

KINGDOM OF CAMBODIA

NATION RELIGION KING

LAW

ON

ANTI-MONEY LAUNDERING AND

COMBATING THE FINANCING OF TERRORISM

27 June 2020

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Unofficial Translation

LAW

ON

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27 June 2020



KRAM

We

NORODOM SIHAMONI KING OF CAMBODIA

NS/RKM/0620/021

- Referring to the Constitution of the Kingdom of Cambodia;
- Referring to Royal Decree No. NS/RKT/0918/925 dated
 6 September 2018 on the nomination of the Royal Government of Cambodia;
- Referring to Royal Decree No. NS/RKT/0320/421 dated 30 March 2020 on the nomination and modification of the composition of the Royal Government of Cambodia;
- Referring to Royal Kram No. NS/RKM/0618/012 dated 28 June 2018 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Referring to Royal Kram No. NS/RKM/0196/08 dated 24 January 1996 promulgating the Law on the Establishment of the Ministry of Interior;
- Referring to the request by Samdech Akka Moha Sena Padei Techo **HUN SEN**, Prime Minister of the Kingdom of Cambodia,

PROMULGATE

Law on Anti-Money Laundering and Combating Financing of Terrorism which was adopted by the National Assembly on June 4, 2020 during its fourth session of sixth legislature and completely reviewed by the Senate on both formality and legality on June 16, 2020 during its fifth plenary session of the fourth legislature with the following provisions:

CHAPTER I GENERAL PROVISIONS

Article 1.– Purpose

The present Law aims to ensure the combat of money laundering and financing of terrorism by determining measures to supervise, deter, prevent, suppress and eliminate money laundering and financing of terrorism.

Article 2.– Scope

The present Law covers all activities related to money laundering and financing of terrorism in the Kingdom of Cambodia.

Article 3.– Definitions

Key terms used in this present Law are defined as below:

- 1. "*Money laundering*" shall mean:
 - (a) The conversion or transfer of property, knowing that such property is the proceeds of offence, for the purpose of concealing or falsely justifying the illicit origin of the property or of assisting a person involving in the commission of an offence to evade the legal consequences of his or her action;

- (b) The concealment or false justification 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;
- (c) The acquisition, possession or use of property, knowing that such property is the proceeds of offence; or
- (d) Any form of participation in, and attempts to commit, aiding and forcing somebody to commit, any of the acts defined in accordance with Article 3 (1) of the present Law.

2. "*Proceeds of offence*" shall mean any property derived from or obtained, directly or indirectly, through the commission of a felony or misdemeanor.

3. "**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. Property shall include instruments of and proceeds from money laundering, financing of terrorism and all other serious crime. Property shall also include substitute property of a natural or legal person which is equivalent to the property, being the subject of freezing, seizure and confiscation.

4. "*Supervisory authority*" shall mean the National Bank of Cambodia, the Securities and Exchange Commission of Cambodia and any other authority having oversight over a reporting entity. 5. "*Predicate offence*" shall mean 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 (1) of the present Law. In order to be used as a basis for proceedings in respect of money laundering, a predicate offence committed abroad must have the nature of an offence in that country where it was committed and under the laws of Cambodia, despite having different names of offences.

6. "*Financing of terrorism*" shall mean the willful provision or collection of property, funds or other services with the intention that such property, funds or other services be used or in the knowledge that they are or may be used, in full or in part, to support any activities of terrorists or terrorist organizations including but not limited to the financing of travel, training, planning or preparation of, participation in, or perpetration of terrorism.

7. "*Suspicious transaction*" shall mean a transaction or attempted transaction that involves funds suspected to be the proceeds of offence, or funds related to the financing of terrorism.

8. "Cash transaction" shall mean a transaction conducted in cash or any other threshold transactions. Cambodia Financial Intelligence Unit shall issue a directive to determine such threshold.

9. "*Cambodia Financial Intelligence Unit*" shall mean a central body responsible for receiving and analyzing reports on suspicious transactions as defined in Article 3 (7) of the present Law, cash transaction reports as defined in Article 3 (8) of the present Law, and disseminating the results of their analysis and other information related to money laundering or financing of terrorism.

10. "*Beneficial owner*" shall mean the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted.

Where a customer is a legal entity the beneficial owner is:

- (a) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a portion of the shares or voting rights of which the percentage is to be prescribed by the Cambodia Financial Intelligence Unit in a directive or
- (b) the natural person(s) who exercises control over a legal entity through other means where no natural person having a controlling ownership interest is found or doubt exist as to whether the person(s) with controlling ownership interest is the beneficial owner.

11. "**Politically Exposed Persons (PEPs)**" shall mean individuals who are domestic politically exposed persons, foreign politically exposed persons or international politically exposed persons.

(a) "*Domestic PEPs*" shall mean individuals who are or have been entrusted with prominent public functions in Cambodia, such as senior politicians, senior government officials, judicial or military officials, senior executives of stateowned corporations or important political party officials.

- (b) *"Foreign PEPs"* shall mean individuals who are or have been entrusted with prominent public functions in a foreign country, such as head of state or of government, senior government officials, judicial or military officials, senior executives of state-owned corporations or important political party officials.
- (c) *"International PEPs"* shall mean individuals who are or have been entrusted with prominent functions by an international organization, such as members of senior management or members of the board of directors or members of any similar body.

12. **"Trust**" shall mean 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.

- 13. "Legal arrangements" shall mean:
 - (a) The administration and management of trust fund provided by trustor in favor of beneficiary in accordance with the term of trust instrument or applicable regulation.
 - (b) Any other legal relationship created by a person who transfers ownership or control of assets to other persons subject to enforceable requirements that they be held or managed on behalf of a beneficiary or class of beneficiaries or for a specified purpose.

14. "*Invalidate*" shall mean to make null and void.

15. **"Countermeasure"** refers to a directive given to a reporting entity by the Cambodia Financial Intelligence Unit pursuant to Article 8 (14) of the present Law that may include one or more of the following:

- (a) a requirement to undertake enhanced customer due diligence in relation to the transactions involving high-risk jurisdictions;
- (b) special monitoring and/or reporting of transactions involving high-risk jurisdictions;
- (c) prohibition of entering into or conducting financial transactions or classes of financial transactions with high-risk jurisdictions;
- (d) other directives to mitigate the risk of money laundering or financing of terrorism posed by high-risk jurisdictions.

16. *"Targeted financial sanction"* refers to any law or regulation to implement United Nations Security Council Resolutions issued under Chapter VII of the Charter of the United Nations.

17. **"Instrumentality**" shall mean any instrument which is the property used or intended to be used in the commission of offence.

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".

- 1. Banks, including branches of foreign banks;
- 2. Non-bank financial institutions, including securities brokerage firms and insurance companies;
- 3. Micro finance institutions;
- 4. Credit cooperatives;
- 5. Leasing companies, investment and pension funds, investment companies and companies for managing investment funds;
- 6. Exchange offices;
- 7. Remittance services;
- 8. Trust;
- 9. Agents, companies and developers of immovable property, building and land;
- 10. Dealers in precious metals, stones and gems;
- 11. Post office operating payment transactions;
- 12. 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;

- 13. Casinos and other gambling institutions;
- 14. Non-governmental organizations and foundations engaging in business activities and fund raising;
- 15. Any other persons or professions that are designated by the Cambodia Financial Intelligence Unit to be governed under the scope of the present Law.

Article 5.– Business Activities of Reporting Entity

Business activities of the reporting entities mentioned in Article 4 (12) of the present Law are the following:

- Buying and selling immovable property, 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 establishment, operation, or management of companies.

3. Establishment, 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:

- (a) acting as a formation agent of legal persons;
- (b) 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;

- (c) providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- (d) acting as or arranging for another person to act as a trustee of an express trust;
- (e) 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 Cambodia Financial Intelligence Unit 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:

1. Open or keep anonymous or numbered accounts, or accounts in obviously fictitious names;

2. 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 to in Article 4 of the present Law shall apply a risk-based approach to the management and mitigation of their risks of money laundering and financing of terrorism. Under this approach, the reporting entities must assess and understand their own risks of money laundering and financing of terrorism and shall apply appropriate customer due diligence measures to manage and mitigate the risks. The reporting entities must apply enhanced customer due diligence measures where the risk of money laundering or terrorist financing is high and may apply simplified customer due diligence measures where the risk of money laundering and terrorist financing is found to be low.

2. The requirements for the implementation of enhanced customer due diligence measures and simplified customer due diligence measures shall be set out in directives issued by the Cambodia Financial Intelligence Unit. 3. For the purpose of carrying out risk assessment of money laundering and financing of terrorism as stated in paragraph 1 of this Article, the reporting entities must follow any directives issued by the Cambodia Financial Intelligence Unit.

4. Reporting entities shall undertake 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, keeping 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 equal to or greater than the amount specified in a directive issued by the Cambodia Financial Intelligence Unit, shall contain information of originator and beneficiary, and where an account exists, the number of that account shall be contained. In the absence of an account, a unique reference number shall be included;
- (c) if the reporting entity has a suspicion of money laundering and/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.

5. The following customer due diligence measures shall be taken by reporting entities:

- (a) identifying the customer by obtaining at the minimum name, family name, birth date, and address for natural persons and name, articles of incorporation or registration, tax identification number, address, telephone number notably, for legal persons as defined by a directive issued by the Cambodia Financial Intelligence Unit 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 officially recognized photo ID document.
- (b) identifying the beneficial owner and taking reasonable measures to verify the identity of the beneficial owner such that the reporting entity is satisfied that it precisely knows who the beneficial For legal person(s) owner is. and legal arrangement(s), the reporting entity should take reasonable measures to understand the nature of business, ownership and control structure of the customer. Where no natural person is identified as the beneficial owner of legal persons, the natural person who holds the position of senior managing official should be identified as the beneficial owner.

- (c) obtaining information on the purpose and intended nature of the business relationship.
- (d) identifying whether the customer or beneficial owner is a PEP or a family member or close associate of a PEP; and applying appropriate customer due diligence measures to such customer based on the level of assessed risk and in accordance with the requirements of the present Law and a directive issued by the Cambodia Financial Intelligence Unit.
- (e) conducting ongoing due diligence on the business relationship including:
 - scrutinizing transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the reporting entity's knowledge of the customers, their businesses and risk profiles including, where necessary, the sources of funds; and
 - ensuring that documents, data, or information collected under the customer due diligence process are kept up-to-date and relevant, by undertaking reviews of existing records, particularly for high-risk categories of customers.

6. Where the reporting entity is unable to comply with paragraph 5 of this Article, 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 Cambodia Financial Intelligence Unit. In any such cases, the reporting entity shall consider making a suspicious transaction report in relation to the customer.

7. Where, in the course of conducting customer due diligence process, the reporting entity suspects that the customer might be engaging in money laundering or financing of terrorism and reasonably believes that continuing with the customer due diligence process may tip off the customer, the reporting entity may discontinue the customer due diligence process after which it shall make a suspicious transaction report in relation to the matter.

8. The requirements set forth in paragraphs 4 to 7 of 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 the due diligence on such existing relationships retrospectively.

9. Reporting entities may apply simplified customer due diligence measures where the risks of money laundering and/or financing of terrorism are assessed as low in accordance with the requirements as defined in a directive issued by the Cambodia Financial Intelligence Unit. 10. Reporting entities shall undertake enhanced customer due diligence measures in relation to business relations or transactions referred to in Article 10 of the present Law, and other business relations or transactions for the following:

- (a) business relations and transactions with institutions or persons in jurisdictions having high risk of money laundering and/or financing of terrorism;
- (b) business relations and transactions with foreign PEPs and with persons who are family members or close associates of such persons;
- (c) business relations and transactions with domestic PEPs and international PEPs and with persons who are family members or close associates of such persons where the risk of the business relations or transactions are assessed to be high;
- (d) business relations or transactions that are assessed to pose a high risk for money laundering or financing of terrorism.

11. Reporting entities shall conduct enhanced customer due diligence measures that are consistent with higher levels of the identified risks, and comply with any other requirements set forth in paragraph 10 of this Article or other high-risk products and services that are defined in a directive issued by the Cambodia Financial Intelligence Unit. 12. Reporting entities shall ensure an understanding of the risks of money laundering and financing of terrorism and the establishment of appropriate internal control systems as defined in a directive issued by the Cambodia Financial Intelligence Unit for managing and mitigating the risks.

13. Reporting entities that are part of a financial group or that have foreign branches or majority-owned subsidiaries should be subject to group wide programs against money laundering and financing of terrorism as set in Article 16 of the present Law that applies where appropriate to all branches and majority-owned subsidiaries of the financial group. These programs should comply with the requirements defined in a directive issued by the Cambodia Financial Intelligence Unit and the reporting entities' assessment of risk as stipulated in the present Law.

14. Reporting entities shall carry out countermeasures defined in a directive issued by the Cambodia Financial Intelligence Unit for mitigating the risk of money laundering and financing of terrorism arising from foreign jurisdictions, as deemed appropriate or as required by the Financial Action Task Force or the Asia Pacific Group on Money Laundering.

15. Reporting entities shall impose appropriate targeted financial sanctions on their customers.

16. Reporting entities referred to in Article 4 (9) of the present Law shall apply the provisions of paragraph 1 to paragraph 15 of this Article and any directives issued by the Cambodia Financial Intelligence Unit, in accordance with present Law, regarding customer due diligence when conducting any transactions for or with a customer relating to the purchase or sale of immovable property.

17. Reporting entities referred to in Article 4 (10) and Article 4 (13) of the present Law shall apply the provisions of paragraph 1 to paragraph 15 of this Article and a directive issued by the Cambodia Financial Intelligence Unit, in accordance with the present Law, regarding customer due diligence when conducting any transactions with the customers that involve a sum in equal to or excess of amount as specified in a directive issued by the Cambodia Financial Intelligence Unit.

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

Identification shall also be carried out in cases where a customer initiates multiple transactions involving amounts, which are less than that the threshold specified by the Cambodia Financial Intelligence Unit but the reporting entity has reasons to believe that those transactions are structured to avoid a noticeable identification.

Article 10.- Special Monitoring on Certain Transactions

- 1. Reporting entities 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 faceto-face contact during the implementation of identification procedure;
- (f) business relations and transactions with PEPs;
- (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 in Article 4 of the present Law shall maintain, at least for 5 (five) years after the account has been closed or the business relations with the customers 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 each transaction, including the amounts and types of currency involved if any, so as to provide, if appropriate, evidence for the prosecution of the offence.

Article 12.- Reporting Cash or Suspicious Transactions to the Cambodia Financial Intelligence Unit

1. Reporting entities referred to in Article 4 of the present Law shall report to the Cambodia Financial Intelligence Unit any cash transaction in equal to or greater than the amount of the threshold as specified in a directive issued by the Cambodia Financial Intelligence Unit, as well as such transactions, which involve several connected cash transactions whose total value exceeds the threshold.

2. Irrespective of the reporting obligation set forth in paragraph 1 of this Article, if a reporting entity suspects or has reasonable grounds to suspect that funds are the proceeds of an offence, or are related to the financing of terrorism, it shall promptly, within 24 hours, report such suspicions to the Cambodia Financial Intelligence Unit.

3. Reports of suspicions shall be transmitted to the Cambodia Financial Intelligence Unit by any expeditious means of communication such as facsimile, or if not available, 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 Cambodia Financial Intelligence Unit shall acknowledge the receipt of the report upon the receipt thereof. 4. A reporting entity that has made a report to the Cambodia Financial Intelligence Unit, as well as any other entity that holds information related to the transaction or customer involved in the report, shall give the Cambodia Financial Intelligence Unit 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 Cambodia Financial Intelligence Unit or the law enforcement agency.

5. If the Cambodia Financial Intelligence Unit has reasonable grounds to suspect that a transaction or a proposed transaction may involve a money laundering offence or an offence of financing of terrorism or 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 by 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 Cambodia Financial Intelligence Unit, which may not exceed 48 hours, in order to allow the Cambodia Financial Intelligence Unit :

- (a) to make necessary inquiries concerning the transaction;
- (b) to inform and advise any relevant law enforcement agency if deems as appropriate.

Article 13.– Contents of Suspicious Transaction Reports

The suspicious transaction reports submitted to the Cambodia Financial Intelligence Unit shall at a minimum contain:

1. the identity and identifying particulars of the reporting entity, including the name and contact details of the reporting officer;

2. the identity and identifying particulars of the customer and of the beneficiary involved in the transaction;

3. the type and details of transaction such as amount, currency, date, parties involved in the transaction that is reported as suspicious, including the account number and identifying particulars of the account holder;

4. 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, employees or reporting entities:

1. who in good faith transmit information or submit reports to the Cambodia Financial Intelligence Unit 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 make reports in accordance with the provisions of the present Law, are not held responsible for administrative, civil, criminal actions or any professional sanctions that may be brought against them, even if there are investigations, do they not give rise to a conviction.

3. are not held responsible for administrative, 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 stated in Article 12 (5) of the present Law.

Article 15.– Prohibition of Tipping Off

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

Article 16.– Internal Controls and Compliance of Reporting Entities

Reporting entities referred to in Article 4 of the present Law shall develop programs for the prevention of money laundering and financing of terrorism in accordance with a directive issued by the Cambodia Financial Intelligence Unit. Such programs shall include the following: 1. Establishment of internal policies, procedures and controls, including appropriate compliance arrangements and adequate screening procedures to ensure high standards when hiring employees;

- Designation of compliance officer at senior management level;
- 3. Ongoing training for officers or employees;
- 4. 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 (2) 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:

1. for establishing and maintaining internal policies, procedures and manual of compliance;

2. for ensuring compliance by staff of the reporting entity with the provisions of the present Law or any other laws relating to money laundering and financing of terrorism and the provisions of policies, procedures and manual of compliance established pursuant to this Article; 3. for acting as the liaison between the reporting entity and the Cambodia Financial Intelligence Unit in matters relating to compliance with the provisions of the present Law and any other laws with respect to money laundering and financing of terrorism.

Article 18.– Fit and Proper Requirements

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

CHAPTER IV

ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM AUTHORITY

Article 19.– Anti-Money Laundering and Combating the Financing of Terrorism Authority

1. Anti-money laundering and combating the financing of terrorism authority composes of the Board of Directors and the Cambodia Financial Intelligence Unit.

2. Anti-money laundering and combating the financing of terrorism authority shall have logo and stamp for official use, which shall be determined by Sub-decree.

Article 20.– Board of Directors of the Cambodia Financial Intelligence Unit

1. Board of Directors of the Cambodia Financial Intelligence Unit, hereinafter referred to as the Board, is established to provide guidance and recommendations on anti-money laundering and combating the financing of terrorism work. The Board shall comprise of the senior representatives of the following ministries and agencies:

- (a) Office of the Council of Ministers;
- (b) Ministry of Justice;
- (c) Ministry of Interior;
- (d) Ministry of Economy and Finance;
- (e) National Bank of Cambodia;
- (f) The Head of the Cambodia Financial Intelligence Unit as the secretary.

2. The members of the Board shall be determined by Subdecree upon the request of the National Bank of Cambodia.

3. The Chair 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 ministries and agencies for a period of 2 (two) years. The first Chair of the Board shall be the representative of the National Bank of Cambodia.

Article 21.– Cambodia Financial Intelligence Unit

1. The Cambodia Financial Intelligence Unit shall be established under the National Bank of Cambodia.

2. The Cambodia Financial Intelligence Unit shall act in consultation with the Board.

3. The Cambodia Financial Intelligence Unit shall be led by a Head, whose rank is equal to Director General, and a number of Deputy Heads whose rank is equal to Deputy Director General as necessary. The head of the Cambodia Financial Intelligence Unit shall be appointed by Royal Decree upon the request of the Prime Minister based on a proposal by the National Bank of Cambodia. The Deputy Heads of the Cambodia Financial Intelligence Unit shall be appointed by Sub-decree upon the request of the National Bank of Cambodia.

4. The Cambodia Financial Intelligence Unit shall have adequate financial resource and independent decision-making authority on matters coming within its sphere of responsibility.

5. The Cambodia Financial Intelligence Unit shall have sufficient staff. The staff must act in good faith in accordance with the code of conduct of the Cambodia Financial Intelligence Unit.

6. The organization and functioning of the Cambodia Financial Intelligence Unit shall be determined by Sub-decree.
Article 22.– Functions and Duties of the Cambodia Financial Intelligence Unit

The Cambodia Financial Intelligence Unit shall have functions and duties as below:

1. receive suspicious and cash transaction reports made in pursuance of Article 12 of the present Law and information provided to the Cambodia Financial Intelligence Unit about suspicions of money laundering or financing of terrorism;

2. collect information that the Cambodia Financial Intelligence Unit 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;

3. 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;

4. 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 offence or an offence of financing of terrorism has been committed and in such cases refer the matter to the relevant law enforcement agencies for investigation; 5. compile statistics and records on suspicious and cash transaction reports received, analyzed and forwarded to the law enforcement agencies and disseminate information to other public agencies on related matters as required;

6. 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;

7. ensure that the personal information under its control is protected from unauthorized disclosure;

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

Article 23.– Supervision by the Cambodia Financial Intelligence Unit

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

2. The Cambodia Financial Intelligence Unit shall ensure compliance of reporting entities with the requirements set forth under the present Law through off-site monitoring and on-site inspection in accordance with the relevant legislations. The Cambodia Financial Intelligence Unit shall coordinate its supervision of compliance under the present Law with the existing supervisory authorities. 3. If during its supervision of compliance with any provisions of the present Law, the Cambodia Financial Intelligence Unit finds any non-compliance, it may:

- (a) instruct the reporting entity to take remedial actions as determined by Cambodia Financial Intelligence Unit to rectify non-compliance;
- (b) inform the other supervisory authorities of such non-compliance and propose that they implement supervisory measures, including the imposition of sanctions or the revocation of license, within their competence, as appropriate;
- (c) impose administrative sanctions under the present Law.

Article 24.– Obligation of Confidentiality

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

Article 25.- Database

The Cambodia Financial Intelligence Unit 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 cash transactions as required under the present Law. That information shall be updated and organized with a view to ensure maximum effectiveness of the Cambodia Financial Intelligence Unit's analysis and help confirm or invalidate suspicions.

Article 26.– Relationships with Foreign Financial Intelligence Unit

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

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

CHAPTER V ANCILLARY PROVISIONS

Article 27.- National Coordination Committee

1. National Coordination Committee shall be established for setting out policy, leading and coordinating the implementation of the present Law.

2. The organization and functioning of the National Coordination Committee shall be regulated by Sub-decree.

Article 28.– Internal Coordination at Technical Level

The Cambodia Financial Intelligence Unit, law enforcement agencies, 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 operational mechanisms for: 1. ensuring information exchange and coordination among these authorities and with the relevant private sector.

2. providing guidance as to the implementation of the present Law.

3. implementing policy for various areas falling under the scope of the present Law.

Article 29.– Implementation by Supervisory Authorities

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

- (a) the arrangement for information sharing with the Cambodia Financial Intelligence Unit to the agreement in imposing disciplinary measures to be taken, or in filling the complaint to the court.
- (b) the mutual coordination among supervisory authorities for the issuance of regulations, instructions, and guidelines for the implementation of the present Law.
- (c) issuing instructions and guidelines to determine the roles and duties and to protect officials and staff who perform their duties with integrity in the Cambodia Financial Intelligence Unit, the information confidentiality protection and the information disclosure rules.

2. The supervisory authorities shall cooperate with the Cambodia Financial Intelligence Unit in guiding the reporting entities to create program for the prevention of the money laundering and the financing of terrorism in accordance with Article 16 of the present Law, and to issue the report templates according to the nature and character of the reporting entities.

3. Instructions and guidelines issued by the supervisory authorities under the present Law can be modified or amended in an appropriate circumstance or when necessary.

Article 30.– Limiting the Use of Cash in Commercial Transactions

The Royal 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 FREEZING, SEIZURE, AND CONFISCATION

Article 31.– Freezing and Seizure of Property

1. The designated member of the National Coordination Committee shall freeze property and take appropriate provisional measures as soon as possible, when there is a reasonable ground to suspect that such property is related or suspected to be involved with the offences or the proceeds of offence, before applying as soon as practicable for court order for the purpose of keeping property which is the subject of confiscation as defined in Article 32 (confiscation of property) of the present Law. 2. Upon becoming aware of the existence of any property related or suspected to be involved with the offences or the proceeds of offence, the law enforcement agencies must seize that property without delay and as soon as practicable, and sue to the court to freeze such property.

Article 32.- Confiscation of Property

1. In the event of a conviction for money laundering or a predicate offence or financing of terrorism, an order shall be issued by the court for the confiscation of:

- (a) property constituting the proceeds of offence, including property intermingled with or exchanged for such proceeds,
- (b) property constituting income and other benefits obtained from the proceeds of offence,
- (c) the instrumentalities, materials or any objects being used in carrying out of criminal offence or committing offence,
- (d) property referred to in paragraph 1 (a) to 1 (c) of this Article that has been transferred to any party, unless the court finds that the owner of such property acquired them by paying a fair price or in return for the provision of services corresponding to their value or on any other legitimate grounds, and that s/he was unaware of its illicit origin, or
- (e) property of the perpetrator of the offence the value of which corresponds to that of the proceeds of offence.

2. If, in case where an offence involving money laundering or a predicate offence, or financing of terrorism, is established by the court and the perpetrator thereof cannot be convicted because he is unknown, he absconded or died, the court may nevertheless order the confiscation of the seized property if sufficient evidence is adduce that it constitutes proceeds of offence.

3. In addition to the confiscation of property defined in paragraph 1 (a) to 1(e) of this Article, the confiscation of property stipulated in Criminal Code of the Kingdom of Cambodia is also applied.

Article 33.– Mingled Property

Where the property that is or is reasonably suspected of being related to the offence or the proceeds of offence, is mingled with other property that is not related to the offence or the proceeds of offence, the value of the frozen, seized or confiscated property to which an order under Article 31 (freezing and seizure of property) or Article 32 (confiscation of property) of the present Law applies, must not exceed the value of the property that is or is reasonably suspected of being related to the offence or the proceeds of offence.

Article 34.– Onus on Person Opposing Order

A person opposing an order under Article 31 (freezing and seizure of property) or Article 32 (confiscation of property) of the present Law, seeking to exclude property from such an order or seeking to overturn such an order, must satisfy the court that such person is entitled to that property and that such property is not related to the offence or the proceeds of offence.

Article 35.– Freezing of Funds Associated with Financing of Terrorism

Notwithstanding any other provision of law, funds of terrorists, of those who finance terrorism and of organizations designated by the United Nations Security Council Resolutions 1267 and 1373 and successor Resolutions shall be frozen without delay pursuant to mechanisms and procedures defined by a legislative regulation.

CHAPTER VII SANCTIONS

Article 36.– Sanctions

1. The sanctions in the present Law include disciplinary and criminal sanctions.

2. Disciplinary sanctions include:

(a) the warning;

(b) the reprimand;

- (c) the prohibition or limitation to conduct any transactions for a period of time as indicated by the supervisory authorities;
- (d) the revocation of the business license;
- (e) the proposal to a demotion of relevant officials or directors of the reporting entities;
- (f) the fine.

3. Criminal sanctions include monetary fines and imprisonment.

Article 37.– Power of Supervisory Authorities on Disciplinary Sanctions

1. Reporting entities that do not comply with the provisions of Articles 7 through 12 and Article 16 of the present Law shall face disciplinary sanctions stipulated in Article 36 of the present Law. Supervisory authorities shall impose disciplinary sanctions in accordance with the related laws and regulations. Where necessary, relevant supervisory authorities may issue regulations to ensure the implementation of the sanctions. In case the supervisory authorities decide to impose fines in accordance with the laws and regulations, the persons subjected to the fines have the rights to file complaint to the competent court within 30 (thirty) days after being notified of the fines.

2. Provision of the Single Chapter (General Provisions) in Title 1 (General Provisions) and the Single Chapter (Physical Punishment) in Title 3 (Physical Punishment) of Book 8 of the Criminal Procedure Code shall be applied in case the decision on monetary fines come into force. 3. Supervisory authorities may take measures to temporarily seize the instrumentalities and proceeds of money laundering and terrorism financing, and follow appropriate legal procedures to file complaint to the court in the case of serious non-compliance with the provisions of this law and any instructions, negatively affecting the public interests and national security.

Article 38.– Money Laundering Offence

1. Money laundering is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 100,000,000 (one hundred million) riels up to 500,000,000 (five hundred million) riels, or up to the value of fund or property which was the subject of money laundering.

2. The provisions of Articles 406 (Aggravating Circumstances) to 408 (Additional Penalties: Categories and Duration) of the Criminal Code shall apply.

3. The legal entity may be declared as being criminally responsible under conditions as stipulated in Article 42 (Criminal Responsibility of a Legal Entity) of the Criminal Code for money laundering offences.

4. The legal entity shall be subject to a fine from 200,000,000 (two hundred million) riels up to 1,000,000,000 (one billion) riels and any one or more additional sanctions as stipulated in Article 43 (Additional Penalties Applicable to Legal Entities) of the present Law.

Article 39.– Denial of Providing Information

1. Any person who intentionally denies to provide information to the Cambodia Financial Intelligence Unit and the supervisory authorities as contrary to the provision of Article 6 of the present Law will be sentenced to imprisonment from 6 (six) days to 1 (one) month and subject to a fine from 10,000,000 (ten million) riels up to 100,000,000 (one hundred million) riels or any one thereof.

2. The legal entity may be declared as being criminally responsible under conditions as stipulated in Article 42 (Criminal Responsibility of a Legal Entity) of the Criminal Code for the offences committed in paragraph 1 of this Article.

3. The legal entity shall be subject to a fine from 50,000,000 (fifty million) riels up to 200,000,000 (two hundred million) riels and any one or more additional sanctions as stipulated in Article 43 (Additional Penalties Applicable to Legal Entities) of the present Law.

Article 40.– Negligence of Providing Transaction Reports

1. Any person who intentionally fails to submit reports on cash or suspicious transactions to the Cambodia Financial Intelligence Unit as contrary to the provisions of Article 12 of the present Law will be sentenced to imprisonment from 1 (one) month to 1 (one) year, and will be subject to a fine from 50,000,000 (fifty million) riels up to 200,000,000 (two hundred million) riels or any one thereof. 2. The legal entity may be declared as being criminally responsible under conditions as stipulated in Article 42 (Criminal Responsibility of a Legal Entity) of the Criminal Code for the offences committed in paragraph 1 of this Article.

3. The legal entity shall be subject to a fine from 200,000,000 (two hundred million) riels up to 500,000,000 (five hundred million) riels and any one or more additional sanctions as stipulated in Article 43 (Additional Penalties Applicable to Legal Entities) of the present Law.

Article 41.- Violation of Disclosure of Information and Tipping Off

1. Any person required to disclose the information and submit reports referred to in Article 13 of the present Law, or any other individual having knowledge thereof, intentionally 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 1 (one) month to 1 (one) year, and will be subject to a fine from 50,000,000 (fifty million) riels up to 200,000,000 (two hundred million) riels or any one thereof.

2. The legal entity may be declared as being criminally responsible under conditions as stipulated in Article 42 (Criminal Responsibility of a Legal Entity) of the Criminal Code for the offences committed in paragraph 1 of this Article.

3. The legal entity shall be subject to a fine from 200,000,000 (two hundred million) riels up to 500,000,000 (five hundred million) riels and any one or more additional sanctions as stipulated in Article 43 (Additional Penalties Applicable to Legal Entities) of the present Law.

Article 42.– Violation of the Obligations to Keep Professional Secrecy

1. Any person who intentionally violates the obligations to keep professional secrecy as contrary to Article 24 of the present Law shall be sentenced to imprisonment from 1 (one) month to 1 (one) year, and will be subject to a fine from 50,000,000 (fifty million) riels up to 200,000,000 (two hundred million) riels or any one thereof.

2. The legal entity may be declared as being criminally responsible under conditions as stipulated in Article 42 (Criminal Responsibility of a Legal Entity) of the Criminal Code for the offences committed in paragraph 1 of this Article.

3. The legal entity shall be subject to a fine from 200,000,000 (two hundred million) riels up to 500,000,000 (five hundred million) riels and any one or more additional sanctions as stipulated in Article 43 (Additional Penalties Applicable to Legal Entities) of the present Law.

Article 43.– Additional Penalties Applicable to Legal Entities

One or more additional penalties to be imposed for legal entities are the followings:

1. Dissolution according to modalities determined in Article 170 (Dissolution and Liquidation of Legal Entities) of the Criminal Code;

2. Placement under judicial supervision according to modalities determined by Article 171 (Placement Under the Judicial Supervision) of the Criminal Code; 3. Prohibition from carrying one or more activities according to modalities determined by Article 172 (Prohibition from Carrying Activities) of the Criminal Code;

4. Disqualification from public tenders according to modalities determined in Article 173 (Disqualification from Public Tenders) of the Criminal Code;

5. Prohibition from making a public offering according to modalities determined in Article 174 (Prohibition from Making a Public Offering) of the Criminal Code;

6. Confiscation of objects or funds which were the subjects of offences according to modalities determined in Article 178 (Confiscation of Ownership, Sale and Destruction of Confiscated Objects) and Article 179 (Confiscation and Rights of the Third Parties) of the Criminal Code;

7. Confiscation of proceeds and properties earned from offences according to modalities determined in Article 178 (Confiscation of Ownership, Sale and Destruction of Confiscated Objects) and Article 179 (Confiscation and Rights of the Third Parties) of the Criminal Code;

8. Publication of decisions on punishment according to modalities determined by Article 180 (Publication of Decisions) of the Criminal Code;

9. Broadcasting of decisions on punishment on newspapers or broadcasting on all means of audio-visual communications according to modalities determined by Article 181 (Broadcasting of Decisions by Audio-Visual Communications) of the Criminal Code.

Article 44.– Financing of Terrorism Offence

1. A penalty of imprisonment for a period between 10 (ten) years and 20 (twenty) years shall be applied to a person who provides or collects property, funds or other services with the intention that such property, funds or other services to be used or in the knowledge that they are or may be used, in full or in part, to support directly or indirectly any activities of terrorists or terrorist organizations including but not limited to the financing of travel, training, planning or preparation of, participation in, or perpetration of terrorism, for the benefit of:

- (a) a person who commits an offence under Law on Counter Terrorism or a corresponding offence under a law of a foreign State;
- (b) an entity owned or controlled, directly or indirectly, by the person mentioned in (a) above; or
- (c) a person or entity acting on behalf of, or at the order of, the person mentioned in (a) above.

2. An act mentioned under paragraph 1 of this Article constitutes an offence although the property, resources or services have not been used to carry out an offence mentioned in the Law on Counter Terrorism or a corresponding offence under a law of a foreign State.

3. The legal entity may be declared as being criminally responsible under conditions as stipulated in Article 42 (Criminal Responsibility of a Legal Entity) of the Criminal Code for the offences committed in paragraph 1 of this Article. 4. The legal entity shall be subject to a fine from 1,000,000,000 (one billion) riels up to 2,000,000,000 (two billion) riels and any one or more additional sanctions as stipulated in Article 43 (Additional Penalties Applicable to Legal Entities) of the present Law.

CHAPTER VIII TRANSITIONAL PROVISION

Article 45.– Continued Effects

Regulations issued to implement the Law on Anti-Money Laundering and Combating the Financing of Terrorism promulgated by Royal Kram No. NS/RKM/o607/014 dated 24 June 2007 and the Law on Amendment of Article 3, Article 29, and Article 30 of Law on Anti-Money Laundering and Combating the Financing of Terrorism promulgated by Royal Kram No. NS/RKM/o613/006 dated 3 June 2013 shall remain in effect until their replacements by the new regulations issued in accordance with the provisions of the present Law.

CHAPTER IX FINAL PROVISION

Article 46.- Repeal of the Previous Laws

The Law on Anti-Money Laundering and Combating the Financing of Terrorism promulgated by the Royal Kram No. NS/RKM/0607/014 dated 24 June 2007 and the Law on Amendment of Article 3, Article 29, and Article 30 of Law on Anti-Money Laundering and Combating the Financing of Terrorism promulgated by Royal Kram No. NS/RKM/0613/006 dated 3 June 2013 shall have no more effect and be replaced by the present Law after being in force.

Article 47.- Promulgation

The present Law is promulgated as urgent.

Royal Palace, Phnom Penh, 27 June 2020

(Royal Signature)

PRL.2006.698

Having respectfully submitted to His Majesty the King for Royal Signature **Prime Minister**

NORODOM SIHAMONI

(Signature)

Samdech Akka Moha Sena Padei Techo HUN SEN

Certified copy for dissemination Standing Deputy Prime Minister, Minister in charge of the Office of the Council of Ministers Having respectfully submitted to Samdech Akka Moha Sena Padei Techo Prime Minister

Deputy Prime Minister and Minister of Interior

(Signature)

(Signature and Seal)

H.E. Kittinitekorsalbandit BIN CHHIN

Samdech Krolahom SAR KHENG

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