

Money Laundering Control Act

(Amended 2003.02.06)

Article 1 This Act is explicitly enacted to regulate unlawful money-laundering activities and to eradicate related serious crimes.

Article 2 As used in this Act, the crime of "money-laundering" is defined as any person who-

- 1.knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves or;
- 2.knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others.

Article 3 As used in this Act, "serious crimes" include the following crimes:

- 1.The crimes of which the minimum punishment is 5 years or more imprisonment.
- 2.The crimes prescribed in Articles 201 and 201-1 of the Criminal Code.
- 3.The crimes prescribed in paragraph I of Article 240, paragraph II of Article 241, and paragraph I of Article 243 of the Criminal Code.
- 4.The crimes prescribed in paragraph I of Article 296, paragraph II of Article 297, paragraph II of Article 298, and paragraph I of Article 300 of the Criminal Code.
- 5.The crimes prescribed in Articles 340 and 345 of the Criminal Code.
- 6.The crimes prescribed in paragraphs II, IV, V of Article 23, and paragraph II of Article 27 of the Act for the Prevention of Child Prostitution.
- 7.The crimes prescribed in paragraph II of Article 8, and paragraph II of Article 11, paragraph I, II, III of Article 12, paragraph I, II of Article 13 of the Statute for Fire Arms, Ammunition and Harmful Knives Control.
- 8.The crimes prescribed in paragraph I, II of Article 2, paragraph I, II of Article 3 of the Statute for Punishment of Smuggling.
- 9.The crimes prescribed in Article 171 of the Securities Exchange Law, in violation of paragraph I, II of Article 155, and paragraph I of Article 157-1 of the Securities Exchange Law.
- 10.The crimes prescribed in paragraph I of Article 125 of the Banking Law.
- 11.The crimes prescribed in Articles 154 and 155 of the Bankruptcy Law.
- 12.The crimes prescribed in paragraph I, II of Article 3, Article 4 and Article 6 of the Organized Crime Prevention Act.

The following crimes also fall into the category of the "serious crimes" if the property or property interests obtained from the commission of the crime(s) exceeds NT 20 million dollars:

- 1.The crimes prescribed in paragraph II of Article 336 of the Criminal Code.
- 2.The crimes prescribed in Articles 87 and 91 of the Government Procurement

Act.

Article 4 As used in this Act, the "property or property interests obtained from the commission of the crime" means:

- 1.The property or property interests obtained directly from the commission of the crime.
- 2.The remuneration obtained from the commission of the crime.
- 3.The property or property interests derived from the above two subsections. This provision, however, is not applicable to a third party who obtains in good faith the property or property interests prescribed in the preceding two subsections.

Article 5 As used in this Act, the "financial institutions" include the following institutions:

- 1.banks;
- 2.trust and investment corporations;
- 3.credit cooperative associations;
- 4.credit department of farmers' associations;
- 5.credit department of fishermen's associations;
- 6.postal service institutions which also handle the money transactions of deposit, transfer and withdrawal;
- 7.negotiable instrument finance corporations;
- 8.credit card companies;
- 9.insurance companies;
- 10.securities brokers;
- 11.securities investment and trust enterprises;
- 12.securities finance enterprises;
- 13.securities investment consulting enterprises;
- 14.securities central depository enterprises;
- 15.futures brokers;
- 16.other financial institutions designated by the Ministry of Finance.

Businesses dealing in jewelry or other financial institutions likely to be used for money laundering are subject to the provisions governing financial institutions set forth in this Act after such businesses or financial institutions are so designated by the Ministry of Justice in consultation with other related competent authorities. If the competent authorities for the institutions set forth in the above two paragraphs are ambiguous, the Executive Yuan shall designate the competent authorities for the institutions.

The Ministry of Justice may, as it deems necessary, require the institutions set forth in the paragraphs I and II of this Article to accept monetary instruments other than cash as payment for financial transactions.

Article 6 Every financial institution referred to in this Act shall establish its own money laundering prevention guidelines and procedures, and submit those guidelines and procedures to the competent authority and the Ministry of Finance for review. The content of the money laundering prevention guidelines and procedures shall include the following items:

1. The operation and the internal control procedures for money laundering prevention;
2. The regulatory on-job training for money laundering prevention instituted or participated in by the financial institution referred to in this Act;
3. The designation of a responsible person to coordinate and supervise the implementation of the established money laundering prevention guidelines and procedures;
4. Other cautionary measures prescribed by the competent authority and the Ministry of Finance.

Article 7 For any currency transaction exceeding a certain amount of money, the financial institutions referred to in this Act shall ascertain the identity of customer and keep the transaction records as evidence, and submit the financial transaction, the customer's identity and the transaction records to the designated authority. The amount and the scope of the financial transaction, the procedures for ascertaining the identity of the customer, and the method and length of time for keeping the transaction records as evidence referred to in the preceding paragraph shall all be established by the Ministry of Finance in consultation with the Ministry of Justice and the Central Bank of the Republic of China. Any financial institution which violates the provisions set forth in the first paragraph of this Article shall be punished by a fine between \$200,000 NT to \$1 million NT.

Article 8 For any financial transaction suspected to be a money laundering activity, the financial institutions referred to in this Act shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the designated authority. The reporting financial institution will be discharged from its confidentiality obligation to the customer if the institution can provide proof that it was acting in good faith when reporting the suspect financial transaction to the designated authority in compliance with the preceding paragraph of this Article. The designated authority, and the scope and procedures of the reporting referred to in the first paragraph of this Article shall all be established by the Ministry of Finance in consultation with the Ministry of Interior, the Ministry of Justice and the Central Bank of the Republic of China.

Any financial institution which violates the provisions set forth in the first paragraph of this Article shall be fined between 200,000 NT and 1 million NT. However, if the violating financial institution is able to prove that the cause of such violation is not attributable to the intentional act or negligent act of its employee(s), no fine shall be imposed.

Article 8-1 Whenever the prosecutor obtains sufficient evidence to prove that the offender has engaged in money laundering activity by transporting, transmitting, or transferring a monetary instrument or funds through bank deposit, wire transfer, currency exchange or other means of payment, the prosecutor may request the court to order the financial institution to freeze that specific money laundering transaction to prevent withdrawal, transfer, payment, delivery, assignment or other related property disposition of the involved funds. The prosecutor on their own authority may freeze a specific money laundering transaction and request the court's approval within three days whenever the prosecutor has probable cause to believe that the property or property interests obtained by the offender from the commission of crime are likely to disappear under exigent circumstances. The prosecutor must immediately remove the hold on transaction if the prosecutor fails to obtain the court's approval within three days. During the trial proceeding, the presiding judge has discretion to order a financial institution to freeze the offender's money laundering transactions for purposes of withdrawal, transfer, payment, delivery, assignment or other related property disposition. The order to freeze the offender's money laundering transactions for withdrawal, transfer, payment, delivery, assignment or other related property disposition in a financial institution must be in writing and meet the requirements set forth in Article 128 of the Criminal Procedure Law. The first paragraph of this Article also applies to foreign governments, foreign institutions or international organizations requesting our government to assist in a particular money laundering activity based on the reciprocal treaties or agreements entered with our government relating to the prevention of money laundering activities, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless of whether such activity is being investigated or tried in this jurisdiction. The provisions set forth in the Chapter 4 of the Criminal Procedure Law are also applicable to financial institutions refusing to comply with an order set forth in the first two paragraphs.

Article 9 Any person engaging in money laundering activity referred to Subsection 1 of Article 2 of this Act shall be sentenced to imprisonment of not more than five

years and, in addition thereto, be fined not more than 3 million NT.

Any person engaging in money laundering activity referred to Subsection 2 of Article 2 of this Act shall be sentenced to imprisonment of not more than seven years and, in addition thereto, be fined not more than 5 million NT.

Any person engaging in money laundering activities referred to Subsections 1 and 2 of Article 2 of this Act as their major source of income shall be sentenced to imprisonment between three years and ten years, in addition thereto, be fined between 1 million NT and 10 million NT.

The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities.

Any person who surrenders himself or herself to the authorities within six months after he or she has engaged in money laundering activities as set forth in the preceding four paragraphs, his or her sentence shall be exempted. Any person who surrenders himself or herself in later than six months after he or she has engaged in any of the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced or exempted. Any person who confesses during the custodial interrogation or the trial that he or she has engaged in the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced.

Article 10 Any person who engaged in the money laundering activity set forth in Subsection 2 of Article 2 of this Act to conceal, accept, transport, store, intentionally buy, or act as a broker to manage the property or property interests obtained from a serious crime or crimes committed by his or her lineal relatives, spouse or any other relatives living together or jointly owning the property, his or her sentences or fine may be reduced.

Article 11 Any government official who reveals, discloses or turns over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to imprisonment of not more than three years.
Any employee of a financial institution without a government official position reveals, discloses or hands over documents, pictures, information or things

relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to imprisonment of not more than two years, detention, or fined not more than 500,000 NT.

Article 12 The property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act, other than that which should be returned to the injured party or a third party, shall be confiscated, regardless of whether the property or property interests belong to the offender or not. Whenever the above property or property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender.

The offender's property may be seized, if necessary, to protect the property or property interests obtained from the commission of a crime by an offender violating of the provisions set forth in Article 9 of this Act.

The first two paragraphs of this Article also applies to foreign governments, foreign institutions or international organizations requesting our government to assist in a particular money laundering activity based on the reciprocal treaties or agreements entered with our government relating to the prevention of money laundering activities, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such activity is being investigated or tried in this jurisdiction.

Article 12-1 The property or property interests confiscated, other than cash, investment securities or negotiable instruments, may be distributed by the Ministry of Justice to the prosecutor offices, the police departments, or other government agencies assisting the investigation of the money laundering activities for official use, in accordance with the provisions set forth in paragraph I of Article 12.

The Ministry of Justice may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which enters a treaty or agreement in accordance with Article 14 of this Act to assist our government in confiscating the property or property interests obtained by an offender from his or her commission of a crime or crimes.

The Executive Yuan shall promulgate regulations for management, distribution and use of the property or property interests mentioned in the preceding two paragraphs.

Article 13 Any person who does not comply with the payment of fines imposed under this Act within the prescribed time period, he or she shall be transfer to the Executive

Bureau in the Ministry of the Justice for compulsory execution pursuant to the applicable law.

Article 14 The government of the Republic of China may, based on the principle of reciprocity, enter into cooperative treaties or other international written agreements relating to the prevention of money laundering activities with foreign governments, institutions or international organizations to effectively prevent and eradicate international money laundering activities.

Article 15 This Act shall go into effect six months after promulgation.