

## Summary of 2016

### National Money Laundering and Terrorism Financing Risk Assessment

#### Foreword

Financial Action Task Force's Recommendations on Anti-Money Laundering and Counter Terrorism Financing require jurisdictions to assess risk of money laundering and terrorism financing. A lead agency shall be designated and act as a focal point for cooperation with other related agencies, i.e. supervisory agencies, law enforcement agencies and business sectors who will take measures to prevent or mitigate the risks commensurate with risk levels, as well as reviewing risk assessment in keeping with circumstantial changes.

Anti-Money Laundering Office (AMLO) as the lead agency for national risk assessment, commissioned the National Institute of Development Administration to conduct the assessment. The framework consisted of money laundering and terrorism financing factors risk from various domestic and transnational crimes, which affect the financial system, especially predicate crimes under anti-money laundering law, taking into account information on threat and vulnerability and then assessing consequences in order to take risk-based approach to adopting enhanced or reduced measures to prevent or mitigate residual risks.

Methodology used was derived from the FATF's, which collect quantitative and qualitative information from all relevant agencies, both public and private, i.e. law enforcement agencies, financial intelligence agency, intelligence agencies, judiciary agency, supervisory agencies and reporting entities. Primary data was collected from questionnaires and experts interviews such as executives or representatives of government agencies and private entities as well as money laundering prisoners. Secondary data was collected from annual reports of relevant agencies during 2012 – 2015.<sup>1</sup>

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<sup>1</sup> Research limitations are 1) definition of offenses or crimes vary from agency to agency which then classify types of cases differently and result in discrepancies 2) there is no collective statistics on proceeds of crimes. The researchers resorted to interviews with experts for each predicate crimes to arrive at close estimation. AMLO also cross checked with respective agencies.

## **Transnational Crime types in Thailand**

From other researches, experts' views and international cooperation statistics, Thailand faces high transnational crimes risk from criminals from Western and Eastern Europe, Russia, China, Western Africa, South Korea, Japan and neighbouring countries such as Myanmar. Majority of crimes were drugs, fraud, human trafficking, cybercrime, document forgery and illegal migration, most of which are committed abroad and Thailand is used for transit or operation preparation and money laundering base.

## **Informal Economy**

Thailand has a large informal economy, some research papers estimate that it is as large as registered businesses or at least accounts for 30 to 40 percent of GDP. Illegal activities such as smuggling of goods, unlicensed financial businesses, sex trade and casino also have a big share.

Illegal foreign workers tend to reduce in their numbers because of the government policy to regulate foreign workers through registration with the Ministry of Labour. This enables legal workers to access financial services offered by financial institutions. For example a Myanmar worker can transfer up to 2 hundred thousand baht per day through 3 networks. Illegal foreign workers have less or unstable income from general labour, thus poses low money laundering risk through underground financial services.

## **Incoming and outgoing illegal money**

Thailand is a target where foreign criminals use to launder or hide money to a higher amount than what Thai criminals launder abroad. Most of incoming illegal money is from drugs and fraud committed in USA, Europe, Myanmar and China channeled through banks. Most of these proceeds are used to buy property and invest in front businesses, especially in tourist areas.

Money or assets that Thai criminals move abroad is from fraud and gambling. Destination countries are USA, Europe and tax haven countries such as Singapore, Hong Kong and Macau, where the money is moved through banks and cash couriers. These proceeds are used to buy property.

## Level of threat from crimes

The research found that criminal proceeds are over 4 hundred billion baht per year. The highest percentage is corruption (34.46%) followed by drugs (23.15%), tax evasion (12.84%) stock market manipulation (8.71%) and customs evasion (8.02%) respectively, which account for 86.18% of total proceeds from all predicate offenses.

## Money laundering risk

Criminals attack vulnerabilities of financial and business sectors as well as customs check points as channels for laundering money. Top 10 risk channels, from highest to lowest, are as follows;

**Commercial Banks:** Although commercial banks have good management and control measures in place, the sector has various products and channels employing new technology, as well as several branches both in Thailand and abroad, thus it is exposed to higher risk of abuse.

**Real Estate:** The reason why criminals use the sector to launder money is its high value and ability to conceal source of funds. Furthermore, agents and brokers are not giving importance to checking customers' names against money laundering database.

**Antiques and Amulets:** Value is negotiated on the satisfaction basis, it can be overpriced to make high-value transactions look legitimate, which prevents effective AML supervision.

**Non-Profit Organization (NPO):** Department of Provincial Administration is responsible for registration of Thai foundations and associations. The law does not fully cover anti-money laundering aspects which restrains it from effective AML supervisory role.

**Customs Check Points:** 31 provinces of Thailand share border with neighbor countries while there is insufficient customs check points and officials, as well as unclear power to seize or freeze assets suspected of money laundering involvement, making it a high risk channel for money laundering through courier of cash, bearer negotiable instruments and precious metal and stones.

**Car Trading and Leasing:** This is the sector where proceeds can easily be converted into legitimate assets and distributed discreetly to other persons. To compound this, there is a large number of small entities and insufficient control of government.

**Precious Metal and Stone Dealer:** This is often used by criminals because there is a large number of entities throughout the country and supervision does not have a sufficient coverage while transactions are convenient.

**Special Financial Institutions:** These are financial services with specific purposes established under government policy and supervised by the Ministry of Finance, who designates Bank of Thailand to conduct risk based examination to ensure effectiveness and transparency.

**Securities Sector:** This is strongly supervised by its regulator with sufficient measures to prevent entities from abuse for money laundering under stringent KYC/CDD legal framework.

**Cooperatives:** These are set up to promote cooperation and support among members within the organization or community through lending and savings under supervision power provided by AMLA. They pose low money laundering risk

## **Vulnerabilities**

In general, the abuse of financial and business sector and customs check points for money laundering purpose is the result of remaining weak points or vulnerabilities in the system such as insufficient prioritization in management of AML work, not up-to-date and inadequate-coverage policy, insufficient AML knowledge of personnel, lack of risk assessment and mitigation measures.

## **Consequences of money laundering**

Money laundering affects the country's economic system because proceeds are moved rapidly without economic rationale, distorting economic indicators and thus policy development. If the top five channels for money laundering, which account for 86 percent, are not sufficiently supervised, it will impact the economy, society and security. Although we could not specify which crime causes which impact, but high money-laundering risk will also

have a big impact on the reputation and image of financial institutions especially the ones with large numbers of international transactions.

### **Economic impact**

From expert interviews, the impact on the economic and financial system causes greatest damage. This was evident when the FATF listed Thailand as a high money laundering risk jurisdiction in 2012, affecting the country's image and reputation, as well as competitiveness of financial institutions because their correspondent transactions needed to go through more stringent measures, which meant more cost and time, making the public lose convenience in conducting transactions. And if transactions are blocked, it will affect the income of both government and private entities, which in turn, will affect economic growth.

Another important issue worth considering is tax evasion by underreported revenue, fraudulent tax return, forged tax invoice, as well as other crimes which affect macroeconomic and less tax income for government.

Effects to business sectors, especially financial institutions who do not apply anti-money laundering and counter-terrorism financing measures or not adopt a sufficiently risk-based approach to their operations, are bad reputation and loss of customers or profit, which in turn, will affect cash flow and ability to pay back debt, customers' confidence as well as risk of sanction for non-compliance such as large amounts of fine.

### **Social impact**

Money laundering affects society significantly because money laundering and crime commission is an endless cycle such as drugs, human trafficking, and intellectual property rights violation. The increase of crime cripples law enforcement and weakens social stability, making people feel the lack of safety in life and assets. The government would need to allocate more resources in crime suppression, leaving less for other necessary developments.

### **Security impact**

Money laundering is a non-traditional security threat because transnational crime organizations have expanded their base to operate in Thailand. Although there is good

coordination among security and law enforcement agencies but there is no proactive operation to effectively control and counter transnational organized crime groups.

### **Terrorism Financing Risk**

Terrorism financing risk assessment found that the largest source of funds used for creating situations was non-profit organizations (NPOs), followed by illegal activities, funds raising and self-funding, respectively. However, when considering frequency and consequence of the situations, it was found that the highest risks are self-funding and funds raising through NPOs.

The highest-risk channels for moving terrorist-financing funds are through customs check points and transactions through commercial banks and special financial institutions. Most of these are movement of funds from the source to perpetrators domestically. There is no evidence showing movement of funds from Thailand to support terrorist acts abroad.

There are 2 purposes of funds using i.e. operational and organizational. Operational purposes are buying or provision of equipment, arms or explosives and training. Organizational purposes are for propaganda, networking, extremist ideology implanting, meeting and network maintenance.

Consequences of existence of terrorism and its financing are very serious, especially social impact – deteriorating people's well-being, lack of life and assets security, national security and image, economic impact – dwindling tourism business, because of lowering confidence of safety, declining competitiveness of business sector especially financial institutions. The situations also worsen investment environment leading to less chance for economic development.

### **Recommendations for money laundering risk management.**

1. Addition of tax evasion as predicate offense

Thailand has not yet prescribed tax crime, especially evasion and fraud, as predicate offense. It should expedite the process for including the offense, which is the third

largest money laundering threat, as predicate offense, as well as prescribing rules, ordinance, measures and guidelines.<sup>2</sup>

## 2. Designation of high risk professions as reporting entities

Real estate and precious metal and stones trading sectors are often abused for money laundering but the current Section 16 of the Anti-Money Laundering Act requires only real estate agents and brokers and precious metal and stones dealers who are juristic persons to be reporting entities, thus not covers natural persons, enabling criminals to resort to such channel. It is recommended that natural persons be included as reporting entities.

At present, Thailand does not designate lawyers and accountants as reporting entities. FATF recommendations so stipulate because these professionals are the front line in customer examination and can effectively help preventing money laundering, as can be seen from many jurisdictions that designate lawyers and accountants as reporting entities.

To implement anti-money laundering and counter terrorism financing measures in line with international standards, Thailand should consider including real estate agents and brokers, precious metal and stones dealers who are natural persons, lawyers and accountants as reporting entities to make use of their expertise in examination to prevent criminals from laundering money.

## 3. Increase of personnel for AML/CFT supervision

There are a large number of reporting entities, not proportionate with the number of supervisory officials of AMLO, who are not sufficient to cover effectively. AMLO should increase and allocate officials according to actual responsibilities to cover all reporting entities on a risk-based basis.

## Recommendations for terrorism financing risk management

### 1. Border control

Because Thailand has border lines around 500 Km. and the landscape is one factor that criminals may use to smuggle drugs, goods, petrol, arms and money easily and the separatists may use for hiding. Law enforcement agencies in the area should elevate

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<sup>2</sup> By the time of this publication on the website (17 July 2017) the Act on the Amendment of Revenue Code (No. 45) B.E. 2560 (2017) had been enacted, prescribing the offense relating to tax evasion or fraud of 10 million baht or more or fraudulent tax return of 2 million baht or more as predicate offense under the law on anti-money laundering, effective from 2 April 2017.

cooperation for surveillance, tracing or prevention of illegal traffic as well as increase skilled officials. The cooperation should be included in the cooperation strategy paper.

## **2. Supervision of NPOs**

NPOs stand a high risk of being abused for terrorism financing and supervisory measures are weak, registration process is easy and does not include examination of foreign donations. A supervisory agency and effective mechanism have to be established, targeted financial sanctions have to be applied as well as other penalties.

To reduce the problem of NPOs being abused for terrorism financing, the registrar, supervisory agencies and law enforcement agencies should join forces while clearly delineate their duty and AMLO should increase cooperation with and outreach to those supervisory agencies in AML/CFT matters.

The auditors who sign annual financial statements, being the front line to see irregularities of the accounts, have to be obliged to report suspicious transactions or activities.

## **Other recommendations**

### **1. Supervision of legal persons registered in Thailand**

The actual number of legal persons who have been registered and currently is operating is only 612,177 entities (out of 1,267,430 registered, as of end of 2014). The registrar should have plans for examination or reviewing the status of registered entities to prevent abuse as shell companies.

To promote transparency of management, the Department of Business Development, Ministry of Commerce should require entities to specify ultimate beneficial owners, at the time of registration and every changes afterwards, as is required by the EU (Fourth EU Directive)

Government database necessary for CDD should be easily accessible by reporting entities, especially information on identification of beneficial ownership of legal persons, funds and foundations.

### **2. Standardized implementation of AML/CFT law.**

Although the anti-money laundering law came into force in 1999 and has been amended in line with international standards but implementation is strong only in certain



financial sectors (banks, special financial institutions, insurance and securities). Risk-based implementation should be promoted to effectively mitigate risks, especially in DNFBPs sectors.

AMLO should produce guidelines and best practices for supervision and implementation for reporting entities to ensure risk-based approach is pursued at the same level.

Law enforcement agencies should prioritize high risk predicate crimes while not neglecting other crimes.

There should be law enforcement and judicial statistics that show the number of cases and value of proceeds, classified by predicate crime type and can be used to assess risk-based implementation.

### **3. Prevention of money laundering channels**

Supervisory agencies should cover all types of reporting entities, conducting outreaches to raise awareness on their responsibilities to prevent the abuse of their products and services for money laundering or terrorism financing. Customer identification, CDD, including all types of transaction reporting have to include all necessary details such as customer data and their activities.

Authority of the agencies should be clearly specified in the area of supervision, registration or merger and acquisition control to prevent abuse for money laundering.

A clear process should be in place to prevent money laundering or terrorism financing from buying or selling of property which may be used for shelter or storage of proceeds, including drugs.

### **4. Training on the nature of business of each type of reporting entity for AMLO officials**

Because there are a large number of reporting entities, with diverse business nature, under AMLO supervision, which the officials may not be familiar with or have expertise in, AMLO should set out minimum qualification for officials who will be responsible for supervisory task to have knowledge and awareness of the nature of businesses under their supervision, which will enable them to analyze and examine their management functions. Such officials may need to be Certified Anti-Money Laundering Specialist (CAMS) to ensure their expertise in line with international standards.

AMLO should exchange knowledge and understanding on types of products and services and nature of business of reporting entity with prudential supervisors to increase effectiveness in AML/CFT work.

#### **5. PEPs database accessibility**

A large number of reporting entities do not have access to PEPs database, both domestic and international. The existing published list of domestic PEPs (NACC website) is not in the format usable for filtering systems. AMLO should coordinate with NACC to facilitate access to domestic PEPs database by reporting entities which will enable accountable and timely risk management system within the entities.

#### **6. Designated persons database accessibility**

For AMLO to be able to carry out thorough implementation without delay of targeted financial sanction measures, it should consider (1) developing an Auto-generated mail for reporting entities and the public to be notified of changes in the designated persons list and (2) creating the list of designated persons in a database friendly file to reduce time and error and speed up the process of implementing the measures, in line with international standards.