

**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 regulation regarding category of legal persons
authorized to operate business related to foreign currency payment under the
exchange control law**

Introduction

Legal persons authorized to operate business related to foreign currency payment under the exchange control law can in fact be classified as authorized money changers and money transfer agents. Both are categorized as financial institution under the anti-money laundering law¹, and as a result are obliged to comply with the Anti-money Laundering Act at the same level as other financial institutions.

Transactions related to the business of the authorized money changers are buying and selling foreign currency whose customers are both Thais and foreigners. As the business is directly dealing with cash, it therefore has the opportunity to watch cash transactions of customers more closely than large financial institution businesses. But providing foreign exchange services is only an occasional transaction and relationship establishment is short.

Money and value transfer service is a channel for people to transfer money other than banks. Customers wishing to send money abroad do not need to have any bank account and just present the money and transfer fees. This service is widely used by foreign customers because it is convenient and neither of bank account is required, and the recipient of the transfer can receive cash immediately. With the convenience and ease of sending and receiving cash, this type of legal person can potentially be a channel for occasional money laundering which is dealt with small amount of money at a time (this type of legal person mostly limits the value of each international transfer to one hundred thousand baht).

The law prescribes that authorized money changers and money transfer agents are a type of financial institution. The proprietor therefore has an important duty to

¹ Ministerial regulation (2000) issued under the Anti-money Laundering Act, 1999

report transactions and arrange for the identification of customers. For this group of proprietors to be able to correctly comply with the anti-money laundering law in accordance with the intent of the law, the Anti-money Laundering Office (AMLO) hereby sets out a guideline to increase their understanding regarding Thailand's anti-money laundering measures.

Transactions Reporting

The Anti-money Laundering Act, 1999, Section 13, prescribes that financial institutions are obliged to report cash transactions, property-related transactions, and suspicious transactions to the AMLO. This means that legal persons authorized to operate foreign currency payment business under the exchange control law are obliged to report transactions to the AMLO. This guideline will cover types of transactions subject to reporting obligations, exemption, as well as guidance in considering customer's suspicious transactions, rules, procedures and period in reporting the transactions.

1. Reporting entity

According to this guideline, reporting entity must be the person operating a foreign currency payment business under the exchange control law which is a legal person under the supervision of the Bank of Thailand, specifically the following legal persons:

- (1) Authorized money changers
- (2) Money transfer agents

2. Transactions subject to reporting obligations

The main activities of legal persons authorized to operate foreign currency payment business under the exchange control law are as follows:

- (1) Buying foreign currency from customers
- (2) Selling foreign currency to customers

- (3) Buying traveler's checks or (foreign) financial instruments from customers
- (4) Receiving cash to transfer money value abroad as per customers' order
- (5) Handing over cash to customers who come to receive money as per money transfer order from abroad

The anti-money laundering law prescribes that the proprietor is obliged to report the following types of transactions:

(2.1) Cash transactions mean the handling of cash by customer and proprietor which does not include the transfer of money into any party's bank account. The transaction must be a direct receiving or sending of cash between the company and the customer (for example, an employee handing over cash to the customer for currency exchange), and the cash activity must have a cash value of "two million baht or more"².

(2.2) Electronic money transfer transactions mean the sending or receiving of money transfer orders electronically. A threshold for reporting transaction is specified as follows:

(2.2.1) Sending/receiving money electronically effected by a debit: means money transfer transaction in which money is debited from the sender's account and deposited into the recipient's account without handing any cash from customer to financial institution (the company). The reporting entity shall report such transaction when each transaction has the value of seven hundred thousand baht or more.

(2.2.2) Sending/receiving money electronically effected by cash payment: before the process of electronic transfer, the customer delivers cash to the financial institution (company) for the purpose of ordering the money transfer of said value to the recipient, or when there is an order to receive electronic money transfer, the company will deliver cash to the recipient as per the money transfer order from abroad. The reporting entity shall report such transaction when each transaction has the value of one hundred thousand baht or more.

² Ministerial regulation prescribing the amount of cash and value of property in transactions which financial institutions must report to the AMLO, 2011

(2.3) **Suspicious transactions** mean suspicious transactions under Section 3 of the AMLA, meaning which include activities related to currency exchange transactions which are found to have the following nature:

(2.3.1) The business activity appears excessively complex compared with usual steps taken by customers in the same group and it can be foreseen that the objective causing such complexity is unreasonable in the normal course of business or it may want to conceal the trace of financial transactions or the genuine money owner;

(2.3.2) The activity which can be considered that the customer intentionally tries avoiding not to be reported of the cash transactions, namely, the customer must make cash transactions at the value of two million baht or more but intends to avoid being reported which is unusually different from other customer in general;

(2.3.3) The activity is inconsistent with financial status and condition of the customer or contrary to the economic condition at such time;

(2.3.4) The activity which could possibly be part of money laundering process or illegal activities, especially an economic crime, swindling, or public fraud, or activities related to criminal wrongdoing including the financing of terrorism;

(2.3.5) The activity whereas the customer who conducts it or the person related with such business activity is a designated person according to the United Nations Security Council's resolution, including the list of persons related to terrorism which was announced by the AMLO (if it is in this case, the reporting entity must urgently report it as a suspicious transaction to AMLO).

Remark: For transactions related to the currency exchange business under the exchange control law, the law prescribes the scope for this group of business operators to have the right to effect transactions related to financial instruments which is not property subject to reporting obligations according to the anti-money laundering law. Therefore, transactions which are related to business operations and which this category of financial institution is obliged to report are principally cash transactions, electronic money transfer transactions, and suspicious transactions.

(2.4) Red flags for suspicious transactions:

- Behaviors that should be examined

For the benefits of filing suspicious transaction report, authorized money changers may observe the following conducts to carefully determine that whether or not it is a suspicious transaction and should be reported to AMLO:

(2.4.1) Behaviors that should be examined by authorized money changers:

(1) The customer carries various foreign currencies to exchange into one or other currency in unusually high value;

(2) Customers who are tourists or temporary residents but request an exchange of an unusually high amount of money;

(3) Thai customers (who are not regular customers such as tour companies) bring Thai baht to buy foreign currency of a very high value (even though it is more convenient to transfer foreign currency through a bank) or bring Thai baht to buy various foreign currencies in a high value;

(4) In 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 authorized money changers must report suspicious transactions to AMLO.

(2.4.2) Behaviors that should be examined by money transfer agents:

(1) The customer sends or receives money of a high value several times in a short period of time, even though carrying out this type of transactions via a bank account is cheaper and more convenient.

(2) The customer sends or receives money on his own behalf (not as a proxy) but cannot answer questions on the objective of the transactions or questions related to the sender or receiver of the money or cannot give necessary information for the official to fill in the transaction report form. This may be the case of hiring to carry out a transaction.

(3) The customer frequently orders a money transfer to a destination which is a person or group of persons located in an area or country with a risk of money laundering or terrorism. The customer also refused to give a reason or reasonable purpose of making such transaction³. This includes the case where the customer receives money transfer from a person or group of persons located in an area or country with a risk of money laundering or terrorism several times.

(4) In 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 money transfer agents must report suspicious transactions to AMLO.

(2.4.3) Process of initial transaction examination and approval prior to filing report

Authorized money changers and money transfer agents 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 legal persons found that such the transaction is suspicious and the executives give approval of filing the suspicious transaction report to AMLO on 15th April. The legal persons must submit the report before 21st April. However, for the examination of the said unusual transaction up to

³ The following case is usually transactions potentially related to the financing of terrorists or offense which is a transnational crime, which is where the bank's customer has no stable occupation or has a background of freelancing (where the place of occupation is not stated or general freelancing with no definite location), transfers money to or receives money transfer from abroad especially countries related to criminal organizations or terrorism, where the customer cannot state the source of the money or states an unreasonable source, such as that their relative working in said country sends the money without knowing what the relative does, or wishes to send money to pay back debt but does not state what debt, and when initial examination of information uncovers that said bank customer does not have a high level of education and in fact has practically no chance of being related to foreigners or operating a commercial business in said country.

the process of filing suspicious transaction report to AMLO, the legal persons should complete all process no later than 30th April.

In brief, the legal persons have the duty 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. In the process of the transaction examination up to filing the report to AMLO, there should be a step for the management to examine said transactions again before considering sending the report to the AMLO, and the process must have a specified time limit not exceeding that prescribed by the law or this guideline. In other words, upon the executive deciding to file a report to the AMLO, time taken for the submission should not later than seven days as from the date such decision was made. Overall, the suspicious transaction report should be submitted within one month from the date the transaction was made.

3. Rules for filing the transaction report (reporting period, forms and methods for sending transaction report)

In reporting customer transactions to the AMLO, report forms, period for report submission, and person filling out the report forms are as follows:

Table 1: Report forms, reporting period, and person filling out the report forms:

Report form	Person filling out the report	Person submitting the report	Reporting period
AML 1-01	Customer making transactions or financial institution (signed by customer)	Financial institution	Within 7 days from the day after 15 th and last day of the month the transaction was made
AML 1-02 (*at present there are	Customer making transaction or	Financial institution	Within 7 days from the day after 15 th

no cases of reporting this type of transaction)	financial institution (signed by customer)		and last day of the month the transaction was made
AML 1-05-9	Financial institution	Financial institution	Within 7 days from the day after 15 th and last day of the month the transaction was made
AML 1-03	Financial institution (must not be disclosed to customer)	Financial institution	Within 7 days from date of discovery of reasonable suspicion

Table 2: Cash amount, transaction value, and transaction report forms

Transaction type	Cash amount/transaction value	Report form
Cash transaction	Cash transaction in amount of two million baht or more	AML 1-01
Property-related transaction (only real estate and removable property the price of which can be appraised) (*at present there are no cases of reporting this type of transaction)	Property with an appraisal price of five million baht or more (not to consider the value of the transaction)	AML 1-02
Electronic money transfer transaction	Transaction to send or receive money value transfer effected by a debit in amount from seven	AML 1-05-9

	hundred thousand baht or more, or electronic money transfer transaction paid in cash in amount of one hundred thousand baht or more	
Suspicious transaction	No limit of frequency, cash amount, or transaction value	AML 1-03

3.1 Reporting period

Authorized money changers 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 Method for sending transaction reports to AMLO:

Authorized money changers may file all categories of transaction reports by any one of the methods as follows:

A. By hand;

B. By registered post;

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. 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 corporates 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.

b. Transactions related to financial instruments (cheque, promissory notes) do not need to be reported.

c. Transactions made with a party which is a financial institution

Remark: A transaction being exempted from reporting refers to the threshold transaction only, but not include suspicious transactions. Therefore, money changers are obliged to report the “transaction exempted from reporting” if the said transaction is found to be “a suspicious transaction”.

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 the reporting entity finds there is an unusual and suspicious request for making transactions, and wishes to report to AMLO but lacking sufficient information to fill in Form AML 1-03 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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