

Guideline for compliance with the law on anti-money laundering and AML/CFT international standard by the Banks

Principle and Rationale

In 2011, the Anti-Money Laundering Office (AMLO) issued 6 Ministerial Regulations by virtue of the provisions of the Anti-Money Laundering Act B.E. 2542 (1999). The financial institutions which are banks (banking institutions), thereby, must comply with provisions on the transaction reporting, as prescribed additionally. In order to provide clarification on the principles of legislations and to facilitate banking institutions' proper compliance with the said Ministerial Regulations and Prime Minister Office Regulations, AMLO, thereby, publishes the guideline for banks to comply with transaction reporting and requirement on customer identification under the Ministerial Regulations and Prime Minister Office Regulations, B.E. 2554 (2011).

Objectives

To enable banking institutions to report transactions to AMLO and conduct customer identification properly in accordance with the Ministerial Regulations and the Prime Minister Office Regulations, issued by virtue of the provisions of the Anti-Money Laundering Act B.E. 2542 (1999).

Transaction Reporting

Introduction

Banks are financial institutions under the Anti-Money Laundering Act B.E. 2542, which are required to report three types of transactions¹, namely, transactions involving cash, transactions involving assets and suspicious transactions. The requirements on specifying the thresholds and types of transactions to be reported, as well as transactions exempt from reporting as appeared on the Ministerial Regulations are notified under the Anti-Money Laundering Act B.E. 2542². According to the provisions of anti-money laundering legislation, as currently enforceable in Thailand, the following transactions shall be reported: transactions involving cash, transactions involving immovable and movable assets that are assessable³, electronic fund transfer transactions and electronic payment transactions.

In this regard, banking institutions are the initial source of funds leading to investment, saving and use of services provided by other types of financial institutions. In addition, banking institutions also provide a number of financial services through a number of service channels. Therefore, it is necessary to prepare the guideline on transaction reporting to allow banks to properly report transactions and understand the principles on the selecting of transactions to be reported to the AMLO under the requirement.

Definition

“Cash Transactions⁴” mean transactions that customers use cash for conducting the transactions with banks or customers receive cash from conducting the transactions with banks.

¹ Section 13 of the Anti-Money Laundering Act B.E. 2542

² The Ministerial Regulation (No. 5) B.E. 2543, which are issued under the provisions of the Anti-Money Laundering Act B.E. 2542, the Ministerial Regulation Re: “Specifying the amount of cash and value of assets of transactions that the financial institutions are required to report the transactions to the AMLO”, and the Ministerial Regulation No. 13 (B.E. 2554), which is issued under the provisions of the Anti-Money Laundering Act B.E. 2542.

³ Movable assets that are assessable in this case are boats, automobiles and machines under the Ministerial Regulation (No.5) B.E. 2543, which is issued under the Anti-Money Laundering Act B.E. 2542.

⁴ which are transactions with the specification of the amount for the transaction reporting

“Transactions involving assets⁵” mean transactions between customers and banks of which assessable immovable and movable assets are main components, that is, without such assets the transactions that customers wishing to conduct with banks may not occurred, or electronic fund transfer (e-funds transfer) or electronic payment (e-payment) in which cash is not involved.

“Suspicious transactions⁶” mean transactions that customers conduct or wish to conduct with banks, but according to the bank’s preliminary examination, it is found that such transactions are conducted or customers’ intention to conduct the transactions are inordinately complex, or, possibly, the customers may intend to avoid conducting transactions to be reported to the AMLO under the requirement, or customers conduct the transactions that are inconsistent to their financial conditions or business operations, or customers’ behaviors may be connected with offenses, money laundering, or financing of terrorism.

“Transactions between banks and counterparties” mean transactions conducted between banks and business counterparties for bank’s own business, regardless of whether the counterparty is a financial institution under anti-money laundering laws, foreign financial institutions or other business operators.

“Transactions conducted for the same customer” mean e-funds transfers or e-payment transactions that are conducted for the benefit of a single customer between the customer’s own accounts or the customer is the final beneficiary, such as transferring or receiving of funds transactions between accounts under the same name within a bank, or transferring or receiving of funds transactions between accounts under different names within a bank, having the same final beneficiary.

⁵ which are transactions with the specification of the amount for the transaction reporting

⁶ which are transactions with no specification of the amount and types of transaction for the transaction reporting

Section 1 Criteria for determining “transactions to be reported”

In determining transactions to be reported to AMLO, banks should understand that the transactions to be reported to the AMLO are under the following criteria:

A. Customers’ Transactions are transactions that banks are obligated to report to AMLO. These are transactions that customers wish to conduct for their own benefits, resulting from the relationship with banks or usage of services provided by banks.

B. Transactions unqualified for exemption under the Ministerial Regulations No. 5 and No. 13 are transactions that banks are obligated to report or transactions which are not qualified as “transactions exempt from reporting” as prescribed in the Ministerial Regulation No. 5 and No. 13, issued under the Anti-Money Laundering Act B.E. 2542.

Should any transaction qualified under the two aforementioned criteria, banks must stringently report the transaction in accordance with prescribed thresholds or requirements.

Section 2 Transactions which banks are obligated to report to AMLO

A. Cash transactions (AML 1-01 Form) are transactions that customers use cash for conducting transactions or customers receive cash from conducting transactions, over the bank counters or from bank officers, in the amount of 2 million Baht or more. Transferring cash to other banks’ accounts or to accounts overseas, paying funds for goods and services where banks act as paying agents, or purchasing or adding value to electronic cash card are not the case.

B. Transactions involving assessable immovable and movable assets (AML 1-02 Form) are transactions which legal contracts have underlying assets that are immovable assets and certain types of movable assets (as prescribed in the Ministerial Regulation No. 5) of assessable value worth 5 million Baht or more. This shall include transactions related to change of agreement value or discharge of obligation upon such assets.

For the criteria to determine the reporting of transaction involving assets, the following shall be considered:

B-1 In the case where a transaction involves one asset, reporting shall be made when the asset has an assessed value of 5,000,000 Baht or more. For example, in the mortgaging of several plots of land and each plot has assessed value of 5,000,000 Baht or more then the bank can report all of them in a single report.

B-2 In the case where a transaction involves a collection of assets, reporting shall be made when the assessed value of all the assets is 5,000,000 Baht or more. For example, in mortgaging several plots of land and the assessed value of each plot is less than 5,000,000 Baht but the aggregate assessed value is 5,000,000 Baht or more, the bank has the duty to report to AMLO by filing all of them in a single report.

B-3 In the case where a transaction involves land and building (not yet built), reporting shall be made only when the land (without future building) has the assessed value of 5,000,000 Baht or more.

B-4 In the case where a transaction is an increase of loan facility involving collateral which the original loan agreement (before the increase) was previously reported as transaction involving assets, this transaction needs not be reported again since AMLO mainly looks at the assessed value of the asset not the value of the loan agreement.

B-5 In the case where the transaction involves an asset that the bank previously reported to AMLO and subsequently the ownership is changed (change of title of the asset), the bank must report to AMLO. However, if the name of the borrower in the agreement is changed without affecting the ownership of the asset then the bank needs not report.

B-6 In the case where there is a change to the ownership of the asset which assessed value is 5,000,000 Baht or more but the bank merely endorses the documents allowing the customer to effect the transfer at the land department without the present of a bank employee, the bank still has the duty to report such transaction.

B-7 In the case where the mortgage of assets with assessed value of 5,000,000 Baht or more is redeemed due to debt repayment, the bank must report the transaction to AMLO.

B-8 Where the bank previously reported a transaction involving asset with assessed value of 5,000,000 Baht or more to AMLO and subsequently another transaction is conducted with the same asset (in the case where the asset has several owners and a new mortgage is registered under another owner for the portion he/she owns), the bank needs not report the transaction with that asset again.

B-9 In the case where a transaction involves a leasehold property being used as collateral for a loan and the value of the leasehold right is 5,000,000 Baht or more, the bank must report the transaction to AMLO. Moreover, when the leasehold right expires and the lease agreement, where the property value is 5,000,000 Baht or more, is renewed, it is deemed as a new transaction according to the leasehold right then the bank must report the transaction to AMLO.

B-10 In the case where a mortgage is made on several plots of land and the plots are not redeemed at the same time, bank shall file a report for each mortgage discharge, if the assessed value of the redeemed asset is 5,000,000 Baht or more.

B-11 In the case where a mortgage is redeemed and the bank endorses the back of the documents, it is deemed that the endorsement date is the date of transaction even if the customer may receive the title deed at a later date for the reason that ownership of the asset is changed on the date that the bank makes the endorsement to discharge the mortgage.

C. E-funds transfer transactions (AML 1-05-9 Form) are transactions worth 700,000 Baht or more conducted by customers for transferring funds (or receiving funds) from their accounts to another party's accounts or to customers' accounts opened with other banks or other branches of the banks conducting the transactions overseas or other banks abroad. This shall include transactions conducted by banks for transferring funds to accounts of the banks overseas, and such transactions are conducted by banks for one or several customers.

D. Cash transactions involving e-funds transfers (AML 1-05-9 Form), are namely:

(D-1) Transactions worth 100,000 Baht or more that customers carry cash to the bank counters or to bank staffs for the purpose of transferring the funds to accounts at other banks or to accounts opened at overseas branches of the banks conducting transactions or other banks abroad; and

(D-2) Transactions worth 100,000 Baht or more that customers receive in cash at the bank counters or from bank staffs as a result of conducting (D-1).

E. E-payment Transactions (AML 1-05-9 Form) are transactions worth 700,000 Baht or more transferred by customers for payment of goods and services for which banks conducting transactions act as the paying agents, and transactions transferred by customers for purchase of or adding value to electronic cash cards which are issued or sold by the banks (the banks act as paying agents) or can be added value to by the banks.

F. Cash transactions involving e-payments (AML 1-05-9 Form) are namely:

(F-1) Transactions worth 700,000 Baht or more that customers use cash for payment of goods and services for which banks receiving cash are the paying agents per payment and type of goods and services.

(F-2) Transactions worth 100,000 Baht or more that customers use cash for purchasing or adding value to electronic cash cards which are issued or sold by the banks (the banks act as paying agents) or can be added value to by the banks, and are not credit or debit cards.

(F-3) Transactions worth 100,000 Baht or more that customers use cash for transferring funds to the beneficiaries, or transactions that customers receive funds upon the transfer instructions, where banks provide such services as they act as the agents of the business operators for the services of electronic funds transferring and receiving through a network.

Section 3 Transactions exempt from reporting

Criteria for transactions exempt from reporting are in accordance with the Ministerial Regulations No. 5 and No. 13, which are issued under the provisions of the Anti-Money Laundering Act B.E. 2542. The criteria can be summarized as follows:

A. Transactions conducted by persons or organizations which are:

A-1 H.E. the King, H.E. the Queen, the Heirs Apparent or members of the royal family from the rank of royal prince/princess up to crown prince/princess;

A-2 The government, the central administration, the provincial administration, the local administration state enterprises, the public organizations or other state agencies;

A-3 The following foundations:

- Chaipattana Foundation

- The Foundation of Silapacheep under the Royal Patronage of H.M. Queen Sirikit

- Sai Jai Thai Foundation.

B. Transactions involving immovable assets which are transferred to be public land or transactions involving land acquired from possession or prescription under Section 1382 or Section 1401 of the Civil and Commercial Code.

C. Transactions involving movable assets which are not ships, ships having tonnage from six tons or more, steam ships or motor boats having tonnage from five tons or more, rafts, vehicles, equipments or machineries.

D. Transactions involving general insurance contracts with an expectation that financial institutions have to make contractual compensation of less than 10 million Baht, that is, when an underlying asset is damaged, a financial institution has to pay compensation less than 10 million Baht.

E. Transactions involving the followings:

E-1 Transactions involving credit card network services of which financial institution is a service user, transactions that business operators or stores use credit card network service which is managed by the financial institution.

E-2 Transactions involving EDC network, switching and settlement between financial institutions or between financial institutions and the government agencies supervising such network or system.

F. Transactions that customers make payments for goods and services for which financial institutions or the business operators under Section 16 (9) are the paying agents; for transactions worth less than 700,000 Baht.

G. Transactions involving services related to cheques, drafts, bills of exchange, promissory notes and financial instruments, excluding transactions involving cash, debt instruments or derivatives.

H. Transactions conducted through CDM or ADM or ATM.

I. Transactions between banks, or between banks and other types of financial institutions, or between banks and business operators under Sector 16 (9) which are conducted for bank's own benefits for the purpose of investment / funds raising / risk mitigation.

J. Transactions conducted by banks for the purpose of managing bank's internal affairs, which are not services provided for the customers.

K. Transactions for the same customer, that is, transactions which are funds transfers or receiving of funds of a customer conducted between a customer's accounts within the same bank. (According to the legislation, the following word is used: electronic funds transfer or payment within a financial institution ... that are conducted for the same customer).

L. Transactions made by banks to transfer loan proceeds to customers' accounts resulting from loan transactions between banks and the customers, except for the cases where banks make payments per collection instructions on behalf of the customers to counterparties' accounts with overseas financial institutions.

M. Transactions that banks are "intermediaries" for receiving and sending funds transfer order to the final receiving banks.

Remark: Transactions exempt from reporting mean transactions which are exempt from reporting per cash transaction report, transaction involving assessable immovable and movable assets report, E-funds transfer and e-payment transaction report and cash transaction involving e-funds transfer and e-payment report, which exclude suspicious transactions. Therefore, banks are still required to report "transactions exempt from reporting" if they are found to be "suspicious transactions".

Section 4 Persons having the duty to report transactions and reporting forms

In reporting customers' transactions to the AMLO, the stipulation regarding persons who are responsible for the preparation and submission of the reports to AMLO is as follows:

Table: Persons responsible for report preparation

Form	Form is to be completed by	Report is to be submitted by	Timeframe for report submission
AML 1-01	Customer conducting the transaction or bank	Bank conducting the transaction	Within 7 days starting from the day after 15th and the month-end of the month which such transaction occurs

Form	Form is to be completed by	Report is to be submitted by	Timeframe for report submission
AML 1-02	Customer conducting the transaction or bank	Bank conducting the transaction	Within 7 days starting from the day after 15th and the month-end of the month which such transaction occurs
AML 1-03	Bank (Disclosure to customers is prohibited.)	Bank conducting the transaction	Within 7 days as from the day when there is probable cause
AML 1-05-9	Bank	Bank conducting the transaction	Within 7 days starting from the day after 15th and the month-end of the month which such transaction occurs

Table: Thresholds for cash, transaction value and reporting forms

Transaction type	Threshold for cash / transaction value	Form
Cash transaction	Transaction involving cash worth 2 million Baht or more	AML 1-01

Transaction type	Threshold for cash / transaction value	Form
Transactions involving assets (only assessable immovable and movable assets)	Assets worth 5 million Baht or more (regardless of transaction values)	AML 1-02
E-funds transfer and e-payment transaction	Transaction worth 700,000 Baht or more	AML 1-05-9
Cash transaction involving e-funds transfer and e-payment (not in case of paying agent)	Transaction involving cash worth 100,000 Baht or more	AML 1-05-9
Suspicious transaction	Not limited for number of transaction / amount of cash / transaction value	AML 1-03

Timeframe for report submission

Banks must submit all reports in accordance with “the regulation and timeframe on transaction reporting for financial institutions”. These stipulations differ from the regulation and timeframe on transaction reporting for business operators under Section 16.

Methods for submitting report

Banks may submit all types of reports using any of the following method:

- A. Delivery to officers at AMLO,
- B. Via post where there is clear registration document,
- C. Submitting as electronic data in accordance with the law governing electronic transactions having electronic signature and transmitted via process stipulated by AMLO.

Currently AMLO uses information technology to examine transactions linkage. Submitting electronic data as in method C. will benefit AMLO and the reporting financial institutions as it reduced problems regarding storing transaction reports which subject to loss in conventional storage and difficult to prove. In additional reporting via method C. will not require the reporting person to appear in court in order to certify the transaction in the event that the reports are used as evidence in the anti-money laundering or predicate offense cases.

Remark: AMLO requests reporting to be made via method C. in order to mitigate risk in breaching the anti-money laundering laws.

Section 5 Suspicious transactions

A. Determination for reporting of “suspicious transactions”

(1) When a transaction is discovered to have a probable cause, bank shall conduct a preliminary procedural examination and report such transaction as suspicious. Rationale and information for judgment must also be specified.

(2) When a number of examinations are conducted causing bank to prudently believe that the person conducting transactions has suspicious behavior (frequent irregular transactions leading to probable cause), the bank should consider submitting report on the most recent of such customer’s numerous transactions referencing to previous transactions with the same characteristics in the field (in the report) for specifying rationale of banks leading to the judgment of suspicious transactions. For example, Mr. A conducts cash deposits through CDM 20 times in one day in the total amount of 2 million Baht, while, it should be more convenient to deposit cash in the amount of 2 million Baht only once. In this case, bank prudently decides that Mr. A conducts suspicious transactions. Bank should submit only one suspicious transaction report, detailing the last transaction in a group of 20 transactions and making reference to the 19 CDM transactions as the rationale for submitting the report, instead of filing 20 suspicious transaction reports.

B. The explanation of “suspicious transactions”⁷

When bank considers establishing a relationship with a customer or accepts to conduct transactions for customers as well as walk-in customers, if it should find the following events, it must conduct preliminary examination or investigation.

When a customer or occasional customer requests bank to conduct the following transactions:

- Unusually complicated transaction, comparing to the same type of transactions usually conducted. This may be the case where customers request to conduct transactions several times or conduct several transactions, despite the fact that the customer can achieve his/her purpose by conducting the transaction only once. Or in case where a customer requests to conduct a transaction that requires complicated or numerous steps for undisclosed purposes, despite the fact that such transaction can be conducted by simple steps which can be examined.
- Transaction lacking economic rationale. This may be the case where a customer requests to conduct a transaction in an amount or value that is inconsistent with the customer's financial conditions or sources of funds or profession, etc.
- Transaction conducted to avoid compliance with the anti-money laundering law. This may be the case where, bank officer prudently determines that the customer requests to conduct a transaction in the amount just below the legal reporting threshold to avoid being required to report such transaction.
- Transaction related to or possibly related to any predicate offence. This may be the case where the customer requests to conduct a transaction that may be related to those on the lists of offenders of predicate offences or of money laundering, or

⁷ B. is presented here to clarify the definition of “suspicious transaction” under Section 3 of the Anti-Money Laundering Act B.E. 2542

the customer becomes listed as an offender of predicate offenses or has a history of committing any predicate offense or money laundering, and the characteristics of the transaction are not of the normal transactions. Or the customer is on the list of those whose properties are temporary seized or frozen as a result of committing a predicate offence or money laundering, or those whose properties were forfeited to the State under the anti-money laundering legislation.

- Transaction of inordinate size. This may be the case where a customer requests to conduct a transaction in total amount or values excessive to the level of normal transactions related to businesses or for business operations of customers.
- Irregular financial movements. This may be the case where there are irregular movements in the customer's account as the account balance is significantly increased comparing to the former reviews. For example, in the former review, customer's account had movement of funds in the amount of 100,000 Baht or less and the balance was in the ten of thousands Baht. However, in the current review, the customer's account has movement of funds in the amount of about 1 million Baht with frequent deposits and withdrawals and the balance of accounts is in thousands of Baht or millions of Baht. This case indicates the significant changes from the former review.

Banks must conduct preliminary examination to determine whether behaviors or transactions conducted or business engagement as aforementioned are consistent with the purpose, financial condition, type of business or other information provided by the customer at the latest or previous updates. When the examination suggests that aforementioned behaviors may be related to or may be the case of money laundering, the bank must require the relevant committee⁸ or authorized management⁹ to review the preliminary examination or investigation.

⁸ Relevant committee herein means a group of persons who are authorized or are delegated to examine and approve the examination report for further submission of suspicious report to AMLO.

to approve the report of suspicious transactions and then submit it to AMLO in accordance with the regulation.

Remark: For transactions exempt from reporting, banks must also rigorously examine for probable cause, as the exemption from reporting intends to decrease bank's burden in term of reporting requirements and limitation on the business operation by letting banks exercise their own considerations.

C. Behaviors of customers that may lead to “the reporting of suspicious transactions”

Banks may conduct the examination on suspicious transactions should the customer have following behaviors:

(1) Customer conducts transactions of unusually high value, when comparing to income or historical movement of account, and bank has already conducted the examination on information of such customers.

(2) Customer deposits large amount of cash, in particular in mixed types of banknotes¹⁰, and withdraw or transfer such the fund (in almost full amount) to other accounts within a short period, and this occurs frequently; while the preliminary examination also suggests that the customer conducting these transactions does not have income or business consistent to the transactions conducted¹¹.

⁹ Management herein means a group of persons in management level that are authorized or are delegated to examine and approve the examination report for further submission of suspicious report to AMLO.

¹⁰ Mixed types of banknotes in this case mean banknotes with face value of twenty Baht, a hundred Baht, five-hundred Baht and a thousand Baht mixed together for each deposit.

¹¹ Frequently, customers of banks having such behaviors are freelancers (information on place of business or occupation is not clearly specified as not having permanent occupation), or those with low level of income or with uncertain income. Such behaviors suggest that customers of banks are hired to open accounts for others so that funds from violation of law can pass through such accounts to other networks.

(3) Customer conducts transactions involving inordinate amounts comparing to the overall transactions conducted by other customers of the bank. For example, a single customer conducts transactions worth 100 million Baht or more within one day, and bank also considers that such transactions are too large to be conducted in one time or within one day¹².

(4) Customer conducts complicated transactions, in comparison with the method ordinarily taken to conduct such transactions¹³.

(5) Customer conducts transactions of value close to the legal threshold for reporting, and the bank having examined the customer's information and found that such transactions are inconsistent to information given regarding the customer's profession, normal income or business operation¹⁴.

¹² This case depends on an overview of large amount transactions of each bank, such as government banks may have transactions worth less than commercial banks or foreign banks having large corporate as customers only, that is, a customer may normally conduct transactions worth 100 million Baht or more a day. This is just preliminary suggestion of suspicious behaviors, therefore, banks must apply their competencies, as financial institutions, and statistical information related to amount of transactions for determining the suspicious behaviors.

¹³ Banks must apply their competencies, as the financial institutions, to determine whether customers conduct transactions ordinarily or not. But when customers request to conduct unreasonably complicated transactions, banks must examine whether such transactions are conducted complicatedly so as to conceal the accounts of transferor or owners of funds

¹⁴ Banks must conduct preliminarily examination for determining whether customers of banks intend to avoid complying with legislation or not. Since some customers may wish to conduct the transactions in the amount close to the level that transactions reporting is required without an intention of avoidance. Such as customers notify banks that they are trading companies with a possibility to have incomes or transactions, which will be transferred / withdrawn / disbursed among a number of counterparties in the amount close to the level that transactions reporting is required under the legislation, and, according to the historical movement of accounts, customers have conducted these since when relationship between banks and customers were established. Therefore, this should be regarded as ordinary business operations of customers. Conversely, if customers having uncertain source of income or not having occupations conduct transactions in the amount close to the level that requiring transactions reporting is required under the legislation, without information of income or occupation revised or updated, in principle, customers should not be able to conduct the transactions in such amounts, especially, if conducting transactions with customers of other banks exposed to money laundering, this case should be regarded as avoidance. Banks must conduct preliminary examination before conducting a report of suspicious transactions since the report of suspicious transactions lead to higher risk rate of customers. When banks have too much report of suspicious transactions, without preliminary examination to determine whether such transactions are actually suspicious or not, this leads to a number of customers with high risk rate, and as a result, banks are burdened to run the monitoring or examination on movement of accounts of customers with high risk rate.

(6) Customer conduct transactions of inordinate amounts in one time or several times, and such transactions are related to another customer or other customers are in the high risk group, and bank considers that the amounts of such transactions are inconsistent to incomes or movement of customer's account, or upon examination bank deems that there may be a relationship between such transactions and criminal offence¹⁵ whereby the other customer, has a record or is involved in an offense, regardless of whether such offence is a predicate offence under the Anti-Money Laundering Act B.E. 2542 or not.

(7) High risk customer conducts or requests to conduct a transaction of inordinate value, comparing to the historical movement of the account without disclosing any reasonable purpose for conducting the transaction¹⁶.

(8) Customer conducts or requests to conduct a transaction with the financial institution or person or group of persons in the territory or country exposed to money laundering risk or terrorism, and bank considers that such transaction is inconsistent to information of the business/ occupation provided by the customer, and rationale or purpose of conducting transaction cannot be reasonably provided¹⁷.

¹⁵ Criminal offence means any offences to be punished by: forfeiture of property, fines, detention, imprisonment or execution, one or the other, or mixture.

¹⁶ This case suggests that banks should examine customers with high level of risk or conducting transactions using a large amount of funds (comparing to conditions or movement of customers' accounts), whereas, rationale or purpose of conducting transactions cannot be (reasonably) provided or examined, such as customers which are in the offender lists of foreign regulators requests to deposit or receive funds worth ten million Baht or more by notifying that such funds are from gambling in foreign countries or as a gift from cousins etc. In this case, banks cannot examine source or end-point of funds and customers may claim this when unable to notify source of funds or assets.

¹⁷ The transactions in this case may be related to the financial support to terrors or transnational crimes, such as customers of banks have uncertain occupations or work as employees (place of business not specified, or being hired by unidentified organizations), customers transfer funds to or receive funds from foreign countries, especially countries which are exposed to transnational criminal organization or terrors and customers cannot provide information on source of funds or provide unreasonable information, such as they receive funds from cousins working in such countries with occupations unknown, or transfer funds for debt repayment with debt information unknown. When considering customers in this case, it may be found that such customers have low education, and, according to the facts, they should not have business related to foreigners or have business in such countries etc.

(9) Customer makes several deposits or transfers a large amount of funds through automatic machines or IT system to an account within a short period of time while such transactions may be conducted with the bank staff in one time, which is more convenient¹⁸.

(10) Customer with untrustworthy behavior regarding account opening, in particular customer in the working age (of 21 – 45) notifies that he/she does not have any occupation, or notifies that he/she works as an employee but does not have an employer, or works as a housekeeper, but in fact, people who do not have any occupation and is not a dependent should not have enough income to utilize of banking services. Hence, when those without any occupation or unable to disclose an occupation request to open a deposit account, and subsequently conduct several transactions of large value or conduct cross border fund transfer, such customers¹⁹ may be hired to open the accounts for a scammer ring or their accounts may be used for funds movement of various criminal organizations. Banks should then be watchful of this type of customers.

(11) Customer requests to open a number of accounts in several provinces or in the same province, and funds are deposited or transferred between such accounts, which are inconsistent to the customer's occupation²⁰.

(12) Other behaviors that bank staffs may face when customers conduct transactions at banks, such as customers who are the owners of the accounts conduct transactions themselves but they are unable to state the purpose of conducting transactions or

¹⁸ This case suggests that customers intend to avoid using a large amount of cash for conducting transactions with the bank officers since they do not want bank to report such transactions upon the report form for electronic funds transfer or do not want to provide facts related to electronic funds transfer or want to conceal the depositors (in case of cash) etc.

¹⁹ If deposit or withdrawal transactions are conducted rapidly, banks must examine movement of funds to determine the suspicious transactions, and may consider flagging such customers with high level of risk for rigorous examination.

²⁰ If customers sell goods which must be transported throughout the country, such as having branches of business in several provinces, or selling goods (wholesaling) to retail stores located in such provinces, having accounts in several provinces may help decrease fee of funds transfer or it may be more convenient to withdrawal funds in such provinces. Conversely, if customers are employees or have occupations not requiring accounts opened in the provinces, it may be regarded that opening accounts in several provinces are hired by the cheating movement or for the advantage of funds transfer of illicit trades that have the network in several provinces.

unable to provide necessary information for the report form. This may be considered that such customers may open the accounts for other people.

(13) In the case where customers conduct several transactions through automatic machines within a short period which value equal to the reporting threshold if conducting with a bank officer. (The customers may intend to avoid transaction reporting.)

(14) Where a customer conducts a large amount of transactions in each account, inconsistent to financial conditions of customer, or conducts unnecessarily complicated transactions for being the beneficiary himself (could be hired to open the accounts or trying to conceal the actual beneficiary).

(15) In the case where a natural person customer makes consecutive payments on large amount invoices, in particular payments by cash. (The customer may intend to avoid using cash or transferring funds for payment of goods through bank accounts.)

(16) Where a customer, in particular a natural person frequently deposits high valued cheques, drafts or other financial instruments into his/her accounts. (The customer may intend to avoid transaction reporting resulting from depositing cash or receiving funds to his/her account.)

(17) Where a customer repays a large loan to banks in one time, inconsistent to financial conditions of the customer. Or, a customer applies for a loan and repays it within a very short period, where it is not the case of refinancing or netting of loans and the customer is willing to bear the interest, causing it to differ from an ordinary debt repayment. (The customer may intend to use the loan from banks to justify asset acquisition, and intend to avoid using cash or purchasing goods with a one-time payment.)

(18) Where a customer makes payments of goods to the same group of counterparties abroad by transferring large amount of funds several times within one month or one quarter where it is inconsistent with the transactions of those in the same business or inconsistent to economic conditions of such country or region. (This may be money laundering

between networks of customers, or, transnational money laundering fronted by import business.)

(19) Where a customer receives several large payments of goods from the same group of counterparties abroad within one month or one quarter where it is inconsistent with the transactions of those in the same business or inconsistent to economic conditions of such country or region. This may be money laundering between networks of customers, or, transnational money laundering fronted by export business.

(20) The agent bank should investigate if the customer repays the loan in one large payment, where it is inconsistent to the customer's financial conditions or if the customer often applies for loans and repays them within a very short period, where it is not the case of refinancing or netting of loans and the customer is willing to bear the interest, causing it to differ from an ordinary debt repayment. (It may be intended to use the loan hence company's indebtedness as an alibi to avoid using cash or making direct transfer to the counterparty in the [money-laundering] network by having the lending bank making the transfer.)

(21) Each bank participating in a syndicate loan may investigate if the customer repays the loan in one large payment, where it is inconsistent to the customer's financial conditions or if the customer often applies for loans and repays them within a very short period, where it is not the case of refinancing or netting of loans and the customer is willing to bear the interest, causing it to differ from an ordinary debt repayment. This applies to the portion paid to the bank only. (Since the bank does not have the information on debt payments of the customers to other banks participating in the syndicate loan, therefore, this guideline is suggested for banks to investigate within the scope of their capability.)

(22) In the case where large fund is repeatedly transferred from overseas to a bank's customer and the customer instructs the bank to return it overseas without reasonable ground or the fund is recalled by claiming error. (This may be related to transnational money laundering as funds are taken out of the country.)

Moreover, banks are able to specify other behaviors that may lead to suspicious transactions apart from above and banks should specify STR scenario or criteria to determine the suspicious transactions by taking into account customer structures, services provided, and behaviors of each customer group.

Remark: In determining “large”, “several” and “repeated” transactions, banks should take into account results from the analysis or assessment on structures of transactions conducted by customers. In addition, in determining “high value”, banks should take into account results from analysis or assessment on value of transactions of customer groups that banks wish to set STR scenario or criteria for further investigation.

D. Steps for reporting suspicious transactions

Banks have the duty to report a suspicious transaction within 7 days from the day that an examination is conducted and discovered that the transaction is a suspicious transaction. In this regards, it should not exceed 1 month from the date the transaction is conducted. For example, a customer conducts a transaction on 1 April. Bank upon examining the transaction finds the a probable cause to suspect that the transaction is a suspicious transaction and the relevant committee or management approves that a suspicious transaction report is to be submitted to AMLO on 15 April. The bank must file the report within 21 April. However, from the discovering and examining the transaction having abnormal behavior as mentioned above until the submitting the suspicious transaction report to AMLO, the bank should at the latest complete the process no later than 30 April.

Banks have the duty to examine all transaction of each customer to determine whether each transaction or cluster of transactions is atypical to the extent that it qualifies to be reported to AMLO as suspicious transaction or not. The process of examining transaction until submitting a report should be set to correspond to the provision stipulated in the Ministerial Regulation on risk management and customer due diligence, as follows:

Step 1 Upon finding atypical behavior in conducting transaction of any customer,

Step 2 Examine the consistency of the transaction value with information on the customer's income or financial standing as well as the consistency with economic environment for investment or savings at the time.

Step 3 Determine if the customer had previously conducted similar transactions and how frequent.

Step 4 Report the result of the examination and analysis to the management authorized to examine customers' suspicious transactions.

Step 5 In the event that the transaction deemed to warrant reporting to AMLO, the said management is to affix his/her signature approving the reporting of the transaction as a suspicious transaction. In addition the bank must send the said report to AMLO within 7 days from the date that the authorized management approves the reporting to AMLO. The entire process from the date that the unusual transaction behavior is discovered to the submission of report to AMLO should not exceed 30 days from the date that the transaction is conducted.

Section 6 Reporting of transactions matching the criteria of several types of reports

In the case where any transaction matches the reporting criteria of more than 1 type, the following should be considered:

A. Transaction involving immovable assets with value of 5,000,000 Baht or more and cash transaction with value of 2,000,000 Baht or more; for example, cash is used to purchase a house/land which is auctioned by a bank (subject to reporting on both forms 1-01 and 1-02).

Reporting: In this case bank shall report as both cash transaction using form AML 1-01 and transaction involving using form AML 1-02. (The bank continues to be obligated to check suspicious transactions.)

B. Transaction involving electronic transfer of value 5,000,000 Baht (subject to reporting on forms 1-02 and 1-05-9).

Reporting: In this case bank shall report it as a transaction involving asset via electronic transfer using form AML 1-05-9. (The bank continues to be obligated to check suspicious transactions.)

C. Transaction involving using 2,000,000 Baht or more in cash to make electronic transfer to another bank or cross-border (subject to reporting on forms 1-01 and 1-05-9).

Reporting: In this case bank shall report it as a transaction involving asset via electronic transfer using form AML 1-05-9. (The bank continues to be obligated to check suspicious transactions.)

D. For other cases where a transaction matches the criteria for more than 1 type of reports, reporting requiring lower threshold should be made.

E. For suspicious transaction that matches the reporting criteria subject to threshold and asset value, bank must report the transaction as suspicious transaction using form AML 1-03 and as transaction subject to threshold (AML 1-01, AML 1-02 or AML 1-05-9, whichever the case may be).

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