

(Unofficial Translation)



### **Ministerial Regulation**

#### **Prescribing Rules and Procedures for Customer Due Diligence**

**B.E. 2556 (2013)**

By virtue of section 4 Paragraph one of the Anti-Money Laundering Act B.E. 2542 (1999) and section 20/1 paragraph two of the Anti-Money Laundering At B.E. 2542 (1999) as amended by the Anti-Money Laundering Act (No. 3) B.E. 2552 (2009), which is a law containing certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section 33, section 35, section 36, section 41 and section 43 of the Constitution of the Kingdom of Thailand so permit by virtue of law, the Prime Minister hereby issues the Ministerial Regulation as follows:

**Article 1** This Ministerial Regulation shall come into force on the day following the date of its publication in the Government Gazette.

**Article 2** The Ministerial Regulation Prescribing Rules and Procedures for Customer Due Diligence B.E. 2555 shall be revoked.

**Article 3** In this Ministerial Regulation:

“customer” means a natural person or a legal person or a legal arrangement who has a business relationship or conducts a transaction with a financial institution or a person engaging in a profession under section 16 (1) or (9);

“legal arrangement” means an agreement or arrangement by which a natural or legal person may hold, employ, dispose of or manage assets by any means for the benefit of another natural person or legal person;

“ultimate beneficial owner” means the natural person(s) who ultimately owns or controls the business relationships of a customer and a financial institution or a person engaging in a profession under section 16(1) or (9) or the natural person on whose behalf a transaction is being conducted by the customer or the person(s) who ultimately have a controlling ownership interest in a legal person or a legal arrangement;

“publicly available information” means any information that is equally accessible by the public or any information that can be obtained from a publicly available source with or

without charge as well as any information that a government agency makes available for access by the people or any business sector for examination or acknowledgement of that information;

“politically exposed person (PEP)” means an individual who is or was entrusted with a prominent public function in Thailand or by a foreign country, such as a Head of State or Government, a minister or a senior official in the government, the judicial branch, an organ under the constitution, the prosecutorial or the military, a senior executive of a state enterprise or state-owned corporation, or an important political party official as well as a family member or close associate of a PEP and a person who is or was entrusted with a prominent function in an international organization such as managing director, deputy managing director and member of the board of directors or person holding an equivalent position. This shall be determined in a Notification issued by the Secretary-General.

## **Chapter I**

### **General Provisions**

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**Article 4** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall have in place and implement written policies and procedures for the assessment and management of money laundering and terrorist financing risks. The policies and procedures shall be periodically reviewed and kept up-to-date.

The policies and procedures under paragraph one shall include measures for assessing ML/FT risks that may arise from the development of new products and new business conduct as well as new mechanisms for service delivery or the use of new or emerging technology for both new and existing products.

Implementation of the policies and procedures shall follow guidelines prescribed by the Secretary-General.

**Article 5** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall conduct risk assessment under article 4 paragraph two and adopt appropriate measures to mitigate money laundering and terrorist financing risks that may arise before the introduction of the new product, new service or the use of a new technology.

Measures under paragraph one shall follow guidelines prescribed by the Secretary-General.

**Article 6** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall not establish a business relationship or conduct a transaction with anonymous customers or customers using fictitious names.

**Article 7** Financial institutions and persons engaging in professions under section 16 (1) and (9), and their directors, employees, office-bearers and agents, shall not disclose any fact or act in any way with the possible result that the customer will become aware of suspicious transaction reporting or reporting of any related information on the customer to the Office.

**Article 8** Where financial institutions and persons engaging in professions under section 16 (1) and (9) suspect that a transaction relates to money laundering or terrorist financing, they shall take particular care in performing the customer due diligence process. Where there are reasonable grounds to believe that performing the customer due diligence process will tip off the customer or potential customer, they may choose not to pursue that process and file a suspicious transaction report with the Office.

Financial institutions and persons engaging in professions under section 16 (1) and (9) shall ensure that their relevant personnel are aware of and sensitive to the obligation under paragraph one when conducting customer due diligence.

**Article 9** During the establishment or course of a business relationship with a customer, if financial institutions and persons engaging in professions under section 16 (1) and (9) suspect that a transaction relates to money laundering or terrorist financing, they shall act in accordance with section 19 (1), (2) and (3) irrespective of any exemption in the establishment or conduct of business relationships or the conduct of transactions and file a suspicious transaction report with the Office.

## Chapter II

### Money-Laundering and Terrorist Financing Risk Management

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#### Part I

#### General Provisions

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**Article 10** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall examine transactions suspected of being related to money laundering or terrorist financing, and in case of unresolved suspicion they shall file a suspicious transaction report with the Office.

**Article 11** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall apply policies and procedures created pursuant to Article 4 to all customers from the establishment until the termination of the business relationship.

**Article 12** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall establish the stringency degree of the CDD measures for each customer consistent with his or her money-laundering and terrorist financing risks. Where the risks are higher, they shall conduct enhanced CDD measures. Where the risks of money laundering or terrorist financing are lower, simplified CDD measures may be applied as part of their anti-money laundering and counter terrorist financing policies and procedures.

**Article 13** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall take regular action to ensure that documents, data or information collected for identification and risk management is kept up-to-date and relevant until the business relationships with customers are ended.

## Part II

### Risk Management and Customer Due Diligence for High-Risk Customers

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**Article 14** Financial institutions and persons engaging in professions under section 16 (1) and (9), while conducting money laundering and terrorist financing risk management in accordance with Articles 4 and 5, shall have regard to money laundering and terrorist financing risks that shall include the following risks factors:

(1) Customer risk factors include the following:

a) Where information or results of identification of the customer or the beneficial owner indicate that the customer or the beneficial owner has one or more of the following attributes:

1) having a shareholding structure which is unusual or more complex than the normal business conduct;

2) matching the information of persons the Office notifies as subject to being designated as high-risk customers who deserve a close watch;

3) engaging in a high-risk profession as prescribed by the Secretary General;

4) being a politically exposed person; or

5) being otherwise considered as posing a high money laundering or terrorist financing risk.

b) Where it is found that the business relationship or the customer's transactions are conducted in unusual circumstances.

(2) Country or geographic risk factors exist where a customer resides either temporarily or permanently; engages in an occupation; has an income source from or conducts transactions in a geographical area or country which has been notified by the Secretary-General as an area or country with a high risk of money laundering and terrorist financing.

Financial institutions and persons engaging in professions under section 16 (1) and (9) shall take into strict consideration risk factors under (1) and (2) in risk management for customers and they shall designate the customer as a high-risk customer where (1) or (2) or other risk factors applicable to the customer apply.

In designating high-risk customers, financial institutions and persons engaging in professions under section 16 (1) and (9) should also consider other factors such as delivery channel, transaction type, financial product type, and lists of names with risks from other sources.

**Article 15** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall apply enhanced CDD measures for high risk customers. These measures shall include, but are not limited to the following:

(1) obtaining additional information or evidence from customers concerning their businesses, sources of funds or income, intended nature of the business relationship, or the reasons for intended or performed transactions, and adopting procedures requiring the high risk customers to have a business relationship with a financial institution which is trustworthy regarding anti-money laundering and countering the financing of terrorism.

(2) obtaining the approval of senior management to commence or continue the business relationship with high-risk customers and approval of the results of information verification under the CDD process. Where a customer presents such a high risk that financial institutions and persons engaging in professions under section 16 (1) and (9) can possibly be used as a channel for money laundering or terrorist financing, financial institutions and persons engaging in professions under section 16 (1) and (9) shall refuse to establish business relationship or to conduct transactions, or terminate business relationship with that customer and file a suspicious transaction report with the Office.

(3) conducting enhanced examination and monitoring of the financial movements of high-risk customers, by increasing the frequency or procedures or manners of monitoring transactions and business relationships, and increasing the frequency of examination and

verification of customer identification and of beneficial owners. These shall be carried out regularly.

### **Part III**

#### **Risk Management and Customer Due Diligence for Low-Risk Customers**

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**Article 16** Subject to Article 14, financial institutions and persons engaging in professions under section 16 (1) and (9) may apply simplified CDD measures for low-risk customers. These measures may include, but are not limited to the following:

(1) reducing the requirements of identification information, taking into consideration types of customers, type of transactions or financial products, transaction size and movements of transaction or business relationships.

(2) reducing the requirements of examination and review of movements of transaction or business relationships.

(3) reducing the requirements of verification of the customer's current information.

Factors in considering customers as low-risk customers under paragraph one shall be set out in a Notification issued by the Secretary-General.

**Article 17** Where a low-risk customer is found to have engaged in acts or conducted transactions or have other features possibly related to money laundering or terrorist financing, financial institutions and persons engaging in professions under section 16 (1) and (9) shall immediately reclassify the customer as a high-risk customer and undertake most stringent CDD measures under Article 15.

### **Chapter III**

#### **Customer Due Diligence**

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##### **Part I**

#### **Customer Due Diligence for Customers in General**

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**Article 18** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall apply customer due diligence measures when:

- (1) establishing business relationships;
- (2) carrying out occasional transactions

(a) be they single operations or several operations with possible link totaling seven hundred thousand baht or more; or

(b) that are wire transfers or electronic payments worth in each operation fifty thousand baht or more;

(3) there is suspicion of money laundering or terrorist financing; or

(4) there are doubts about the veracity or adequacy of previously obtained customer identification data or identification data on the ultimate beneficial owner(s) under Article 19 (1) and (2).

**Article 19** The customer due diligence measures applied by financial institutions and persons engaging in professions under section 16 (1) and (9) shall be as follows:

(1) identifying the customer and verifying the customer's identity using documents, data or information from publicly accessible reliable sources in addition to those obtained from the customer;

(2) identifying the ultimate beneficial owner and taking appropriate measures to verify the identity of the ultimate beneficial owner;

(3) checking data of the customer and that of the ultimate beneficial owner against the list of persons, groups of persons, legal persons or entities designated under a resolution of the UN Security Council or notification as terrorists or a person designated under the Counter-Terrorism Financing Act;

(4) obtaining information from the customer on the purpose and intended nature of the business relationship;

(5) checking on the financial movement or transactions and information on the conduct of business relationships and transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the purpose of the business relationship or transactions stated by the customer, their business and risk profile, and other available information on the customer, and checking to ensure that data on the customer especially about their source of funds are up-to-date.

Financial institutions and persons engaging in professions under section 16 (1) and (9) shall perform customer due diligence measures under paragraph one in line with the results of ML/FT risk management for each customer pursuant to Article 14, Article 15, Article 16 and Article 17.

Financial institutions and persons engaging in professions under section 16 (1) and (9) shall complete implementation of (1), (2) and (3) before or during the course of establishing a business relationship with customers unless a delay in such conduct is

necessary to prevent an interruption to the normal conduct of business, in which case it shall be completed as soon as practicable after establishing a business relationship with the customer, providing that money laundering and terrorist financing risks are effectively managed, and the delay does not affect the asset freezing requirements set out in the Counter-Terrorism Financing Act.

Identification of customer and ultimate beneficial owner under (1) and (2) shall be in line with guidelines set out by the Secretary-General.

**Article 20** In the case of authorization to establish a business relationship or to conduct a transaction on behalf of a customer, financial institutions and persons engaging in professions under section 16 (1) and (9) shall verify that any person purporting to act on behalf of the customer is so authorized, and shall identify and verify the identity of that person in accordance with Article 19 (1), (2) and (3).

**Article 21** Subject to the provisions of Article 19 and Article 20 when performing CDD measures in relation to customers that are legal persons or legal arrangements, financial institutions and persons engaging in professions under section 16 (1) and (9) shall identify and verify the customers, and understand the nature of their business, and its management ownership and control structure.

**Article 22** When performing CDD measures in relation to customers that are legal persons or legal arrangements under Article 21, financial institutions and persons engaging in professions under section 16 (1) and (9) shall identify the customer and the ultimate beneficial owner(s) as follows:

(1) identify the customer and verify its identity, requiring information and evidence as follows:

(a) name, legal form and proof of legal status and existence.

(b) the powers that control, regulate and bind the legal person or legal arrangement as well as the names of the relevant persons having a senior management position in the legal person or legal arrangement. Financial institutions and persons engaging in professions under section 16 (1) and (9) shall also perform CDD measures on the customer under Article 19 (3).

(c) the address of the registered office, and, if different, a principal place of business.

(2) identify the beneficial owner(s) of the customer and take reasonable measures to verify the identity of such persons, through the following information:

(a) for legal persons:

(i) the identity of the natural persons who ultimately have a controlling ownership interest in the legal person, taking into account the fact of their being the beneficial owners of the legal person; and

(ii) to the extent that there is doubt under (i) as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) or where no natural person under (i) is found, the identity of the natural persons (if any) exercising control of the legal person through other means.

(iii) where no natural person is identified under (i) or (ii) above, financial institutions and persons engaging in professions under section 16 (1) and (9) shall identify and take reasonable measures to verify the identity of the relevant natural person who holds the position of senior managing official.

(b) for legal arrangements:

(i) trusts – the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust including through a chain of control/ownership;

(ii) trusts under the law on trusts for transactions in the capital market – the identity of the settlor, the trustee(s), the beneficiaries or class of beneficiaries, the purposes of the trust and the asset to be placed under the trust;

(iii) other types of legal arrangements – the identity of persons in equivalent or similar positions.

**Article 23** Where CDD measures cannot be performed under Article 19, financial institutions and persons engaging in professions under section 16 (1) and (9) shall refuse to establish a business relationship or to perform the transaction, or terminate the business relationship with the customer and shall consider filing a suspicious transaction report with the Office.

**Article 24** For the conduct of subsequent transactions, financial institutions and persons engaging in professions under section 16 (1) and (9) may rely on the identification and verification steps under Article 19 (1), (2) and (4) that it has already undertaken in relation to the same customer, unless it has doubts about the veracity of that information.

**Article 25** The Secretary General shall issue guidelines by notification to financial institutions and persons engaging in profession under section 16(1) and (9) in relation to requirements to maintain records relating to customer due diligence and other financial records set out in this Ministerial Regulation.

**Article 26** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall perform CDD measures in relation to all customers, be they new or existing ones.

For existing customers, they shall observe the following requirements:

(1) customers with incomplete and inadequate information shall be followed up until all necessary information is obtained and risk management and CDD measures shall be conducted in relation to the customer when sufficient information is obtained;

(2) for existing customers whose accounts have had no movements or who have not conducted a transaction for a long time or who are delinquent debtors and on whom information is unable to be obtained, measures shall be adopted to require such customers to contact financial institutions and persons engaging in professions under section 16 (1) and (9) for their next transaction so that information shall be obtained from the customer at the first opportunity and CDD measures shall then be conducted on the information;

(3) consideration shall be given to ending the business relationship with customers with incomplete and inadequate information on whom all necessary information is unable to be obtained.

CDD measures for existing customers under paragraph two shall be in line with guidelines set out by the Secretary-General .

## **Part II**

### **Beneficiaries of Insurance Policies**

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**Article 27** For establishing business relationships or conducting transaction relating to life or other investment-related insurance business, financial institutions shall, in addition to the CDD measures performed under Article 19 (1), (2) and (3), obtain the following information:

(1) for beneficiary(ies) that are natural persons or legal persons or legal arrangements – taking the name of the person;

(2) for beneficiary(ies) that are designated by characteristics or by class or by other means – obtaining sufficient information concerning the beneficiary to satisfy the financial institution that it will be able to establish the identity of the beneficiary at the time of the payout.

**Article 28** For both the cases referred to in Article 27 (1) and (2), the financial institution shall verify the identity of the beneficiary(ies) at the time of the payout.

**Article 29** Financial institutions shall include the beneficiary of an insurance policy as a relevant factor in risk management for customers.

If a financial institution determines that a beneficiary who is a legal person or a legal arrangement presents a higher risk, it shall apply the enhanced CDD measures which include reasonable measures to identify and verify the identity of the beneficial owner of the legal person or legal arrangement, at the time of payout.

Where a beneficiary is a politically exposed person or where a politically exposed person is designated by characteristics or by other means as a beneficiary, a financial institution shall apply stringent procedures to establish the relation between the policy holder and the beneficiary who is a politically exposed person, and to obtain senior management approval for the payout. Where there is a suspicion of money laundering or terrorist financing, it shall consider filing a suspicious transaction report with the Office.

**Article 30** Where a financial institution is unable to comply with Article 27, Article 28 and Article 29 it shall refuse to establish business relationship or to conduct transactions, or terminate business relationship with the customer, and shall consider filing a suspicious transaction report with the Office.

**Article 31** Financial institutions may classify customers conducting the following transactions as low-risk customers:

(1) Life insurance policies where the annual premium is no more than fifty thousand baht or a single premium of no more than one - hundred thousand baht or

(2) Life insurance policies where customers or the beneficiary are able to regain their premium or other benefits in case of death, disability or permanent, complete incapacity and do not make saving deposits or receive dividend or interest along with the life insurance .

Financial institutions may consider acting in accordance with Article 16 in relation to low-risk customers under (1) or (2) as the case may be.

### **Part III**

#### **Occasional Transactions**

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**Article 32** Where financial institutions and persons engaging in professions under section 16 (1) and (9) conduct occasional transactions under Article 18 (2) with natural persons, legal persons or legal arrangements of whom identification and verification has not been undertaken before, financial institutions and persons engaging in professions under section 16 (1) and (9) shall act as follows:

(1) examine information on the persons, legal persons or legal arrangement in accordance with Article 19 (1), (2) and (3);

(2) examine transactions during the course of conducting the transaction or after completing the transaction and file a suspicious transaction report with the Office if a suspicion arises of money laundering or terrorist financing.

#### **Part IV** **Wire transfers**

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**Article 33** Where cross-border wire transfer service is provided for customers involving a value of fifty thousand baht or more, the ordering financial institution and the beneficiary financial institution shall arrange for the wire transfer to include the following information:

(1) full name of the originator;

(2) the originator's account number where the originator makes the transfer from an account he or she holds with the ordering financial institution, or in the absence of an account with the ordering financial institution, a unique transaction reference number shall be included which permits traceability of the transaction;

(3) the originator's address, or national identity number or personal number issued by the government, or date and place of birth;

(4) the beneficiary's full name;

(5) the beneficiary's account number where the transfer is made into an account he or she holds with the beneficiary financial institution, or in the absence of an account with the beneficiary financial institution, a unique transaction reference number shall be included which permits traceability of the transaction.

Where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, financial institutions are not required to send or receive information under paragraph one, provided that they include the originator's account number or unique reference number, and the batch file contains required and accurate originator information, and full beneficiary information, that is fully traceable within the beneficiary country.

**Article 34** A financial institution shall obtain and verify identification information on the customer before sending a wire transfer to the beneficiary financial institution.

**Article 35** Where domestic wire transfer service is provided for customers involving a value of fifty thousand baht or more, the ordering financial institution and the beneficiary financial institution shall include customer information with such transfer as indicated under paragraph one of Article 33 unless this information can be made available to the beneficiary financial institution by other means, in which case the ordering financial institution shall send the originator's account number where the transfer is made from an account the originator holds with the ordering financial institution or in the absence of an account with the ordering financial institution, a unique transaction reference number shall be included which permits traceability of the transaction.

At the request of the beneficiary financial institution or on the order of the Office, the ordering financial institution shall obtain and send customer information that remains to be sent under paragraph one to the beneficiary financial institution or the Office as the case may be within three working days.

**Article 36** Where a financial institution is the intermediary in the transfer chain, all originator information together with the transfer order received from the ordering financial institution shall be sent to the receiving financial institution.

Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, a record shall be kept, for at least five years, by the receiving intermediary financial institution of all information received from the ordering financial institution.

An intermediary financial institution shall have in place measures for examining cross-border wire transfers that lack required originator or beneficiary information.

Where a wire transfer lacks the required originator or beneficiary information, the intermediary financial institution shall have in place guidelines and procedures set forth in accordance with the anti-money laundering and terrorist financing risk management policy by establishing procedures for rejecting or suspending the wire transfer and appropriate follow-up action.

**Article 37** A beneficiary financial institution shall take reasonable measures to identify cross-border wire transfers that lack required originator or required beneficiary information. Such measures may include upon-receipt monitoring, real-time monitoring or post-event monitoring.

**Article 38** A beneficiary financial institution shall verify the identity of the beneficiary before payout under the wire transfer if the identity has not been previously verified.

**Article 39** Where a wire transfer lacks the required originator or beneficiary information, the beneficiary financial institution shall have in place guidelines and procedures set forth in accordance with the anti-money laundering and terrorist financing risk management policy by establishing procedures for rejecting or suspending the wire transfer and appropriate follow-up action.

**Article 40** The provisions under Article 33, Article 34, Article 35, Article 36, Article 37, Article 38 and Article 39 shall apply to persons engaging in professions under section 16 (9) *mutatis mutandis*.

Persons engaging in professions under section 16 (9) providing value transfer service who controls both the ordering and the beneficiary side of a wire transfer shall obtain customer information in accordance with Article 19 (1), (2) and (3) and take the following action:

(1) examine facts and information on the transaction from both the originator and beneficiary sides in order to determine whether a suspicious transaction report has to be filed with the Office;

(2) when providing cross-border value transfer service and finding a suspicious transaction possibly causing detrimental impact within the country, file a suspicious transaction report with the Office.

**Article 41** Financial institutions and persons engaging in professions under section 16 (9) providing wire transfer service are not subject to the provisions of this Part:

(1) for any wire transfer that flows from a transaction carried out using a credit or debit or prepaid card to pay for goods or services. This shall be in line with guidelines set out by the Secretary-General;

(2) for any wire transfer that is a transfer between financial institutions or between persons engaging in professions under section 16 (9) or between a financial institution and a person engaging in professions under section 16 (9), which is conducted for the benefit of the financial institution or person engaging in professions under section 16 (9).

## Chapter IV

### Cross-border Correspondent Banks

#### Reliance on Third Parties for Customer Examination

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**Policies for Foreign Offices, Branches or Subsidiaries**

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**Part I****Cross-border Correspondent Banks**

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**Article 42** Financial institutions shall refuse to enter into a correspondent banking relationship or to conduct a transaction and shall end business relationship with respondent financial institutions with any one of the following attributes:

(1) established with authorization but without real management located within the authorizing country or with real management located within the authorizing country but conducting no business within that country and not in a position to be supervised;

(2) having entered into a correspondent banking relationship with, or providing financial services for, or holding an account with a financial institution under (1).

**Article 43** Where a financial institution enters into a business relationship with a respondent financial institution, whether such relationship is established for securities transactions or electronic fund transfers, whether for the cross-border financial institution as principal or for its customer, the financial institution shall identify and obtain information of that respondent financial institution in accordance with Article 19 (1), (2) and (3) and shall verify the trustworthiness of the respondent financial institution as well as considering the reliability of the agencies responsible for its anti-money laundering and counter financing of terrorism supervision.

**Article 44** When establishing a business relationship with a respondent financial institution with respect to “payable-through accounts”, a financial institution shall conduct risk management and CDD on the customers having direct access to accounts of the correspondent financial institution, and it shall be able to provide relevant risk management and CDD information upon request to the correspondent financial institution.

**Article 45** Where a respondent financial institution is located in an area or country with money laundering and terrorist financing risk, a financial institution shall obtain information regarding its anti-money laundering and countering the financing of terrorism policy and action guidelines and shall verify the trustworthiness of such respondent financial institution.

A financial institution shall consider refusing to enter into a business relationship, or to conduct a transaction and ending the business relationship if a respondent financial

institution does not have in place effective anti-money laundering and countering the financing of terrorism policy or measures, or if that respondent financial institution or its ultimate beneficial owner(s) are involved in money laundering or terrorist financing.

**Article 46** Where a financial institution has a business relationship with a respondent financial institution located in an area or country with money laundering and terrorist financing risk, the financial institution shall take caution in conducting the business relationship and shall regularly verify information on the respondent financial institution and shall consider immediately ending the business relationship if it finds that the respondent financial institution is involved with money laundering or terrorist financing.

## **Part II**

### **Reliance on Third Parties for Customer Examination**

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**Article 47** Financial institutions and persons engaging in professions under section 16 (1) and (9) may rely on third parties in verifying the customer identification in accordance with Article 19 (1), (2), (3) and (4), Article 20 and Article 22 or to introduce business provided that the following criteria are met:

(1) it obtains the necessary information relating to the requirements under Article 19 (1), (2), (3) and (4), Article 20 and Article 22 from the third party;

(2) copies of documents or identification information and other relevant documentation and information of customers relating to the requirements under Article 19 (1), (2), (3) and (4), Article 20 and Article 22 shall be made available from the third party upon request without delay;

(3) the third party is under proper supervision and monitoring, and has measures in place for compliance with CDD and record keeping requirements in accordance with rules and procedures set out in this Ministerial Regulation;

(4) in the case of a third party subject to rules of many countries, consideration is given to the reliability of those countries based on their level of money laundering and terrorist financing risk.

In the case where a third party is a financial institution and persons engaging in professions under section 16 (1) and (9) that is part of the same financial group and such financial institution and persons engaging in professions under section 16 (1) and (9) apply CDD measures and record-keeping requirements, and act in line with Article 49, Article 50 and Article 51, and where the effective implementation of those requirements is supervised by

a competent authority, it shall be deemed that the financial institution and persons engaging in professions under section 16 (1) and (9) apply measures under (3) and (4) above through its group program.

The above provisions do not apply to outsourcing or agency relationship.

Reliance on third parties means reliance for performing requirements under paragraph one and record-keeping requirements under this Ministerial Regulation under the supervision and monitoring of the competent authority. The third party may have an existing business relationship with the customer, which is independent from the relationship to be formed by the customer with the relying institution, and would apply its own procedures to perform the CDD measures. This reliance on third party is contrasted with an outsourcing/agency relationship, in which the outsourced entity applies the CDD measures on behalf of the delegating financial institution, in accordance with its procedures, and is subject to the delegating financial institution's control.

Financial institutions and persons engaging in professions under section 16 (1) and (9) shall be held responsible where a third party fails to apply CDD procedures or record-keeping requirements, or fails to fully comply with these procedures.

A third party shall be a financial institution or person engaging in professions under section 16 (1) and (9) under the supervision of the competent authority.

### **Part III**

#### **Internal Controls and Policies for Foreign Offices, Branches or Subsidiaries**

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**Article 48** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall have in place plans for development and improvement of policies and procedures for ML/FT risk assessment and management under Article 4 and also an independent internal audit mechanism for monitoring observance of the anti-money laundering law.

Financial institutions and persons engaging in professions under section 16 (1) and (9) shall have in place procedures for recruiting staff to work under effective AML/CFT policies or measures and for ongoing staff training.

Financial institutions and persons engaging in professions under section 16 (1) and (9) shall appoint an executive officer to supervise observance of the anti-money laundering law.

**Article 49** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall require that their foreign offices, branches or majority-owned subsidiaries strictly implement money laundering and terrorist financing risk management policies and apply CDD measures as appropriate to the business category.

Financial institutions and persons engaging in professions under section 16 (1) and (9) may adopt policies and procedures for sharing information with or sending information to their foreign offices, branches or subsidiaries for fulfilling the objectives of the policies under paragraph one especially regarding customer information, transactions, financial movements, or results of customers' risk assessment and analysis. Adequate safeguards on the confidentiality and use of information exchanged shall be in place.

**Article 50** Where the AML/CFT requirements of the host country are of different strictness from those of Thailand, foreign offices, branches or subsidiaries of financial institutions and persons engaging in professions under section 16 (1) and (9) shall implement those which are more stringent.

Where their foreign offices, branches or subsidiaries are unable to implement legal requirements of the host country, financial institutions and persons engaging in professions under section 16 (1) and (9) shall consider closing down their operations in the host country.

**Article 51** Financial institutions and persons engaging in professions under section 16 (1) and (9) shall treat areas and countries with AML/CFT risk as a factor in taking the following action:

(1) limiting business relationships, financial transactions, activity, investment and joint venture with trade-partner, correspondent financial institutions, or reliance on third parties located in areas or countries with AML/CFT risk;

(2) not establishing offices, branches or subsidiaries in areas or countries with AML/CFT risk. If offices, branches or subsidiaries exist in such an area or country, these offices, branches or subsidiaries shall strictly observe the policies and legal requirements to which the head office is subject;

(3) regularly disseminating to offices, branches or subsidiaries information from relevant government agencies regarding the high risk of the area or country where they are located.

## **CHAPTER V**

### **Supervision of Reporting Entities**

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**Article 52** Where there is the need to contact the Office to make inquiries, seek advice or explanations or for reasons related to implementation of this Ministerial Regulation, financial institutions and persons engaging in professions under section 16 (1) and (9) shall appoint an officer as a point of contact with the Office.

**Article 53** The Office shall supervise, examine, monitor and assess financial institutions and persons engaging in professions under section 16 (1) and (9) for compliance with this Ministerial Regulation.

The implementation of paragraph one shall include the supervision, monitoring and assessment of compliance with this Ministerial Regulation by subsidiaries located in foreign countries which financial institutions and persons engaging in professions under section 16 (1) and (9) are majority shareholders and branches situated in foreign countries.

**Article 54** For the efficiency of implementation of Article 55, the Office may

(1) seek cooperation in supervision, monitoring and assessment from other agencies with the power to supervise financial institutions and persons engaging in professions under section 16 (1) and (9) in accordance with agreements between the Office and those supervisory agencies.

(2) appoint an advisor with knowledge and expertise in the area of supervision, examination, monitoring or assessment.

The qualifications, remuneration and remit of the advisor under (2) shall be in accordance with an ordinance issued by the Board with the approval of the Ministry of Finance.

**Article 55** For the efficient implementation of this Ministerial Regulation, financial institutions and persons engaging in professions under section 16 (1) and (9) shall also act in line with guidelines or procedures or a manual for the observance of this Ministerial Regulation issued by the Secretary-General .

Given on July 11, 2556 (2013)

Yingluck Chinawatarara

Prime Minister