

**Guideline for compliance with the law on anti-money laundering and AML/CFT
international standard by legal persons operating other business related to finance
as prescribed in ministerial regulations regarding asset management companies
under the law on asset management companies**

Introduction

Asset management companies are legal persons authorized by the Bank of Thailand to operate asset management companies under the Royal Ordinance on Asset Management Companies, 1998 dealing with the business of managing non-performing loans (NPLs) and non-performing assets (NPAs) of other financial institutions; acting as agents to collect and pay off debts; offering the service of keeping and managing property, property transfer documents, and all other related documents; buying and taking transfer of NPLs and NPAs from other financial institutions.

Therefore, most transactions carried out by asset management companies are transactions that originate from the building of relationship between the customer and other financial institutions where later the asset management company takes over operations with the customer (same customer from the former financial institution) or with new customers.

However, the anti-money laundering law prescribes that asset management companies are financial institutions under Section 3 of the Anti-money Laundering Act 1999, which means that the companies are obliged to comply with the law on the reporting of transaction and arrangement for customer identification.

For the benefit of correct compliance with the law and for asset management companies to effectively assist the state in monitoring and looking into customers' transactions, the Anti-money Laundering Office (AMLO) hereby sets out a guideline for asset management companies, the main content of which is the interpretation of the provisions of related laws for ease of implementation by relevant officials.

Transaction Reporting

Asset management companies are financial institutions under Section 3 of the AMLA, and thus are obliged to report the transactions under Section 13 thereof, whereas the transactions to be reported are divided into three categories, namely, the cash transactions, the property-related transactions and suspicious transactions. In this regard, the forms, rules and procedures for reporting transactions shall be described in this section.

1. Type of Transactions Subject to Reporting Obligations

Asset management companies' main operation is the buying of loans from financial institutions especially banks, which fall into 2 categories:

- Non Performing Loan (NPL) which is loans not paid off according to bank regulations where the bank has proceeded according to negotiation process to no avail
- Non Performing Asset (NPA) which is property which a debtor in trouble has transferred to pay off debt to a financial institution or property acquired through auction from a debtor the financial institution has sued and forced the suit.

These two types of loans have different transactions:

- For NPLs, the company contacts the customer who is the former customer of the financial institution from which the company has bought the loan and manages for the loan to be paid off through negotiation or changing the structure of the loan payment.
- For NPAs, the company sells the asset either to the former property owner who wishes to buy back the property or to a new customer wishing to buy said property.

From the aforementioned business activity format, asset management companies must consider transactions related to said business activity to comply with their reporting obligation according to the anti-money laundering law.

The Anti-money Laundering Act, 1999, has provisions which prescribe that asset management companies, which are financial institutions, must report the following transactions:

(1) Cash transactions in amount of two million baht or more. Cash transactions which may be related to asset management companies' business activity are cash payment, receiving cash which the companies carry out with customers, such as:

- Customer brings cash to pay off NPLs
- Customer brings cash to buy NPAs sold by the company

In summary, if transactions are made which are the direct transfer of cash between the customer and the company of the value two million baht or more, the company must report such the cash transactions to the AMLO.

(2) Property-related transactions namely, the transactions of real estate and removable property, i.e. vehicle or machinery, which may be appraised from five million baht or more, for example,

- The selling of land, which is property pending sales, where the land has an appraisal price of five million baht or more. In this case, the asset management company is to apply the guideline on reporting for financial institutions category of banks regarding the reporting of property-related transactions in line with the company's business activity.¹

¹ Remark: Apply the principle and guideline for banks to report property-related transactions as follows:

1 In the case of one transaction relating to one property or other, report when that property is appraised at five million baht or more. For example, in the case of mortgaging several plots of land where each plot is appraised at five million baht or more, the bank may report everything in 1 report.

2 In the case of one transaction relating to many properties together, report when all properties are appraised together at five million baht or more. For example, in the case of mortgaging several plots of land where each plot is appraised at below five million baht, but when counted together are appraised at five million baht or more, the bank is duty bound to report to the AMLO by reporting everything in 1 report.

3 In the case of one transaction relating to land with future structure, report only in the case where the empty plot (excluding the value of future structure) is appraised at five million baht or more.

4 In the case of one transaction being increasing the loan limit which is related to the property guaranteeing the loan the transaction of which has previously been reported in the first lending contract (before the limit increase), the bank does not need to report the increase of the limit again because the AMLO mainly considers the appraisal value of the property, not the value of the lending contract.

5 In the case of a property-related transaction which the bank has previously reported to the AMLO where the property in question subsequently undergoes an ownership change (change of the name of the property's owner),

- The buying of auctioned property (in the case that the property enters the auction process by the Legal Execution Department and is bought by a bidder where the company becomes aware of the buying at a later time). In case that the company knows and can identify the buyer, the company must report the property-related transaction in the case where the property bought has an appraisal price of five million baht or more.

- In the case that the customer (the debtor) redeems mortgaged property and said mortgaged property has an appraisal price of five million baht or more

(3) Suspicious transactions, namely, all categories of transactions regardless of its value, which is in line with the definition under Section 3 of the AMLA, i.e., being the transactions having unusual complexity or being the transactions inconsistent with the

the bank must report to the AMLO. But if the change of name applies to the borrower in the contract and does not affect property ownership, the bank does not need to report.

6 In the case of change of rights in property appraised at five million baht or more where the bank gives the endorsement for the customer to carry out the transfer at the Land Office themselves without a bank officer present, the bank must still report said transaction.

7 In the case of transactions to redeem guarantee which is property appraised at five million baht or more because of the closing of account to pay back loan, the bank must report to the AMLO.

8 In the case where the bank has previously reported a transaction relating to property appraised at five million baht or more to the AMLO and subsequently there is a new transaction with the same property (this may be the case of making a new mortgage contract under a different customer's name because the property mortgaged has several owner names and each owner makes a mortgage contract in the part of which they are joint owner), the bank does not need to report said property-related transaction again.

9 In the case of transactions using the rights to lease property as loan guarantee and the value of the rights to lease is at five million baht or more, the bank must report to the AMLO. And if the rights to lease end and subsequently there is an extension of the lease valued at five million baht or more resulting in a new transaction based on the new rights to lease, this counts as a new rights over property and the bank must report the transaction to the AMLO.

10 In the case of transactions mortgaging several plots of land and the redeeming of each plot of land happens at a different time, the bank shall report the transaction where each redeeming is the redeeming of property appraised at five million baht or more.

11 In the case of transactions relating to the redeeming of mortgage and the bank has endorsed the mortgage redeeming. Even if the customer comes to get the title deed or title document at a later date, use the date of the endorsement as the transaction date as the change of rights over the property by law occurs on the day the bank endorses the redeeming of the mortgage.

economic conditions or being the transactions with intention to avoid compliance with the AMLA or being the transactions under the circumstance which may be related to the predicate offenses. Initially, it is not necessary to clearly identify which ground of criminal offenses or whether to be a clear money laundering offense or not.

For suspicious transactions, procedures and guideline for determining cause for suspicion are different from cash transactions and property-related transactions as described below.

2. Red flags for suspicious transactions:

Suspicious transaction is a starting point in detecting offenses relating to money laundering or predicate offenses. Examining suspicious transactions deal with use of discretion in determining an unusual transaction that should be reported to AMLO. In this respect, finance company and credit foncier company may consider the circumstance of transactions as follows as the guideline in the examination for further reporting as suspicious transactions²:

2.1 Behaviors that should be examined:

(1) The case where the customer brings cash to pay off debt in one time or of a high value each time, which is in discord with the customer's past NPL status

(2) The case where the customer can pay off debt which is of a high value in one time and in a short period of time

(3) The case where the customer brings cash to buy property pending sales which is a large amount of cash where normally other customers pay through the banking system, by checks, or in installments rather than in a large amount of cash at once

(4) The case where the customer carries out a transaction using a large amount of cash which is in discord with the customer's financial status

² The behavior specified in this guideline is only a guideline for the complier to use in further examining customer and transaction details. If after examination it is found that customer information and transaction cause do not offer reason for reporting as suspicious transaction, the complier does not need to report the transaction as suspicious transaction to the AMLO.

(5) In the case of finding that the customer is connected with terrorism or committing offenses as named in the list notified by the state agency or being in the middle of the process of seizing or attaching property or requesting the property to be devolved on the state under the law on anti-money laundering, the companies must report suspicious transactions to AMLO.

Remark: (1) Behaviors under 2.1 is a guideline for the company to examine customer information and transaction which may lead to unusual activity which becomes a suspicious transaction. But if the company examines and finds that there is no unusual activity according to the definition of suspicious transaction, the company may consider not to report to the AMLO.

(2) In the case that the company finds behaviors other than that described herewith that lead the company to consider that the customer is carrying out suspicious transaction, the company can send a suspicious transaction report to the AMLO.

2.2 Guideline in identifying facts in reporting suspicious transactions

(1) In case of detecting any one of the transactions believed to be under suspicion, the company shall make initial examination in accordance with the procedure and report suspicious transactions and state the cause or information causing to use the discretion to file the report;

(2) In case of several examinations of the conduct causing the company to use the discretion that the person making such transaction has conducted acts coming under suspicion (owing to making several unusual transactions and bringing about unusualness and suspicion), the company should consider the last transaction report among several transactions of such customer together with citing previous transactions in the same manner. In the column stating the reason causing the company to use the discretion that they are suspicious transactions, e.g., corporate customer A making the transactions holding a large quantity of cash (perhaps several million baht each time) to make debt payment of loan with the company several times (in this regard depending on comparison with normal conducts of customers in general) such that they are

considered to be unusual transactions for corporate customer. In this case, the company then uses the discretion that the corporate customer A has made suspicious transaction. In the report, the company should select to report only one suspicious transaction perhaps by considering to state the last transaction information from the past several transactions and citing the previously detected cash payment transactions every time (which is unusual) as reason for the report without having to report as suspicious transactions in accordance with the total number of transactions of the customer, etc.

2.3 Prescribing the examination process and report of suspicious transactions

Companies are obliged to file suspicious transaction report within seven days from the date of examination and finding that such executed transaction is suspicious transaction. In this regard, it should not exceed one month from the date making such transactions except in case of necessity causing the company to be delayed in the detection or examination, for example, when a customer conducts a transaction on 1st April. The companies found that such the transaction is suspicious and the examination committee or executive with authority give approval of filing the suspicious transaction report to AMLO on 15th April. The companies must submit the report before 21st April. However, for the examination of the said unusual transaction up to the process of filing suspicious transaction report to AMLO, the companies should complete all process no later than 30th April.

The companies are required to examine all transactions of each customer to consider whether or not each transaction or each group of transactions of the customer is unusual and suspicious. The process of the transaction examination up to filing the report to AMLO should be consistent with the provisions of the ministerial regulation prescribing rules and procedures for customer due diligence (2012) as follows:

Step 1 Upon finding the conduct of unusual transaction of either one of the customers;

Step 2 Examining the consistency of the transaction value and income information or economic status of the customer, including other customer's information

in addition to the consistency with the economic conditions, i.e. investment or saving at that time;

Step 3 Examining the repetition of customer's behaviors whether there are more or less transactions in this same manner as compared to the transactions earlier;

Step 4 Reporting the results of examination and analysis to the executive with authority to examine customer's suspicious transaction;

Step 5 In case it is deemed expedient to file report to AMLO, the executive with the said authority shall sign the approval to file suspicious transaction report which must be submitted to AMLO within seven days from the date the executive with authority gives the approval, whereas the whole process from the date of finding the conduct of unusual transaction up to the step of filing report to AMLO should not exceed one month from the date of making the transaction, except in case of necessity causing the company to be delayed in the finding or examination.

3. Reporting entity, report forms and method for sending transaction report

In reporting the customer's transaction to AMLO, there is guideline in prescribing the form of report, period of filing the report and the person filling in the form of report as follows:

Table 1: Report form, reporting period and the person preparing the report

Report form	Person filling out the report form	Person submitting the report	Reporting period
AML 1-01	Customer making transaction or company	Company making transaction	Within 7 days from the day after the 15 th and the end of the month of the transaction
AML 1-02	Customer making transaction or	Company making transaction	Within 7 days from the day after the 15 th

	company		and the end of the month of the transaction
AML 1-03	Company (do not disclose to the customer)	Company making transaction	Within 7 days from the discovery of cause for reasonable suspicion

Table 2: Cash amount, transaction value and report form

Transaction category	Cash amount/value of transaction	Report form
Cash transactions	Transaction made in cash from two million baht or more	AML 1-01
Property-related transaction (only real estate and removable property whose price can be appraised)	Property with an appraisal price of five million baht or more (no need to consider the value of transaction)	AML 1-02
Suspicious transaction	Number of transactions, cash amount or transaction value not limited	AML 1-03

3.1 Reporting period

The companies must submit all transaction reports “according to the rules and time period specified for reporting transactions of financial institutions” as follows:

(1) For cash transactions, property-related transactions, and electronic money transfer transactions, the reports shall be submitted fortnightly as follows:

First submission: For transactions made between 1st and 15th of the month, the company must send the transaction report to the AMLO between 16th and 22nd of said month.

Second submission: For transactions made between 16th to end of the month, the company must send the transaction report to the AMLO between 1st and 7th of the following month.

(2) Suspicious transaction reporting

The report shall be submitted within 7 days from the day the management with authoritative powers approves that the suspicious transaction is to be reported to the AMLO. Overall, the submission should not exceed 1 month from the date the transaction was made.

3.2 Methods for sending transaction reports

The companies may file all categories of transaction report by any one of the methods as follows:

- A. By hand;
- B. By register mail;
- C. By electronic data according to the Law Regarding Electronic Transactions, which has an electronic signature appended and is sent by means announced by the AMLO

Currently, the AMLO examines linkages of transactions using an Information Technology (IT) system. Sending the report as electronic data as in c. will be beneficial to the AMLO and the sender of the data, by reducing the problems from conventional storage of transaction report data which may be lost and difficult to examine for authenticity. Moreover, reporting transactions by c. absolves the sender from being the witness testifying to the transaction reporting in the court of law in the case that the transaction report is presented as evidence in money laundering cases or predicate crime cases.

Remark: AMLO seeks cooperation from reporting entities to file reports by electronic channel to reduce the risk of violating the law on anti-money laundering.

4. The transactions exempt from reporting

The rules for the transactions being exempt from reporting are in accordance with the provisions in the ministerial regulations No. 5 and No. 13 issued under the provisions of the AMLA as summarized below:

Clause A. The transactions made by the following exempted persons or organizations:

A-1 The King, the Queen, the Heir Apparent or members of the royal family from the rank of prince or princess up to rank of crown prince or crown princess;

A-2 The Royal Thai Government, the central, provincial and local governments, state enterprises, public corporate or other state agencies;

A-3 The foundations as follows:

- Chai Pattana Foundation under patronage of H.M. the King;
- SUPPORT Foundation under patronage of H.M. the Queen;
- Saijaithai Foundation under patronage of H.M. the King.

Clause B. Property-related transactions in the category of real estate which was transferred for public interest or transactions related to the acquisition by possession or by prescription under Section 1382 or Section 1401 of the Civil and Commercial Code (by adverse possession)

Clause C. Property-related transactions in the category of removable property other than Western seagoing ships, ships with a tonnage of six tons or more, steamboats, motorboats with a tonnage of five tons or more, rafts, property which is vehicles, tools or other machinery.³

Clause D. Transactions which are insurance contracts against casualty where the financial institution is expected to pay out compensation according to the contract of less than ten million baht. In other words, when property which is the object of the insurance contract was damaged and has the value of compensation of less than ten million baht.

³ Therefore, the financial-instrument-related transaction used by the customer as security for the loan is exempted from reporting the property-related transaction even with the value from five million baht or more.

Clause E. Transactions related to the following procedures:

E-1 Transactions giving the service of credit card network where the financial institution uses the service provided by the operator of credit card network, and transactions where the business owner or commercial shop uses the service of the credit card network managed by the financial institution

E-2 Transactions related to operations in the EDC network, payment switching, account debiting, balance payment, which are made between financial institutions or between financial institutions and government bodies overseeing said network or system

Clause F. Transactions where the customer pays for goods and services where the financial institution or the profession under Section 16 (9) is the agent receiving the payment, only where the value is less than seven hundred thousand baht

Clause G. Transactions where the customer uses the service related to checks, drafts, bills of exchange, promissory notes, and financial instruments for the purpose of paying back debt, which are not cash transactions and transactions with the objective of investment

Clause H. (Only applicable to banks). Transaction made by the customer through the Automatic Deposit Machine (CDM or ADM) or Automatic Teller Machine (ATM).

Clause I. Transactions between asset management companies or between asset management companies and other financial institutions such as banks, securities companies, securities and fund management companies, or the professions under Section 16 (9) which are made for the companies' interest in investing and increasing capital, reducing risk in the companies' own management

Clause J. Transactions made by the companies for the objective of managing their internal affairs, which is not the provision of service to customers, such as buying land for construction of office of the company, etc.

Clause K. (Only applicable to banks) Transactions made for the same customer, namely, the transaction being the sending and receiving of fund transfer of either one of the customers made between various accounts of such customer and being the accounts opened in the same bank (the wordings of the law use the term of electronic

fund transfer or payment within the financial institution....specifically made for the same customer only).

Clause L. (Only applicable to banks) Transactions where the bank transfers monetary value into the customer's account which is a transfer of loans as a result of a legal act of lending made between the bank and the customer, except in the case where the bank makes a payment (in place of the customer) according to the bill to pay for goods in place of the customer to the customer's commercial partner which has an account in a foreign financial institution

Clause M. (Only applicable to banks). Transactions where the bank is the "correspondent bank" in receiving and sending monetary value transfer orders to the destination bank receiving the transfer

Remark: Transactions exempt from reporting mean transactions which are exempt from reporting in the category of cash transactions, property-related transactions in the category of real estate and removable property which can be appraised, property-related transactions in the category of electronic transfer and electronic payment, cash transactions with the objective of electronic transfer and electronic payment, and electronic payments only, but do not include suspicious transactions. Therefore, companies are obliged to report the "transaction exempted from reporting" if the said transaction is found to be "a suspicious transaction".

Note:

In case any transaction falls in line with more than one criterion for transaction reporting, it shall be considered as follows:

Clause A. In case of making transaction relating to real estate having appraised price from five million baht or more and cash transaction from two million baht or more, for example, the customer makes cash transaction to buy a property pending sales offered by the company (either Form 1-01 and 1-02 can be used).

Transaction reporting: In this case, companies shall report both cash transaction in Form AML 1-01 and also report of property-related transaction in Form AML 1-02. (In this respect, the company is still obliged to examine suspicious transaction).

Clause B. Cash transaction or property-related transaction is the transaction having the value under the rules to file report and the companies have also considered it to be suspicious transaction. (either Form 1-01/Form 1-02 and Form 1-03 can be used).

Transaction reporting: In this case, companies shall report both transactions, namely, both the report as prescribed by law concerning threshold amount (Form 1-01 or Form 1-02 as the case may be) and also the report as suspicious transaction (using Form 1-03).

5. Record keeping

Reporting entity shall keep copies of transaction reports (in case of sending to AMLO by mail or by hand) or in the form of electronic file (in case of sending in electronic file) for a period at least five years from the date of transaction made by the customer.

6. Reporting information under suspicion

In case reporting entity finds there is an unusual and suspicious request for making transaction, and wishes to report to AMLO but lacking sufficient information to fill in Form AML 1-05-10 in full, AMLO allows the information to be filled in the said form as much as available to the reporting entity at that time.

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