

(Unofficial Translation)



**Counter-Terrorism and Proliferation of Weapon of Mass Destruction Financing Act
B.E. 2559 (2016)**

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 29th Day of December B.E. 2559;

Being the 1st Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to amend the law on counter-terrorism financing;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows.

Section 1 This Act shall be called the “Counter-Terrorism and Proliferation of Weapon of Mass Destruction Financing Act B.E. 2559 (2016)”

Section 2 This Act shall come into force on the day following the date of its publication in the Government Gazette.

Section 3 The following acts shall be repealed

- (1) Counter-Terrorism Financing Act B.E. 2556 (2013)
- (2) Counter-Terrorism Financing Act (No. 2) B.E. 2558 (2015)

Section 4 In this Act:

“assets” means funds, property or intangible object, susceptible of having a value and of being appropriated, including the fruit thereof, and shall include legal documents or instruments in any form, whether in paper or any other material or in electronic form, evidencing title to, possession, right to claim, or any other interest in, such assets;

“terrorist act” means any act which constitutes an offense related to terrorism under the Penal Code, or any act which constitutes an offense within the scope of international conventions and treaties related to terrorism, to which Thailand is a party or acceded, whether such act is committed inside or outside the Kingdom;

“weapon of mass destruction” means nuclear, biological, chemical or other weapons which cause serious harm to lives of human, animal, plant or environment similar to such weapons, including means of delivery, component or equipment of such weapons;

“designated person” means a person, group, legal persons or entities, listed as designated persons pursuant to a resolution of, or notification issued under the United Nations Security Council as having an act of terrorism or proliferation of weapon of mass destruction which were notified by the Office, or a person, group, legal persons or entities who were designated by Court order under this Act;

“reporting entity” means reporting entities under the law on anti-money laundering;

“assets freezing” means prohibition of making transfer, selling, moving or disposition or conversion, utilization of, or dealing in any way with such assets which would result in changing in amount, value, quantity, location, or character of the assets;

“Board” means the Anti-Money Laundering Board under the law on anti-money laundering;

“Transaction Committee” means the Transaction Committee under the law on anti-money laundering;

“Office” means the Anti-Money Laundering Office.

Section 5 The Prime Minister shall have charge and control of the execution of this Act and shall have the power to issue a Ministerial Regulation to implement this Act.

The Ministerial Regulation shall take effect upon its publication in the Government Gazette;

Chapter I Financing of Terrorism

Section 6 Where a resolution of or notification issued under the United Nations Security Council designates persons, groups, legal persons or entities for involvement in

terrorism and the Office deems such a resolution or notification does not go against the Thai constitution or law, it shall notify such designation of the persons and entities as designated persons in order to act in accordance with such a resolution or notification;

Delisting of persons designated under paragraph one shall be made upon the issuance of Resolution or Declaration of the United Nations Security Council resulting in the delisting of such persons from the designation list.

Making designation under paragraph one and delisting under paragraph two shall be done by the Office without delay, in accordance with rules and conditions prescribed by the Board;

Section 7 In the case where there are reasonable grounds and evidence to suspect that any person is connected with the commission of terrorist act or terrorist financing or acts on behalf of or at the direction of or under the control of such a person, the Office, with the consent of the Transaction Committee shall consider referring the names of such person to the public prosecutor for consideration of filing an ex parte petition to the Court for an order to designate such person. Where there is a probable evidence to believe as follows, the Court shall order the designation;

(1) Such person may be involved in terrorist act or terrorist financing or;

(2) Such person acts on behalf of or at the direction of or under the control of the person designated under (1) or under Section 6

The Office shall report to the Board on the approval of the Transaction Committee for names referring, at the next meeting.

The Office shall make notification of list of persons designated by the Court and inform such persons. Making of notification or informing shall be in accordance with ordinance issued by the Board.

The Office shall regularly review the designation list under paragraph one. Where there is circumstantial change, the Office, with the consent of the Transaction Committee, shall consider referring the matter to the public prosecutor to consider filing an ex parte petition with the Court for an order to delist such person from the designation list.

Rules and procedures followed by the Transaction Committee under paragraph one and four shall be in accordance with the Ministerial Regulation, in relation to the Office's consideration, by which the Office shall appoint a committee for considering the name before submission to the Transaction Committee for approval.

The Office, the Transaction Committee, the public prosecutor and the Court shall implement this Section without delay.

Section 8 The Office shall make notification of the list of designated persons under Section 6 and 7 and shall inform reporting entities and persons in possession of the assets of the designated persons to take the following actions without delay;

(1) Freeze the assets of the designated persons or a person acting on behalf of, or at the direction of, or an undertaking owned or controlled by such persons, directly or indirectly;

(2) Inform the Office of the frozen assets;

(3) Inform the Office of a customer or former customer who is listed as a designated person or who has or had conducted transactions with such a person.

Rules and procedures of actions to be taken under (1) (2) and (3) shall be prescribed by an ordinance issued by the Board.

Section 9 A reporting entity shall set out a risk assessment policy or any guidance for the prevention of the financing of terrorism or other measures necessary for the implementation in accordance with this Act. Rules and procedures shall be prescribed by an ordinance issued by the Board.

Section 10 The maintenance and management of the frozen assets shall be in accordance with ordinance issued by the Board.

Section 11 Any person shall be excluded from liability for a loss or claim resulting from the performing of an act under Section 8, unless gross negligence is proven.

Section 12 Persons designated under Section 7 or whose assets were frozen under Section 8 due to being a designated person under Section 7 may file a written petition with the Court for consideration on the following matters:

(1) To order the delisting of such persons from the designation list;

(2) To lift the freezing of assets;

(3) To seek permission to take any action with the frozen assets.

Where there is a permission granted according to (3), the Court may stipulate any necessary conditions to prevent the assets from being used to finance terrorism and where

there appears to be facts that such permission may provide opportunity for such assets to be used for financing of terrorism, the Court may set any further conditions or may revoke the permission.

Section 13 A person other than persons designated under Section 6 or Section 7 may file a written petition with the Court to order the followings;

(1) payment for debt due to the person whose assets were frozen under Section 8 under contracts or obligations which were concluded before the date the account became subject to freezing;

(2) payment of interest or other benefits due on the account in favor of the person whose assets were frozen under Section 8;

(3) payment for debt, according to the Court's final decision, of the person whose assets were frozen due to being a designated person under Section 7;

(4) for undertaking in any way with the frozen assets of the person whose assets were frozen due to being a designated person under Section 7;

In case of permission granted under paragraph one, if debt is to be paid or money to be transferred into or out of the account of a person whose assets were frozen under Section 8, the Court may prescribe conditions as it deems appropriate for the prevention of use of the assets for financing terrorism.

Section 14 Judicial procedures under Section 7, Section 12 and Section 13 shall be brought to the Civil Court and provisions under Civil Procedural Code shall apply *mutatis mutandis*.

Chapter II

Financing of Proliferation of Weapons of Mass Destruction

Section 15 Upon the issuance of a resolution or notification under the United Nations Security Council designating persons, groups of persons, legal persons or entities for involvement in the proliferation of weapons of mass destruction and the Office deems such a resolution or notification does not go against the Thai constitution or law, the Office shall act to make notification of list of such persons as designated persons, in order to act in accordance with such a resolution or notification.

Delisting of persons designated under paragraph one shall be made upon the issuance of resolution or notification of the United Nations Security Council resulting in the delisting of such persons from the designation list.

Making designation under paragraph one and delisting under paragraph two shall be done by the Office without delay, in accordance with rules, procedures and conditions prescribed by the Board

Section 16 Where the fact appears that a person, group of persons, legal person or entity is involved in the proliferation of weapons of mass destruction, the Office with the approval of the committee for considering the name under paragraph two may refer the matter to the Ministry of Foreign Affairs to make a request to the United Nations Security Council to make designation of such a person, group of persons, legal person or entity.

For the purpose of designation under paragraph one, the Office shall appoint a committee called “designation committee” to consider the name before submission to the Ministry of Foreign Affairs.

The committee under paragraph two shall, at least, consist of representatives from Ministry of Defense, Ministry of Foreign Affairs, National Intelligence Agency, National Security Council, Internal Security Operations Command, Royal Thai Police, Office of the Judiciary and Office of the Attorney General as members. The composition of the Designation Committee, rules and procedures for consideration to be followed by the Office and the Committee shall be prescribed in the Ministerial Regulation.

Upon designation of persons by the Committee under paragraph one, the Office shall make notification of such designation without delay, and report to the Board at the next meeting.

Section 17 Upon notification of designated list under Section 15 by the Office, the reporting entities or persons in possession of the assets of the designated persons to take the following actions without delay;

(1) Freeze the assets of the designated persons or a person acting on behalf of, or at the direction of, or an undertaking owned or controlled by such persons, directly or indirectly;

(2) Inform the Office of the frozen assets;

(3) Inform the Office of a customer or former customer who is listed as a designated person or who has or had conducted transactions with such a person.

Rules and procedures of actions to be taken under (1) (2) and (3) shall be prescribed by an ordinance issued by the Board.

Section 18 A reporting entity shall set out a risk assessment policy or any guidance for the prevention of the financing of proliferation of weapons of mass destruction or other measures necessary for the implementation in accordance with this Act. Rules and procedures shall be prescribed by an ordinance issued by the Board.

Section 19 Section 10, Section 11, Section 13 and Section 14 shall apply to actions under this Chapter *mutatis mutandis*.

Section 20 Persons whose assets were frozen due to being a designated person under Section 15 may file a written petition with the designation committee under Section 16 paragraph two, permission to take any action with the frozen assets.

Before the permission being granted under paragraph one, the designation committee shall refer the matter to the Ministerial of Foreign Affairs to make a request to the United Nations Security Council under to consider petition of person under paragraph one. The result of consideration of the United Nations Security Council or the entity established by the United Nations Security Council shall be followed by the designation committee.

Chapter III

Power and duty of the Board and the Office

Section 21 For the purpose of implementing this Act, the Board shall have the following powers and duties:

- (1) To prescribe rules, issue ordinances and make notifications under this Act;
- (2) To prescribe guidelines for the supervision, monitoring, examination and assessment of the implementation of this Act;
- (3) To prescribe necessary guidelines for action to be taken by reporting entities or any other person in keeping with this Act;
- (4) To monitor and assess the implementation of this Act.

Section 22 For the purpose of implementing this Act, the Office shall have the following powers and duties;

(1) To provide advice on or explain the guidelines to those with an obligation to act under this Act;

(2) To supervise, monitor, examine and assess action taken under this Act as well as taking legal action against those who violate or fail to comply with the provisions of this Act or other law;

(3) To receive or send reports or information useful for the implementation of this Act or other law.

(4) To gather, collect information and evidence for the assets freezing, seizure or confiscation under this Act or other laws;

Chapter IV

Penalties

Section 23 A person in possession of the assets of a designated person who fails to comply with Section 8 (1) or (2) or Section 17 (1) or (2) shall be liable to an imprisonment not exceeding three years or a fine not exceeding three hundred thousand baht or both.

A reporting entity who fails to comply with Section 8 (1) or (2) or Section 17 (1) or (2) shall be liable to a fine not exceeding one million baht as well as a daily fine of ten thousand baht until rectification is made.

Where failure under paragraph one or paragraph two was done by a legal person and resulted from the orders or action of a director or manager or a person responsible for the operations of the legal person, or such person fail to order or take action and cause the legal person to commit an offense, such person shall be liable to an imprisonment not exceeding three years or a fine not exceeding three hundred thousand baht or both.

Section 24 Any reporting entity who violates or fails to comply with Section 8 (3) or Section 17 (3) shall be liable to a fine not exceeding five hundred thousand baht and a daily fine of five thousand baht until rectification is made.

Where failure under paragraph one or paragraph two was done by a legal person and resulted from the orders or action of a director or manager or a person responsible for the operations of the legal person, or such person fail to order or take action and cause the legal

person to commit an offense, such person shall be liable to an imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht or both.

Section 25 A person who provides or collects funds or conducts a financial or asset transaction or act in any way to commit terrorist act or with the knowledge that the beneficial person of that financial or asset transaction is a designated person or with the intention that the funds or asset are to be used in support of whatever activity of a designated person or a person, a group or an entity involved in terrorism, such persons are deemed to commit an offense of terrorism financing and shall be liable to an imprisonment of from two to ten years or a fine of from forty thousand to two hundred thousand baht or both.

A person who provides or collects funds or conducts a financial or asset transaction in any way to proliferate weapons of mass destruction or with the knowledge that the beneficial person of that financial or asset transaction is a designated person or with the intention that the funds or asset are to be used in support of whatever activity of a designated person or a person, a group or an entity involved in the proliferation of weapons of mass destruction, such persons are deemed to commit an offense of financing the proliferation of weapons of mass destruction and shall be liable to an imprisonment of from two to ten years or a fine of from forty thousand to two hundred thousand baht or both.

Any person who aids and abets, or conspires in the commission of an offense under paragraph one shall be liable to the same penalty as the principal of the offense.

Any legal person who commits an offense under paragraph one or paragraph two or aids and abets, or conspires in the commission of an offense under paragraph one or paragraph two, shall be liable to a fine from five hundred thousand baht to two million baht.

Where violation of a legal person under paragraph four has resulted from the instruction or action of a director, manager, or a person responsible for the operation of the legal person, or a person fail to give instruction or to perform the duty and cause the legal person to commit an offense, such person shall be liable to a term of imprisonment from two to ten years or a fine from forty thousand to two hundred thousand baht or both.

The offense under this Section shall be a predicate offense under the law on anti-money laundering.

Section 26 Offences under Section 23, Section 24 and Section 25 paragraph four committed by a legal person shall be offences for which fines can be determined by the Settling Committee under the law on anti-money laundering.

Section 27 A person who commits an offense of terrorism financing or financing the proliferation of weapons of mass destruction, although the offense is committed outside the Kingdom, shall receive penalty in the Kingdom in accordance with this Act where;

- (1) The offender or any conspirator is a Thai national or resides in Thailand;
- (2) The offender is an alien and acts with the intention that the offense take place in the Kingdom or the damaged person is Thai Government; or
- (3) The offender is an alien and the act is an offense under the law of the state within whose jurisdiction the act takes place and the offender is in the Kingdom and is not extradited under the law on extradition.

In this case, provisions under Section 10 of the Penal Code shall apply *mutatis mutandis*.

Transitory Provision

Section 28 Any notification of list of designated persons, which was done in accordance with the Counter Terrorism Financing Act B.E. 2556 (2013), which was amended by the Counter Terrorism Financing Act (No. 2) B.E. 2558 (2015), and was not revoked, shall be the list of designation under this Act.

Section 29 Any Ministerial Regulation, Ordinance, or Notification issued under the Counter Terrorism Financing Act B.E. 2556 (2013), which was amended by the Counter Terrorism Financing Act (No. 2) B.E. 2558 (2015), which is effective before this Act come into force, shall be in effect, unless it is contradict with provision under this Act, until the substitute Ministerial Regulation, Ordinance, or Notification issued under this Act come into effect.

Any Ministerial Regulation, Ordinance, or Notification to be issued under this Act shall complete within one hundred and eighty days, from the date this Act came into effect. Where the action could not be done, the Minister shall report the obstacle to the Cabinet.

Countersigned by:

General Prayuth Chan-o-cha

Prime Minister