

**LAW ON ANTI-MONEY LAUNDERING AND COMBATING
THE FINANCING OF TERRORISM**

(24 June 2007)

CHAPTER I: GENERAL PROVISIONS

Article 1. Purpose

The present Law has the purpose to set up measures against money laundering and financing of terrorism as well as the organization and the control of those measures enforcement.

Article 2. Scope of Application

The present Law and other regulations set forth for its implementation are to be used for the prevention and the control of money laundering and financing of terrorism.

Article 3. Definitions

For the purposes of the present law, the term:

(a) ***“Money laundering”*** shall mean:

(i) The conversion or transfer of property, knowing that such property is the proceeds of offence, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of offence;

(iii) The acquisition, possession or use of property, knowing that such property is the proceeds of offence;

(iv) Participation in, and attempts to commit, aiding and forcing somebody to commit any of the acts defined in accordance with Article 3 of the present Law.

(b) ***“Proceeds of offence”*** shall mean any property derived from or obtained, directly or indirectly, through the commission of any felony or misdemeanor.

(c) ***“Property”*** shall mean assets of every kind, whether movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets.

(d) ***“Supervisory authority”*** shall mean the National Bank of Cambodia, the Securities Commission and any other authority having oversight over a reporting entity.

(e) ***“Predicate offense”*** means any felony or misdemeanor, even if committed abroad, as a result of which proceeds have been generated that may become the subject of money laundering as defined above under Article 3 (a) of the present Law;

In order to be used as a basis for proceedings in respect of money laundering, a predicate offense committed abroad must have the nature of offense in the country where it was committed and under the laws of Cambodia, unless there is special agreement

stated otherwise.

(f) *“Financing of terrorism”* shall mean the willful provision of financial or other services with the intention that such services be used or in the knowledge that they are or may be used, in full or in part, for the purpose of supporting terrorism, terrorist acts or terrorist organizations.

(g) *“Suspicious transaction”* shall mean a transaction that involves funds suspected to be the proceeds of offense, or funds related to the financing of terrorism.

(h) *“Financial Intelligence Unit”* shall mean a central body responsible for receiving, analyzing and disseminating reports on suspicious transactions, as defined in Article 3(g) of the present law, cash transactions as defined in Article 12(1) of the present Law and other information regarding money laundering or financing of terrorism.

(i) *“Ultimate beneficial owner”* shall mean a person who ultimately owns or controls a customer on whose behalf a transaction is being conducted, including those persons who exercise ultimate effective control over a legal person or arrangement.

(j) *“Politically exposed persons”* shall mean any individual who is or has been entrusted with prominent public functions in a foreign country, such as head of state or of government, senior politician, senior government official, judicial or military official, senior executive of state-owned corporation or important party official.

(k) *“Trust”* means a legal entity established by a person known as trustor. The trustor transfers legal title of property to the trustee, who manages it for the benefit of the named beneficiaries.

(l) *“Invalidate” shall mean to make null and void.*

CHAPTER II: REPORTING ENTITIES

Article 4. Institutions and Professions Subject to the Present Law

The present Law shall apply to the following institutions and professions, hereinafter referred to as “reporting entities”:

- (a) banks, including branches of foreign banks;
- (b) non-bank financial institutions, including securities brokerage firms and insurance companies;
- (c) micro finance institutions;
- (d) credit cooperatives;
- (e) leasing companies, investment and pension funds, investment companies and companies for managing investment funds;
- (f) exchange offices;
- (g) money remittance services;
- (h) real estate agents, building and land;
- (i) dealers in precious metals, stones and gems;
- (j) post office operating payment transactions;
- (k) lawyers, notaries, accountants, auditors, investment advisors and asset managers when they prepare for or carry out transactions for their clients concerning the activities listed in Article 5 of the present Law;
- (l) casinos and other gambling institutions;
- (m) Non-governmental organizations and foundations engaging in business activities and fund raising;
- (n) Any other institutions or professions that is designated by the FIU to fall within the scope of the present Law.

Article 5. Business Activities of Reporting Entity

Business activities of the reporting entities mentioned in Article 4-k of the present Law are the following:

1. Buying and selling real estate, building and land;
2. Managing of client money, securities or other assets such as:
 - (a) management of banking or securities accounts;
 - (b) organization of contributions for the creation, operation or companies management.
3. Creation, operation or management of legal persons or arrangements, and buying and selling of business entities;
4. trust or company providing services when they prepare for or carry out transactions for a client concerning the following activities:
 - acting as a formation agent of legal persons;
 - acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - acting as or arranging for another person to act as a trustee of an express trust
 - acting as or arranging for another person to act as a nominee shareholder for another person.

CHAPTER III:

MEASURES TO BE TAKEN BY BANKING AND FINANCIAL INSTITUTIONS AND NON-BANK FINANCIAL BUSINESSES AND PROFESSIONS TO PREVENT MONEY LAUNDERING AND FINANCING OF TERRORISM

Article 6. Banking and Professional Secrecy

Banking or professional secrecy shall not inhibit the implementation of the present Law and may not be invoked as a ground for refusal to provide information to the FIU and supervisory authority, whether for domestic or for international cooperation purposes, or as required in connection with an investigation which relates to money laundering or financing of terrorism ordered by or carried out under the supervision of a judicial authority.

Article 7. Prohibition of Anonymous Accounts or Similar Products

Reporting entities shall not:

- (a) open or keep anonymous or numbered accounts, or accounts in obviously

fictitious names;

(b) issue, keep or accept any other financial products unless the customer due diligence measures were taken in accordance with Article 8 of the present Law.

Article 8. Customer Due Diligence Measures

1. Reporting entities referred in Article 4 of the present Law shall take customer due diligence measures, including the identification of their customers and the verification of their customers' identity:

(a) prior to establishing business relations, such as opening accounts, taking stocks, bonds or other securities into safe custody, granting safe-deposit facilities or engaging in any other business dealings;

(b) prior to carrying out occasional or one-off transactions, including wire-transfers, that involve a sum in excess of amount as defined by the supervisory authority; identification information accompanying wire transfers shall contain the name and address of the originator, and where an account exists, the number of that account. In the absence of an account, a unique reference number shall be included;

(c) if the reporting entity has a suspicion of money laundering or financing of terrorism irrespective of the sum involved in the transaction;

(d) if the reporting entity has any doubts about the veracity or adequacy of previously obtained customer identification data.

1- The following customer due diligence measures shall be taken by reporting entities:

(a) identifying the customer by obtaining at the minimum name, birth date, and address, for natural persons and name, articles of incorporation or registration, tax identification number, address, telephone number, for legal persons as defined by the supervisory authority and verifying that customer's identity using reliable, independent source documents, data or information by using a national ID card, a passport or any other official photo ID document.

(b) identifying the ultimate beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements, the reporting entities should take reasonable measures to understand the ownership and control structure of the customer.

(c) obtaining information on the purpose and intended nature of the business relationship.

(d) conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the reporting entities, knowledge of the customer, their business and risk profile including, where necessary, the source of funds.

3. Where the reporting entity is unable to comply with paragraphs 2 (a) to (c) above, it should not open the account, commence business relations or perform the transaction, or in case of existing business relations with the customer, it should terminate such business relations, unless instructed to the contrary by the FIU. In any such cases, the reporting entity should consider making a suspicious transaction report in relation to the customer.

4. The requirements set forth by this Article shall apply to all new customers as well as to existing customers on the basis of materiality and risk. Reporting entities shall conduct due diligence on such existing relationships retrospectively.

Article 9. Identification of Customers Carrying Out Transactions below the Threshold

Identification shall also be carried out in cases where separate operations repeated involve an individual amount, which is less than that the threshold specified by the supervisory authority but the reporting entity has reasons to believe that those transactions are aiming at avoiding identification.

Article 10. Special Monitoring of Certain Transactions

1. A reporting entity shall pay special attention to:
 - (a) any complex, unusual or large amount transactions;
 - (b) any unusual patterns of transactions; that have no apparent or visible economic or lawful purpose;
 - (c) business relations and transactions with institutions or persons in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or financing of terrorism;
 - (d) wire transfers that do not contain complete originator information;
 - (e) business relations and transactions with persons with whom the reporting entity has had no face-to-face contact during the implementation of identification procedure;
 - (f) business relations and transactions with politically exposed persons;
 - (g) business relations and transactions conducted by means of cross-border correspondent banking or other similar relationships.

2. In cases referred to under paragraph 1 of this Article, the reporting entity shall seek additional information as to the origin and destination of the money, the purpose of the transaction and the identity of the transacting parties.

Article 11. Record-keeping by Reporting Entities

Reporting entities referred to at Article 4 of the present Law shall maintain, at least for 5 years after the account has been closed or the business relations with the customer have ended, and shall hold at the disposal of the competent authorities any records of customer identification and records of transactions conducted by customers in a manner that they are sufficient to permit the reconstruction of individual transactions, including the amounts and types of currency involved if any, so as to provide, if appropriate, evidence for the prosecution of offense.

Article 12. Reporting Cash or Suspicious Transactions to the FIU

1. Reporting entities referred to at Article 4 of the present Law shall report to the FIU any cash transaction exceeding the amount of the threshold as defined by the supervisory authority, as well as such transactions, which involve several connected cash transactions whose total value exceeds the same amount.

2. Irrespective of the reporting obligation set forth by paragraph 1 of this

Article, if a reporting entity suspects or has reasonable grounds to suspect that funds are the proceeds of offense, or are related to the financing of terrorism, it shall promptly, within 24 hours, report its suspicions to the FIU.

3. Reports of suspicions shall be transmitted to the FIU by any expeditious means of communication, such as facsimile or, failing which, by any other written means. Reports communicated by telephone shall be confirmed by facsimile or any other written means within the shortest possible time. The FIU shall acknowledge receipt of the report upon receipt thereof.

4. A reporting entity that has made a report to the FIU, as well as any other entity that holds information related to the transaction or customer involved in the report, shall give the FIU or a law enforcement agency that is carrying out an investigation arising from, or relating to the information contained in the report, any further information that it has about the transaction or attempted transaction or the parties to the transaction if requested to do so by the FIU or the law enforcement agency.

5. If the FIU has reasonable grounds to suspect that a transaction or a proposed transaction may involve a money laundering offense or an offense of financing of terrorism and for reasons of the seriousness or the urgency of the case it considers necessary, it may direct the reporting entity in writing or by telephone to be followed up in writing, not to proceed with the carrying out of that transaction or proposed transaction or any other transaction in respect of the funds affected by that transaction or proposed transaction for a period as may be determined by the FIU, which may not exceed 48 hours, in order to allow the FIU :

- to make necessary inquiries concerning the transaction; and
- if the FIU deems it appropriate, to inform and advise a law enforcement agency.

Article 13. Contents of Suspicious Transaction Reports

The suspicious transaction reports submitted to the FIU shall at a minimum contain:

- (a) the identity and identifying particulars of the reporting entity, including the name and contact details of the reporting officer;
- (b) the identity and identifying particulars of the customer and of the beneficiary involved in the transaction;
- (c) the type and details such as amount, currency, date, parties involved of the transaction that is reported as suspicious, including the account number and particulars of the account holder;
- (d) a short description of the circumstances and reasons that justify the suspicion.

Article 14.-Exemption from Liability for Reporting Cash or Suspicious Transactions in Good Faith

The persons, directors or employees of the reporting entities:

1. Who in good faith transmit information or submit reports to the FIU in

accordance with the provisions of the present Law shall not be subject to any proceedings instituted against them for breach of any restriction on disclosure of information or of banking or professional secrecy.

2. Who in good faith transmit information or submit reports in accordance with the provisions of the present Law, there is no civil or criminal liability action may be neither brought, nor any professional sanction taken against them, even if there are investigations, do they not give rise to a conviction.

3. Are not hold responsible for civil or criminal actions that may be brought against them by reason of any material and/or non-material loss, resulting from the suspension of a transaction as provided for in Article 12, paragraph 5 of the present Law.

Article 15. Prohibition of Tipping Off

In no circumstance shall persons required to disclose the information and submit reports referred to in Article 13, or any other individual having knowledge thereof, communicate such information or reports to any natural or legal persons other than the FIU, except where so authorized by the FIU.

Article 16. Internal Controls and Compliance at Reporting Entities

Reporting entities referred to at Article 4 of the present Law shall develop programs for the prevention of money laundering and the financing of terrorism in accordance with the guidelines of the supervisory authority as stipulated in article 31 of the present Law. Such programs shall include the following:

- (a) Development of internal policy procedures and controls, including appropriate compliance arrangements and adequate screening procedures to ensure high standards when hiring employees;
- (b) Designation of compliance officers at management level;
- (c) Ongoing training for officials or employees;
- (d) Internal audit function to check compliance with and effectiveness of the measures taken to apply the present law.

Article 17. Compliance Officers

The compliance officer to be appointed pursuant to Article 16, paragraph (b) of the present Law shall be a senior officer with relevant qualifications and experience to enable him/her to respond sufficiently well to enquiries relating to the reporting entity and the conduct of its business, and be responsible at minimum:

- (a) for establishing and maintaining internal policy, procedures and manual of compliance;
- (b) for ensuring compliance by staff of the reporting entity with the provisions of the present Law and any other law relating to money laundering or financing of terrorism and the provisions of policy, procedures and manual of compliance established pursuant to this Article;
- (c) to act as the liaison between the reporting entity and the FIU in matters relating to compliance with the provisions of the present Law and any other legislations with respect to money laundering or financing of terrorism.

Article 18. Fit and Proper Requirements

The competent supervisory authorities shall ensure that the management and shareholders of reporting entities are fit and proper so as to prevent criminals or their associates from holding, or being the beneficial owners of, a significant or controlling interest or management function in such entities.

CHAPTER IV : FINANCIAL INTELLIGENCE UNIT

Article 19. Organization

1. A financial intelligence unit hereinafter referred to as the FIU shall be established as a unit under the control of the National Bank of Cambodia.
2. The FIU shall have adequate financial resources and independent decision-making authority on matters coming within its sphere of responsibility.

Article 20. FIU Board and Staff

1. The FIU shall have a permanent secretariat, which shall be headed by a senior official appointed by the Prime Minister proposed by the National Bank of Cambodia. The permanent secretariat shall work under the authority of a Board of Directors, composed of the senior representatives of the following agencies:

- (a) Office of the Council of Minister;
- (b) Ministry of Justice;
- (c) Ministry of the Interior;
- (d) Ministry of the Economy and Finance;
- (e) National Bank of Cambodia

2. The head of the Board shall be appointed by the Prime Minister proposed by the National Bank of Cambodia selected from amongst the representatives of the above agencies for a period of 2 years. The first head of the Board shall be the representative of the National Bank of Cambodia. The board members shall be appointed by the Royal Sub-decree with reference to the proposal of the National Bank of Cambodia.

3. The permanent secretariat of FIU shall have adequate staff selected by the head of FIU and approved by the Board. Staff shall meet high standards of integrity and shall be screened by the relevant authorities before employment by the FIU.

Article 21. Functions

The FIU shall:

- a) receive suspicious and cash transaction reports made in pursuance of Article 12 of the present Law and information provided to the FIU about suspicions of money laundering or financing of terrorism;
- b) collect information that the FIU considers relevant to its activities with regard to money laundering or financing of terrorism and that is publicly available, including commercially available databases, as well as other information necessary to carry out its

functions, such as information collected maintained and stored in the database by the reporting entity;

c) have access on a timely basis to financial, administrative and law enforcement information as authorized by law that is necessary to undertake its functions set forth by this Article, including information collected and maintained by, or stored in the databases of, any public agency;

d) analyze and assess all suspicious transaction reports and related information in order to determine whether there are reasonable grounds to believe that a money laundering offense or an offense of financing of terrorism has been committed and in such cases refer the matter to the relevant law enforcement authority for criminal investigation;

e) compile statistics and records on suspicious and cash transaction reports received, analyzed and forwarded to the law enforcement authorities and disseminate information to other public agencies on related matters as required;

f) provide feedback to reporting entities and other relevant agencies regarding the outcome of suspicious transaction reports or information provided to it under the present Law;

g) ensure that personal information under its control is protected from unauthorized disclosure;

h) act to enhance public awareness and understanding of matters related to money laundering and financing of terrorism.

Article 22. Supervision by the FIU

1. The FIU shall issue guidelines to reporting entities in relation to customer identification, record keeping, reporting of suspicious transactions and other obligations established pursuant to the present Law. The FIU shall consult with supervisory agencies in those sectors where such supervision is already in place.

2. The FIU shall be responsible for ensuring compliance of reporting entities with the requirements set forth by the present Law through off-site monitoring and by conducting on-site inspections in accordance with the relevant legislation. The FIU shall coordinate its supervision of compliance under the present Law with the existing supervisory agencies.

3. If during its supervision of compliance with the present Law, the FIU discovers non-compliance with any of its provisions, it may:

(a) instruct the reporting entity to take remedial action as determined by the FIU to rectify non-compliance;

(b) inform the other supervisory agencies of such non-compliance and propose that they implement control measures, including the imposition of sanctions or the revocation of license, within their competence, as appropriate;

(c) initiate administrative sanctions under the present Law.

Article 23. Obligation of Confidentiality

The FIU Board and its permanent secretariat shall be required to keep confidential any information obtained within the scope of their duties, even after the cessation of those duties within the FIU. Such information may not be used for any purposes other than those provided for by the present Law.

Article 24. Database

The FIU shall, in conformity with the relevant laws and regulations on the protection of privacy and on computerized databases, operate a database containing all relevant information concerning reports of suspicious transactions as well as currency transactions as required under the present Law. That information shall be updated and organized with a view to ensure maximum effectiveness of the FIU operational analysis and help confirm or invalidate suspicions.

Article 25. Relationships with Foreign FIU

1. The FIU may, subject to a reciprocal arrangement, exchange information with foreign FIU, provided that they are subject to similar requirements of confidentiality and irrespective of the nature of those units. It may, for that purpose, conclude cooperation agreements with such units.

2. Upon receipt of a request for information or transmission from a counterpart foreign FIU, it shall comply with that request within the scope of the powers conferred upon it by the present Law.

CHAPTER V: ANCILLARY PROVISIONS

Article 26. Internal Coordination

FIU, law enforcement authorities, supervisory authorities as well as other competent Government agencies entrusted with the prevention or control of money laundering and financing of terrorism shall establish their own permanent and senior-level mechanism for:

- (a) ensuring information exchange and coordination among these authorities and with the relevant private sector associations,
- (b) providing guidance as to the implementation of the present Law, and
- (c) formulating policy for various areas falling under its scope.

The role and functions of this coordination mechanism shall be regulated by sub-decree.

Article 27. Limiting the Use of Cash in Commercial Transactions

The Government shall adopt appropriate measures to reduce the circulation and use of cash in commercial transactions and encourage the use of non-cash means of payment that facilitate the identification of the participants.

CHAPTER VI : SANCTIONS

Article 28. Disciplinary Sanctions

The Supervisory Authorities shall cooperate with the FIU to impose disciplinary sanctions to any reporting entity, which is not in compliance with the provisions of Articles 7 through 12 and Article 16 of the present Law.

Violation as mentioned in above paragraph shall be subject to the following sanctions:

- the warning;
- the reprimand;
- the prohibition or limitation to conduct any transactions for a period of time as indicated by the supervisory authorities;
- the revocation of the business license;
- the proposal to a demotion of relevant officials or directors of the reporting entities;
- the fine;
- the order to a temporary freezing on means and proceeds of money laundering and financing of terrorism;
- the complaint to the court while there is serious violation of the provisions of the present Law and other relevant regulations that leads to the damage of public interest and national security.

Article 29. Penal Sanctions

Without taking into consideration of any offenses in the penal provisions of other law:

- Any person who denies providing information to the FIU and the supervisory authorities as contrary to the provisions of Article 6 of the present Law will be sentenced to imprisonment from six days to one month and subject to a fine from 100,000 Riels up to 1,000,000 Riels or any one thereof.
- Any person who neglects to provide report on cash and suspicious transactions to the FIU as contrary to the provisions of Article 12 of the present Law will be sentenced to imprisonment from one month to one year, and will be subject to a fine from 1,000,000 Riels up to 5,000,000 Riels or any one thereof.
- Any person required to disclose the information and submit reports referred to in Article 13, or any other individual having knowledge thereof, communicate such information or reports as the contrary to the provisions of prohibition of tipping off in Article 15 of the present Law will be sentenced to imprisonment from one month to one year, and will be subject to a fine from 1,000,000 Riels up to 5,000,000 Riels or any one thereof.
- Any person who violates the obligations to keep professional secrecy as contrary to Article 23 of the present Law will be sentenced to imprisonment from one month to one year, and will be subject to a fine from 1,000,000 Riels up to 5,000,000 Riels or any one thereof.

Article 30. Freezing and confiscation of property

In case of a proceeding on the violation of money laundering or financing terrorism as stipulated in the existing Penal Code all relating or suspicious to be related property may be frozen or restrained from transferring until the court decision becomes definitive. In case where the court has decided to penalize the offence of money laundering or financing terrorism, the property shall be confiscated as state property.

CHAPTER VII: FINAL PROVISION

Article 31. The supervisory authorities shall issue regulations, instructions and guidelines for the implementation of the present Law, particularly regarding:

- the arrangement for information sharing with the FIU to the agreement in imposing disciplinary measures to be taken, or in suing the offenses to the court .
- the mutual coordination among supervisory authorities for the issuance of regulations, instructions, and guidelines for the implementation of the present Law.
- issuing regulations and guidelines to determine the duties and to protect officials and staff who perform their duties with integrity in the FIU, the information confidentiality protection and the information disclosure rules.

The supervisory authorities shall cooperate with the Financial Intelligence Unit in guiding the reporting entities to create program for the prevention of the money laundering and the financing of the terrorism in accordance with Article 16 of the present Law, and to issue the report formats according to the nature and character of the reporting entities. Regulations and guidelines issued by the supervisory authorities under the present Law can be modified or amended in an appropriate circumstance or when necessary.

Article 32. If there are provisions of other laws not consistent with this law the present Law shall prevail.

Article 33. The present Law has been declared as urgent.

Signed

NORODOM SIHAMONI