and Notifications for the execution of this Act. Such Ministerial Regulations, Rules, and Notifications shall become operative upon their publication in the Government Gazette.

Chapter 1

General Provision

Article 5 : Whoever ;

1. Transfers, receives the transfer or changes from formerly assets related to an offense, for the purpose of concealing or hiding the sources of those assets, or for the purpose of assisting other persons before, while or after the commission for the purpose of enabling the offenders to avoid the penalty or receive lesser penalty for the predicate offense; or
2. Takes any actions in order to concealing or hiding the nature or the manner of acquisition, the location, the sale, the transfer, and acquisition of rights on the property from the offense:

He/she commits the money laundering offense.

Article 6 : Whoever commits a money laundering offense, even if the crime was committed outside the Kingdom, shall receive the penalty within the Kingdom, as stated in this Act, if:

1. Either the offender or the conspirator is a Thai person or resides in the Kingdom; or
2. The offender is an alien and has taken the action in order to commit an offense in the Kingdom, or against the Royal Thai government who becomes the 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 person appears in the Kingdom and is not extradited in accordance with the Extradition Act.

Thus the Article 10 in the Penal Code shall be applied mutatis mutandis.

Article 7 : Pursuant to the offense of money laundering, who undertakes one of the following acts shall receive the same penalty as an offender under the money laundering statute:

1. Supporting the commission of the offense or assisting the offender, either before or during the commission of the offense;
2. Procuring or giving money, assets, conveyance, place or any other object or undertaking any acts in order to assist the offender to evade or to avoid punishment, or to profit from the offense.

Whoever procures or gives money, assets, safehaven, or place of concealment in

order to assist his/her father, mother, child, or husband/wife to avoid an arrest for money laundering, may or may not be punished by the Court with less severity than the law otherwise provides for the offense.

Article 8 : Whoever attempts to commit the offense of money laundering must receive the same penalty under the law for the offense as if he/she successfully commits the offense.

Article 9 : Two or more persons who have agreed to conspire to commit the offense of money laundering shall receive half of the penalty provided by law for that offense.

If the offense of money laundering has been committed as a result of a conspiracy as described in the first paragraph ,the conspirators must receive the penalty provided by law for the offense.

If the commission of the offense has begun but was either interrupted or even if carried out to the conclusion, nevertheless, was unsuccessful due to the intervention of a conspirator, this conspirator will receive the penalty described in the first paragraph.

If a conspirator, as described in the first paragraph, confesses to the authority about his/her intention prior to the commission of the offense that he/she conspired to commit, the Court may or may not, if it thinks fit, give him/her a penalty less severe than otherwise provided by law.

Article 10 : A government official, member of the House of Representatives, Senator, member of the Bangkok Metropolitan Council, member of a provincial council, member of a municipal council or other local administrative organizations, executive officer; government employee, employee of a local administrative organization, employee of a governmental organization, agency; member of a board or employee of a state enterprise or member of an organization under the Constitution who commits this offense shall receive twice the penalty otherwise provided by law for the offense. Any Board member, subcommittee member, member of the Business Transactions Committee, Secretary - General, or Competent Official under this Law ,who commits this offense, shall receive three times the penalty otherwise provided by law for the offense.

Article 11 : A Board member, subcommittee member, member of the Business Transactions Committee, Secretary - General, Deputy Secretary - General, competent official who commits an offense pertaining to malfeasance in office or malfeasance in judicial office under the Penal Code, or an offense pertaining to malfeasance or dishonesty in carrying out official duty under the Penal Code,

in connection with the offenses described in this section, shall receive three times the penalty otherwise provided by law for the offense.

Article 12 : In execution of this Act, Board Member, Subcommittee, Business Transactions Committee, Secretary - General, Deputy Secretary - General and competent official are competent officials under the Penal Code.

Chapter 2

Reporting and Identification

Article 13 : Whenever a business transaction takes place at a financial institution, the financial institution must report that business transaction to the Office, if the transaction appears to be one of the following:

1. a transaction that involves cash in an amount exceeding the limit set forth in the Ministerial Regulations;
2. a transaction that involves assets exceeding the limit set forth in the Ministerial Regulations;
3. any suspicious transactions, whether or not they are in accordance with (1) or (2).

If the financial institution receives any further information that may confirm or deny any original information about the transaction that the financial institution has reported to the Office, the financial institution must immediately report the new information to the Office.

Article 14 : In case it appears later that there is a reasonable ground to believe that any transaction that should have been reported to the Office in accordance in the Article 13 is remains unreported, the financial institution must report that transaction without delay.

Article 15 : The Land Office of Bangkok Metropolitan, the Provincial Land Office, the Branch Land Office, and the District Land Office, must immediately report to the Office whenever there is a request for rights registration and any legal instrument involving assets when no financial institution is a party to the request, when any of the following conditions applies:

1. When cash was used in the transaction in an amount exceeding the limit as set forth in the Ministerial Regulations;
2. When the value of the asset evaluated for registration and legal instrument fee exceeds the limit set forth in the Ministerial Regulations, except in the case of legal inheritance or a rights registration and legal instrument between parent and offspring; or
3. When it is a suspicious transaction.

Article 16 : A person who is in the business of operating, monitoring, or consulting about any business transaction involving investment or movement of funds must report to the Office whenever there is reason to believe that the transaction may involve assets related to an offense, or that the transaction is suspicious.

If any further information relevant to or that may confirm or deny information about the transaction that has been reported in accordance with the first paragraph becomes known to the reporter, he/she shall immediately report it to the Office.

Article 17 : The reporting requirement stated in Articles 13,14, 15 and 16 will be conducted in accordance with the manner, form, timing, rules, and methods described in the Ministerial Regulations.

Article 18 : Any transaction that the Minister deems to be exempt from the report requirements stated in Articles 13,15 and 16 will be exempt, pursuant to the Ministerial Regulations.

Article 19 : If a report made pursuant to Articles 13,14, 15 and 16 is made in good faith and causes damage to any person, the reporter is not liable for the damage.

Article 20 : Financial institutions must require that customers show identification prior to conducting any transaction, as described in the Ministerial Regulations, unless a customer has already identified himself/herself.

The identification according to the first paragraph will be conducted as specified by order of the Minister.

Article 21 : Financial institutions shall require that customers must give facts and information pertaining to any transaction reportable under Article 13.

If a customer refuses to give facts and information as required by the first paragraph, the financial institution will record the facts and information about the transaction and report to the Office immediately.

The reporting requirements in the first and second paragraphs will be conducted in accordance with the manner, form, timing, rules, and methods described in the Ministerial Regulations.

Article 22 : Financial institutions must keep a detailed record pertaining to identification under Article 20, and a record of facts and information reported pursuant to Article 21, for a period of five years from the date the account was closed or the relation with the customer ended, or from the date the transaction occurred, whichever is longer, unless the financial institution is notified by an official to do otherwise.

Article 23 : The provisions in this chapter shall not be applied to the Bank of Thailand under the law governing the Bank of Thailand.

Chapter 3

Money Laundering Prevention and Suppression Board

Article 24 : A Money Laundering Prevention and Suppression Board shall be created. The membership shall consist of : the Prime Minister as Chairman; the Minister of the Ministry of Finance as Vice-Chairman; the Permanent Secretary of the Ministry of Justice; the Attorney-General; the Secretary - General of the Narcotics Control Board; the Director-General of the Fiscal Policy Office; the Director-General of the Department of Insurance; the Commissioner - General of the Royal Thai Police ; the Director-General of the Department of Lands; the Director-General of Department of the Treaties and Legal Affairs; the Director-General of the Customs Department; the Director-General of the Revenue Department; the Governor of the Bank of Thailand; the President of the Banking Association; the Secretary of the Securities Exchange Control Board and nine experts to be designated by the Cabinet, who will be individuals with expertise in economics, monetary affairs, fiscal policy, law or any other fields beneficial to the execution of this Act under the approval by the House of Representatives and the Senate respectively. These experts will act as members and the Secretary - General will act as member and secretary of the Board.

The Board shall appoint no more than two government officials in the Office to be the Assistant Secretaries of the Board.

In case where the Chairman or the Board in paragraph one cannot attend any meeting, he/she can delegate his/her subordinate who is knowledgeable on the matter to attend that particular meeting.

Article 25 : The Board will be empowered to perform the following duties:

1. Propose to the cabinet measures to prevention and suppression money laundering;
2. Give advice to the Minister regarding Ministerial Regulations, Rules and Notification to enforce this Act;
3. Set forth rules pertaining to the maintenance, sale, use, and damage evaluation, and depreciation of the assets in accordance with Article 57 ;
4. Promote cooperation from the public in providing information that can prevention and suppression the money laundering;
5. Monitor and evaluate the effectiveness of the enforcement of the Act;
6. Perform other duties as described in this Act or in other laws.

Article 26 : The experts appointed by the Cabinet shall serve a term of four years as from the date of appointment, and can only serve one term.

Article 27 : Apart from the termination of his position in accordance with Article 26, the experts appointed by the Cabinet shall terminate his/her office upon:

1. death;
2. resignation;
3. being removed by the cabinet under 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 to a term of imprisonment.

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

Article 28 : If an expert has fully served his/her term but the new expert has not yet been appointed, he/she shall remain in the office until such time as the new expert has been appointed.

Article 29 : For a Board meeting, no less than one half of the Board members must be present 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 his/her duty, then the Chairman shall chair the Meetings the Vice-Chairman is unable to attend the meeting or cannot execute his/her duty, the Board members who are present shall elect one of the Board members to chair the meeting.

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

Except the resolution made under third paragraph of Article 49 ,a resolution must carry a vote not less than two thirds of the Board member present and voting.

Article 30 : The Board may appoint a subcommittee or subcommittees to study and make proposals pertaining to any particular subject, or to take any action on behalf of the Board. Article 29 will be applied mutatis mutandis pertaining to the quorum for the subcommittee.

Article 31 : Board and subcommittee members shall be compensated as determined by the Cabinet.

Chapter 4

Business Transactions Committee

Article 32 : There will be a Business Transactions Committee comprised of the Secretary - General as the Chairman of the Committee and four others whom the Committee appointed as members.

Qualifications and disqualification's of the Business Transactions Committee are as provided in the Ministerial Regulations.

The Committee members who have been appointed will serve for two years. Those whose term is expired can be reappointed by mutatis mutandis applying the provision of Articles 27 and 28, except in the case where the Committee member has lost his position according to Article 27 (3).

Article 33 : The meetings of the Business Transactions Committee will be mutatis mutandis regulated by Article 29.

Article 34 : The duties and responsibilities of the Business Transactions Committee are as follows:

1. to audit business transactions or assets related to an offense,
2. to cancel business transactions according to Articles 35 or 36,
3. to proceed according to Article 48,
4. to report on its work under this law to the Board,
5. to work on any other matters on which the Board is instructed to act.

Article 35 : In cases where there is doubt that any business transaction is involved or may be involved with money laundering, the Business Transactions Committee has the power to issue a written order to cancel such transactions in advance, within the time prescribed but not longer than three business days.

In the case where it is necessary or it is an emergency, the Secretary - General can order the cancellation according to the previous paragraph, and then report to the Committee at a later date.

Article 36 : In the case where there is evidence that any business transaction is related or may be related to money laundering, the Business Transactions Committee can issue a written order to cancel such transactions temporarily within the time prescribed but not longer than ten business days.

Article 37 : When the Business Transactions Committee or the Secretary - General, whichever it may be, has issued the cancellation according to Articles 35 or 36, then the Business Transactions Committee shall report back to the Board.

Article 38 : In order to carry out its duties according to this law, the Committee members, the Secretary - General, and the competent officials who are assigned in writing by the Secretary - General shall have the following powers:

1. to inquire in writing or request the financial institution, government agency, organization, or state enterprise, whichever is the case, to send the proper official to testify, to send a written explanation, or to forward an account, documentation or any other evidence for examination or to assist with the examination;
2. to send a written inquiry or call anyone for a statement or testimony or to send a written explanation, or to forward an account, documentation, or any other evidence for examination or to assist with the examination;
3. to get into a residence, place, or any vehicle which provides probable cause for suspecting that there are assets being hidden or kept there which are related to an offense, or evidence which is involved with money laundering, in order to search for the purpose of investigating, monitoring, or forfeiting or freezing the assets or the evidence. This action is warranted when there is probable cause to believe that the assets or evidence will be moved, hidden, destroyed, or changed in appearance and it is too late to wait for the search warrant.

In carrying out the search under (3), the competent official who is assigned under paragraph one must show assignment document and his identification to the individual concerned.

The identification according to paragraph two should be according to the form as designated by the minister in the announcement in the Government Gazette.

All the information received from testimony, written explanations, accounts, documentation, or any other evidence which has the characteristic of being specific information on an individual, financial institution, government agency, government organization, or state enterprise, shall be the responsibility of the Secretary - General in keeping and using such information.

Article 39 : The members of the Business Transactions Committee receive compensation as scheduled by the cabinet.

Chapter 5

The Office of the Money Laundering Prevention and Suppression Board

Article 40 : There shall be the Office of the Money Laundering Prevention and Suppression Board in the Office of the Prime Minister which shall have the following duties and responsibilities:

1. to proceed according to the resolution at the Board and the Business Transactions Committee, and to carry out other administrative functions,

2. to receive reports on the business transactions which were sent according to chapter two, and to send an acknowledgment,
3. to collect, to follow, to monitor, to study, and to analyze reports and various information on business transactions,
4. to collect evidence to prosecute criminals who have broken this law,
5. to set up an educational program to disseminate information and provide training concerning this law, or the help or support both the public and private sectors to set up such programs,
6. to carry out other functions according to this law or other laws.

Article 41 : There shall be a Secretary - General who has the responsibility of overseeing the work of the Office in general, and supervises the employees, with a Deputy Secretary - General to assist him.

Article 42 : The Secretary - General will be a civil servant who is appointed by His Majesty the King on the advice of the cabinet and confirmed by the House of Representatives and the Senate respectively.

Article 43 : The Secretary - General must have the following qualifications and no disqualifications as follows:

1. he/she must have expertise in fiscal policy, finance, economics, or law,
2. he/she must be a Deputy Secretary - General or a civil servant at a level not lower than or equivalent to a Director-General,
3. he/she cannot be a member of the Board of any state enterprise or any other government agency,
4. he/she cannot be a member of the Board, a manager, a consultant, or be in any similar position or have a vested interest in a limited partnership, company , financial institution, or be in any profession or going concern which is in contradiction to this law.

Article 44 : The Secretary - General shall hold office for a term of four years as from the date of the order of His Majesty the King and he cannot be reappointed after he has served out his term.

Article 45 : Besides serving out the term according to Article 44, the Secretary - General will no longer serve in case of:

1. his/her death,

2. his/her resignation,
3. any disqualification according to Article 43.
4. by the order of His Majesty the King, on the advice of the cabinet with the approval of the House of Representatives and the Senate respectively.

Article 46 : In cases where there is probable cause that a customer's account at a financial institution, communication instrument or equipment, or any computer has been used or may be used for the purpose of money laundering, the official whom the Secretary - General has assigned in writing, will file a request to the civil court for a warrant to access the account, communication data, or computer files.

In the case according to paragraph one the court will give the competent official who filed the request permission to use any instrument or equipment deemed appropriate. The permission in each instance will not be longer than ninety days.

After the court has given permission according to paragraph one or two, individuals who relating to the account, the communication data or the computer files according to the case shall have to cooperate.

Article 47 : The Office of the Money Laundering Prevention and Suppression Board must file an annual report of their activities with the cabinet. The report must contain at least the following:

1. a report on the work on assets and any other proceedings according to the law,
2. problems and obstacles in carrying out their work,
3. reports on facts or observations in carrying out their work including opinions and proposals.

The cabinet shall file an annual report under paragraph one together with the cabinet's observations with the House of Representatives and the Senate.

Chapter 6

The Procedure Concerning Assets

Article 48 : In examining reports and data on business transactions, if there is probable cause that there may be a transfer, distribution, movement of, cover-up of, or hiding of any assets which are related to an offense, the Business Transactions Committee has the authority to freeze or forfeit those assets temporarily for a period not longer than ninety days.

In cases where it is necessary or an emergency, the Secretary -General can order the freezing or

forfeiture of any asset according to paragraph one and then report to the Business Transactions Committee at a later date.

The examination of reports and data on business transactions according to paragraph one shall be conducted in accordance with the principles and procedures described in the Ministerial Regulations.

Any individual whose assets were ordered frozen or forfeited, or those who have a vested interest in the assets, shall show proof that the money or assets in that business transaction are not related to an offense, so that the freeze or forfeiture order can be withdrawn. The rules and procedures for this process are contained in the Ministerial Regulations.

When the Business Transactions Committee or the Secretary-General, whoever it may be, orders a freeze or a forfeiture of an asset or withdraws that order, the Business Transactions Committee must report to the Board.

Article 49 : Under Article 48 paragraph one, in cases where there is evidence to believe that any asset is related to an offense, the Secretary - General must forward the case to the prosecutor to file a petition to the court for the government to take ownership of the asset immediately.

In cases where the prosecutor considers that the evidence is not enough to file a petition to the court for the government to take ownership of the assets, the prosecutor must urgently inform the Secretary - General to proceed with the matter and also identify the incompleteness.

The Secretary - General must urgently proceed with the matter under paragraph two and submit additional evidence for the prosecutor to reconsider. If the prosecutor still considers that there are not enough reasons to file a petition to the court for the government to take ownership of the assets, the prosecutor must urgently inform the Secretary - General to submit the matter to the Board to make a decision. The Board has to make a decision within thirty days as from the date of receipt and the prosecutor and the Secretary - General have to follow the decision, but if the Board does not make a decision within the time provided, the Secretary - General has to follow the prosecutor's opinion.

After the Board has made or does not make a decision within the time provided, but the Secretary - General has followed the prosecutor's opinion under paragraph three, the matter must be final and there should not be any further actions related to the same person on the same assets except when there is new evidence which is so important that the court will order the government to take ownership of those assets.

When the prosecutor has filed the petition to the court, the court must put on a notice at the court and publish it for two consecutive days in the newspaper which is well-known in the area so that individuals who may claim ownership or have a vested interest in the assets can file a petition to the court before the court issues an order. In addition, the court must send a copy of the notice to the Secretary - General to put on the notice at the office and the police station of the area where the assets are located. If there is evidence to show that an individual may claim ownership or have a vested interest in the assets, the Secretary - General must inform that individual of his rights in writing by means of registered mail at the address appeared lately.

In cases according to paragraph one, if there is appropriate reason to act in order to protect the rights of an individual who may be criminally liable, the Secretary - General forwards the case to the official under the law covering those criminal activities to proceed according to due process in order to protect the rights of that individual.

Article 50 : An individual who claims ownership of the asset which the prosecutor has filed a petition for the government to take ownership thereof, according to Article 49 , may file a petition before the court issues an order under Article 51 by showing to the court that:

1. he is the true owner and the asset is not related to an offense, or
2. he 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 that he is the one who stands to benefit from the asset

which the prosecutor has petitioned for government ownership according to Article 49, may file a petition for protection of his rights before the court issues an order, by showing to the court that he is the benefit recipient in honest and with compensation, or he has acquired the interest honestly and morally, or by charity.

Article 51 : After the court has investigated the petition of the prosecutor according to Article 49. If the court believes that the asset in the petition is an asset which is related to an offense and the petition of the claimant who claims ownership or an ownership by transfer, according to Article 50 paragraph one has no merit, the court must order the ownership of the asset to the government.

According to this article, if the claimant in Article 50 paragraph one is related to or used to be related to any person who commits the predicate offense or the offense of money laundering, the presumption must be that the those moneys or assets are related to an offense or have been transferred dishonestly, whichever the case may be.

Article 52 : In case the court has ordered the ownership of the property to the government according to Article 51, if the court has inquired and believes that the petition of the claimant in Article 50 paragraph two has merit, the court will lay down conditions to protect the rights of the claimant for assets that the government has taken ownership thereof.

According to this Article, if the claimant in Article 50 paragraph one is related to or used to be related to any person who commits the predicate offense or the offense of money laundering, the presumption must be that he has possessed or acquired the benefit dishonestly.

Article 53 : In case the court has ordered the ownership of the asset to the government according to Article 51. If the claimant can show to the court and after the court has inquired and believes that it is the case under Article 50, the court must order to return the asset or to lay down conditions to protect

the rights of the claimant, whichever the case may be.

The petition under paragraph one shall be filed within one year as from the date on which there is a final non-prosecution court order returning ownership of the asset to the government. The claimant has to prove that he cannot file the petition under Article 50 because he does not know the notification or written notice of the Secretary - General or there are any other reasons.

The Court has to inform the Secretary - General the petition before issuing the order and the public prosecutor can object the petition.

Article 54 : In the case when the court has ordered the ownership of the asset to the government according to Article 51. If it appears that there are additional assets related to an offense, the public prosecutor may file a motion requesting the court to order the ownership of the asset to the government, and the provisions of this section shall be applied mutatis mutandis.

Article 55 : After the public prosecutor has filed a motion with the court under Article 49, if there is probable cause to believe that there may be a transfer, distribution, movement of any assets, which are related to an offense, the Secretary - General shall pass the subject to the public prosecutor to file a motion to order the provisional asset forfeiture before issuing the order under Article 51. The court has to make a judgment urgently. If the evidence can prove to believe that the motion is reasonable, the court shall issue the order without delay.

Article 56 : After the Business Transactions Committee or the Secretary - General, as the case may be, has already issued an order seizing or attaching any assets, the designated competent official shall forthwith execute the seizure or attachment order and urgently assess the value of such assets.

The seizure or attachment of the assets, and the assessment of the value thereof shall be in accordance with the rules, procedure and conditions as prescribed in the Ministerial Regulation; Provided that, the Civil Procedure Code shall be applied mutatis mutandis.

Article 57 : The keeping in custody of the assets seized and attached by the order of the Business Transactions 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 assets under paragraph one are unsuitable for keeping in custody, or if the keeping in custody of such assets will be more burdensome to the official service than the utilization thereof for other purposes, the Secretary - General may order those who have a vested right in the assets to maintain and utilize the assets with bail or security, or issue an order for a sale by auction or for the utilization of such assets for official purposes, and then report to the Board for information.

A maintenance by those who have a vested right, a sale by auction, or the utilization of the assets under paragraph two shall be in accordance with the Rules prescribed by the Board.

If it appears thereafter that the assets sold by auction or utilized for official purposes under paragraph two are not the assets connected with the commission of an offense, such assets shall be returned to their owners or possessors together with the compensation and the depreciation value which shall be paid in an amount determined by the Board. If the restitution of the assets is impossible, the price of the assets as assessed on the date of seizure or attachment or as received at the auction, as the case may be, together with the interest thereof at the highest rate of the fixed deposit savings account of the Government Savings Bank (Aomsin 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.

Article 58 : In cases where the asset related to an offense is an asset already under another legal process but there hasn't been any due process on it yet or due process has been conducted but was not effective, or if with this law will be more beneficial to the government, then the government must proceed accordingly.

Article 59 : The court procedure according to this chapter should be filed with the civil court and the Article 56 civil code should be applied mutatis mutandis.

The prosecutor is exempt from all fees in this case.

Chapter 7

Penalties

Article 60 : An individual who is found guilty of money laundering activities will be sentenced to jail for a period of one to ten years, or fined from twenty thousand Baht to two hundred thousand Baht or be sentenced to both a fine and a jail term.

Article 61 : A juristic person which is found guilty according to Article 5, Article 7, Article 8, or Article 9 will be fined not more than a million Baht.

Board members, manager or whoever responsible for proceeding of juridical body according to paragraph one will be sentenced to jail for a period of one to ten years or fined from twenty thousand Baht to two hundred thousand Baht or both, as an exception that he/she can prove that he/she is not involved in juridical body offense.

Article 62 : Whoever violates the law according to Article 13, Article 14, Article 16, Article 20, Article 21, Article 22, Article 35 or Article 36 will be fined not more than three hundred thousand Baht

Article 63 : Whoever reports or makes a statement according to Article 13, Article 14, Article 16, or Article 21 paragraph two which is proven to be false or has perjured himself to the officials will be

sentenced to jail for not more than two years or fined from fifty thousand Baht to five hundred thousand Baht or both.

Article 64 : Whoever refuses to testify or send an explanation in writing or hand over the accounts, documentation or evidence according to Article 38 (1) or (2) or obstructing or not cooperating according to Article 38 (3) will be sentenced to jail for a period of not more than one year or fined not more than twenty thousand Baht or both.

Anyone who has leaked information under Article 38 paragraph four to others except in the course of doing one's job according to the law, will be sentenced according to paragraph one.

Article 65 : Whoever moves, damages, destroys, hides, or effects the loss or renders useless the documentation , memoranda, information, or asset which has been frozen or forfeited or which one knows or should have known will become government property according to this law, will be sentenced to jail for a period not longer than three years or fined not more than three hundred thousand Baht or both.

Article 66 : Whoever has knowledge of or may know government secrets in proceeding according to this law and has acted in any way to let others know or may have the knowledge of that secret except in the course of conduct one's work or according to the law, will be sentenced to jail for a period of not more than five years or fined not more than one hundred thousand Baht or both.
