



KRAM

We

NORODOM SIHAMONI

KING OF CAMBODIA

NS/RKM/0607/014

- With reference to the Constitution of the Kingdom of Cambodia
- With reference to the Royal Decree N° NS/RKM/0704/124 of July 15, 2004, regarding the formation of the Royal Government of Cambodia
- With reference to Royal Kram N° 02/NS/94 of July 20, 1994, promulgating the Law on the Organization and Function of the Council of Ministers,
- With reference to Royal Kram N° NS/RKM/0196/27 of January 26, 1996, promulgating the Law on the Organization and Function of the National Bank of Cambodia,
- With reference to the request by the Prime Minister and Governor of the National Bank of Cambodia,

PROMULGATE

Law on Anti-Money Laundering and Combating financing of Terrorism as adopted by the National Assembly on April 30, 2007 during its sixth session of third legislature and ratified by the Senate as to its entire form and legality on May 28, 2007 during its third plenary session of the second legislature with the following provisions:

Article One.-

Articles 3, article 29 and article 30 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism promulgating by Royal Kram NS/RKM/0607/014 dated 24 June 2007 shall be amended as follow:

Article 3 New.- Definitions

Notwithstanding any other provision of law, the terms:

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

- (i) the conversion or transfer of property, knowing that such property is the proceeds of any predicate 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 any predicate 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 any predicate offence;
- (iii) the acquisition, possession or use of property, knowing that such property is the proceeds of any predicate offence; or
- (iv) 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 of the present law.

(b) ***Proceeds of offence*** shall mean any property derived from or obtained, directly or indirectly, through the commission of any predicate offences, which include 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.

Property shall include instruments of and proceeds from money laundering, terrorist financing and all other serious crime. Property shall also include substitute property of the person or entity of equal value to the property that would be subject of freezing, seizure and confiscation.

(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 offence*** means any felony or misdemeanor, even if committed abroad, as a result of which proceeds have been generated that many become the subject of money laundering as defined above under article 3 new (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.

Predicate offence shall include the followings:

- Participation in an organized criminal group and racketeering;
 - Terrorism, including terrorist financing;
 - Trafficking in human beings and migrant smuggling;
 - Sexual exploitation, including sexual exploitation of children;
 - Illicit trafficking in narcotic drugs and psychotropic substances;
 - Illicit arms trafficking;
 - Illicit trafficking in stolen and other goods;
 - Corruption and bribery;
 - Fraud;
 - Counterfeiting currency;
 - Counterfeiting and piracy of products;
 - Environmental crime or illegal logging;
 - Murder, grievous bodily injury;
 - Kidnapping, illegal restraint and hostage taking;
 - Robbery or theft;
 - Smuggling;
 - Extortion;
 - Forgery;
 - Piracy;
 - Tax evasion;
 - Insider trading and market manipulation.
- (f) “***Financing of terrorism***” shall mean the willful provision or collection 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 Law on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT law), cash transactions as defined in article 12(1) of the AML/CFT 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.

Article 29 New-1.-Money Laundering Offence

Money laundering is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 40.000.000 (forty million) riels up to 100.000.000 (one hundred million) riels, or up to the value of fund or property which was the subject of money laundering.

The provisions of articles 406 (aggravating circumstances) to 408 (additional penalties: categories and duration) of the Criminal Code shall apply.

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.

The legal entity shall be subject to a fine from 100.000.000 (one hundred million) riels to 500.000.000 (five hundred million) riels and any one or more additional sanctions as stipulated in article 29 New-6 (additional penalties for legal entities) of the present law.

Article 29 New-2.-Denial of providing information

Any person who intentionally fails to provide information to the Cambodia Financial Intelligence Unit and the supervisory authorities as contrary to the provisions of article 6 of the AML/CFT law will be sentenced to imprisonment from 6 (six) days to 1 (one) month and subject to a fine from 100,000 (one hundred thousand) Riels up to 1,000,000 (one million) Riels or any one thereof.

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.

The legal entity shall be subject to a fine from 1,000,000 (one million) riels to 2,000,000 (two million) riels and any one or more additional sanctions as stipulated in article 29 New-6 (additional penalties for legal entities) of the present law.

Article 29 New-3.-Negligence of providing transaction reports

Any person who intentionally fails to provide report on cash and suspicious transactions to the Cambodia Financial Intelligence Unit as contrary to the provisions of article 12 of AML/CFT Law will be sentenced to imprisonment from 1 (one) month to 1 (one) year, and will be subject to a fine from 1,000,000 (one million) Riels up to 5,000,000 (five million) Riels or any one thereof.

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.

The legal entity shall be subject to a fine from 2,000,000 (two million) riels to 5,000,000 (five million) riels and any one or more additional sanctions as stipulated in article 29 New-6 (additional penalties for legal entities) of the present law.

Article 29 New-4.- Violation of Disclosure of information and tipping off

Any person required to disclose the information and submit reports referred to in article 13 of AML/CFT 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 AML/CFT Law will be sentenced to imprisonment from 1 (one) month to 1 (one) year, and will be subject to a fine from 1,000,000 (one million) Riels up to 5,000,000 (five million) Riels or any one thereof.

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.

The legal entity shall be subject to a fine from 2,000,000 (two million) riels to 5,000,000 (five million) riels and any one or more additional sanctions as stipulated in article 29 New-6 (additional penalties for legal entities) of the present law.

Article 29 New-5.-Violation of the obligations to keep professional secrecy

Any person who intentionally violates the obligations to keep professional secrecy as contrary to article 23 of AML/CFT Law will be sentenced to imprisonment from 1 (one) month to 1 (one) year, and will be subject to a fine from 1,000,000 (one million) Riels up to 5,000,000 (five million) Riels or any one thereof.

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.

The legal entity shall be subject to a fine from 2,000,000 (two million) riels to 5,000,000 (five million) riels and any one or more additional sanctions as stipulated in article 29 New-6 (additional penalties for legal entities) of the present law.

Article 29 New-6.-Additional Penalties for Legal Entities

Additional penalties to be imposed for legal entities are the followings:

1. dissolution according to formalities determined in article 170 (dissolution and liquidation of a legal entity) of the Penal Code;
2. placement under the court surveillance according to modalities determined by article 171 (placement under the court surveillance) of the Penal Code;
3. prohibition against operating one or more activities according to modalities determined by article 172 (prohibition from operating activities) of the Penal Code;
4. expulsion from public market places according to modalities determined in article 173 (expulsion from public market places) of the Penal Code;
5. prohibition against conducting public campaign for fund saving according to modalities determined in article 174 (prohibition against public campaign for fund saving) of the Penal 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 Penal Code
7. confiscation of incomes and properties earned from offences according 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 Penal Code
8. posting decision on punishment according to modalities determined by Article 180 (posting decision) of the Penal Code
9. publication of decision on punishment on newspapers or broadcasting on all means of audio visual communications according to modalities determined by article 181 (broadcasting decision by all means of audio-visual communications) of the Penal Code.

Article 29 New-7.-Terrorism Financing Offence

A penalty of imprisonment for a period between 10 (ten) years and 20 (twenty) years shall be applied to a person who intentionally provides or collects, makes any property, resources or services available, directly or indirectly, for the benefit of:

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

An act mentioned under paragraph (1) above constitutes an offence although the property, resources or services have not been used to carry out an offence

mentioned in Counter Terrorism Law or a corresponding offence under a law of a foreign State.

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.

The legal entity shall be subject to a fine from 20,000,000 (twenty million) riels to 40,000,000 (forty million) riels and any one or more additional sanctions as stipulated in article p29 new-6 (additional penalties for legal entities) of the present law.

Article 30 New-1.-Freezing and Seizure of property

The designated member of the National Coordination Committee on Anti-Money Laundering and Combating of Terrorism shall freeze property and take appropriate provisional measures, when they have a suspicion or have a reasonable ground to suspect that such property is related or suspected to be involved with the offences or the proceeds of a predicate 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 30 new 2 (confiscation of property) of the present law.

Upon becoming aware of the existence of any property related or suspected to be involved with the offences or the proceeds of a predicate offence, the law enforcement authorities must seize that property without delay and as soon as practicable, and sue to the court to freeze such property.

Article 30 New-2.- Confiscation of Property

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 a predicate offence, including property intermingled with or exchanged for such proceeds;
- (b) property constituting income and other benefits obtained from the proceeds of a predicate offence;
- (c) the instrumentalities; materials or any subjects being used in carrying out of criminal offence or commit offense;
- (d) property referred to in paragraph (a), (b) and (c) of this Paragraph 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 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 the predicate offence.

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 a predicate offence.

In addition to the confiscation of property defined in (a), (b), (c), (d) and (e) of this article, the confiscation of property stipulated in Criminal Code of the Kingdom of Cambodia is also applied.

Article 30 New-3.- Mingled Property

Where the property that is or is reasonably suspected of being related to the offence or the proceeds of a predicate offence, is mingled with other property that is not related to the offence or the proceeds of a predicate offence, the value of the frozen, seized or confiscated property to which an order under article 30 New-1 (freezing and seizure of property) or article new-2 (confiscation of property) 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 a predicate offence.

Article 30 New-4.- Onus on person opposing order

A person opposing an order under article 30 new-1 (freezing and seizure of property) or article 30 new-2 (confiscation of property), 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 predicate offence

Article 30 New-5.- 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.

Article Two.-

The present law is declared urgent.

Royal Palace, Phnom Penh, 03 June 2013

Signed and Sealed

PLR.1306.578

Submitted for the signature of H.M the King

The prime minister

Signed

HUN SEN

Submitted for information to Samdech the Prime Minister

The Governor of the National Bank of Cambodia

Signed

CHEA CHATO

N°567S.N

Certified copy for dissemination

Phnom Penh, 06 June 2013

The First Deputy Secretary General of Royal Government of Cambodia

Signed and Sealed

SAY SOKHA