

**Anti-Money Laundering Board Regulation
on Putting up the Property for Auction
2001**

By virtue of the provisions of Section 25 (3) and paragraph three of Section 57 of the Anti-Money Laundering Act, 1999, being an Act having certain provisions concerning the restriction of personal rights and liberties whereas Section 29, in combination with Section 35, Section 37, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand, provides that such restriction may be imposed by virtue of the provisions of the law, the Anti Money Laundering Board hereby issues the regulation as follows:

Clause 1. This regulation is called the “Anti-Money Laundering Board Regulation on Putting up the Property for Auction, 2001”.

Clause 2. This regulation shall come into force from the date following its publication in the Government Gazette onward.

Clause 3. In this regulation:

“Auction undertaking” means the auction committee putting up the property under Clause 5 of the Anti-Money Laundering Board Regulation on Permitting the Stakeholder to Take the Property for Custody and Utilization, Putting up the Property for Auction and Using the Property for Benefits to the Authority, 2000, or other property as prescribed in paragraph two of Section 57 of the law governing anti-money laundering for auction at the order of the Secretary-General.

“Auction committee” means the auction committee under Clause 16 of the Anti-Money Laundering Board Regulation on Permitting the Stakeholder to Take the Property for Custody and Utilization, Putting up the Property for Auction and Using the Property for Benefits to the Authority, 2000.

“Property” means the property under paragraph two of Section 57 of the law governing anti-money laundering, including the property in the manner of Clause 5 of the Anti-Money Laundering Board Regulation on Permitting the Stakeholder to Take the Property for Custody and Utilization, Putting up the Property for Auction and Using the Property for Benefits to the Authority, 2000.

“Person duty bound to keep property for storage” means the person duty bound to keep the seized or attached property for storage under the Anti-Money Laundering Board Regulation on the Custody and Management of the Seized or Attached Property, 2000.

Clause 4. The Secretary-General shall take charge hereof and shall be authorized to issue the regulations, notifications or directives for compliance herewith.

In the event that there are problems in respect of the operations in compliance herewith, the Secretary-General shall forward the problems to the Board for final decision-making.

Chapter 1

Auction Undertaking

Clause 5. The auction undertaking under the provisions in this chapter shall be completed within two months from the date ordered by the Secretary-General.

In case that it could not be undertaken within the specified period of time in paragraph one, the auction committee shall report the reasons for not being able to undertake the auction in order for the Secretary-General to promptly issue further order as deemed expedient.

Clause 6. Upon the Secretary-General issuing order to put up any property for auction, the auction committee shall prepare an auction notice within five days from the date on which the Secretary-General issues the order.

Clause 7. The auction notice under Clause 6 shall be in accordance with the form prescribed by the Secretary-General and at least presenting details of the property to be auctioned as follows:

(1) The person ordering the auction.

(2) Date, time and place of auction.

(3) Number and details of the property having at least the name of the owner, category, appearance, number, size and weight. If the property is the real estate, the area, width and length, location of the land shall be notified. If there are the terms of contract and the warning, they shall be expressly stated.

(4) Time clause for the payment as prescribed herein and other relevant conditions.

Clause 8. Normally the auction days shall be prescribed as follows:

(1) For the land, not less than one month but not exceeding two months.

(2) For the houses, buildings, structures and other property, not less than 20 days but not exceeding one month.

(3) For the property which by its nature will be damaged if delay, e.g., fresh product, the Director of Property Management Division shall immediately put up that property for auction and file report to the Secretary-General.

Clause 9. Normally the property auction place shall be at the headquarters of the Office, the place where that property is located or the property storage place unless it is deemed expedient by the Secretary-General, the auction may be ordered to take place at other location.

Clause 10. The auction committee shall arrange sending the auction notice to the owner of the property or the person claiming to be the owner of the property and openly post that auction notice at the place of auction, the place where that property is located and the gathering of people or other place deemed expedient not less than three days prior to the auction.

In case that it is deemed expedient, the auction of property may be notified in the daily newspapers or broadcasted on the radio or television prior to the auction.

Clause 11. The sending of the auction notice to the authority connected with the property to be auctioned shall be prescribed by the Secretary-General.

Clause 12. The auction of the property under Clause 8 (3) shall be exempted from not being undertaken according to Clause 6 and Clause 10. However, the auction committee shall notify the details under Clause 7 to the persons wishing to bid prior to the auction.

Clause 13. The auction committee shall stipulate the initial price of the property being put up for auction by taking into consideration the conditions as follows:

(1) The property appraisal price at the time being seized or attached.

(2) The condition and appearance of the property at the time to be auctioned.

(3) The property price in the market at the time to be auctioned.

(4) The official appraisal price used in the collection of fees.

(5) The property price as appraised by the expert, specialist, particular professional or particular professional association at the request of the auction committee for cooperation.

(6) In case of the property still being under the mortgage, the outstanding principal and interest shall be calculated up to the auction day, including also the fees connected with that property.

Clause 14. In auctioning the property under mortgage, such property shall be sold with the mortgage attached and the auction committee shall give notice to the mortgagee by certified return mail of the date, time and place of the auction, including the enquiry of the mortgage burden details, e.g., outstanding principal and interest. In the event of the mortgagee failing to notify within 15 days of the date receiving the notice, the amount of money required to be paid to the mortgagee shall be calculated by calculating the outstanding principal and interest at the rate prescribed by the existing law at the time of the auction.

In auctioning the property, the property shall be sold free of mortgage. In case of the property under mortgage, if the auction committee deems that the auction free of mortgage will yield better price, the auction committee shall promptly file report to the Secretary-General for consideration.

Chapter 2 Auction Procedure

Clause 15. Prior to the auction, the auction committee shall place an auction sign flag in the form prescribed by the Secretary-General and openly read out the auction advertisement, including the procedure or conditions to be used in such auction at the place of auction.

In case of auctioning property under mortgage, the name of the mortgagee shall be announced, including the outstanding principal and interest up to the auction day and the explicit statement that the buyer of that property shall bear the mortgage burden.

Clause 16. Prior to the auction, the auction committee shall notify all the bidders bidding in the names of other persons to present the written authority and also notify that any bidder on behalf of other person without presenting the written authority shall be deemed acting on one's own behalf. In such case, if the auctioned property shall be registered for ownership transfer, such bidder may not request the ownership transfer registration in the name of other person as the buyer by claiming oneself as merely an agent.

Clause 17. The auction of the property shall be complete upon the auction committee agreeing to the sell by rapping the wooden mallet.

Clause 18. A bidder shall deposit the bid security not less than 30% of the appraised price of the property being auctioned. The category of deposited security shall be in accordance with the stipulation of the auction committee and, in the auction, shall be in accordance with the price increase rate prescribed and notified by the Secretary-General to the bidders prior to the auction.

The auction committee shall make the first call of the bid price not less than three times. If there is no higher bid, a new call shall be made for the second time not less than three times and when no bid is made higher than that amount and the price is appropriately acceptable, the call of “three” shall be made together with a rap by the wooden mallet. However, should someone make a higher bid prior to the rap, the call for a new price shall be renewed in accordance with the said procedural sequence.

In case of a suspicion that anyone may have made the bid in bad faith or be unable to make payment, the auction committee may enquire such person prior to the rap.

Clause 19. If the bidder withdraws the price before the rap, the auction committee shall renew the call. However, if the bidder has not withdrawn one’s own bid before the rap, that bidder shall be deemed the buyer who acquires the property under bid.

Clause 20. Normally at the rap of agreement to sell the property, the winning buyer shall immediately make the payment. Except in case of the property being priced from 50,000 bahts or more, the buyer may be allowed to deposit an amount not less than 25% of the buying price and enter into an agreement under the condition of making the outstanding payment within the period not exceeding 15 days from the selling date. Following the full payment, that property shall be transferred to the buyer.

In case of the property being very expensive or due to other special reason, the Secretary-General may require the buyer to deposit the sums and the period of payment as deemed expedient.

Clause 21. In case of the property being very expensive with the appraised price at the time of seizure or attachment or expected to be sold at the price not less than one million bahts or more, the person entitled to bid in this case shall submit a cashier’s check of not less than 10% of the price in Clause 13 (1) as the guarantee and upon the property already being sold, that buyer’s cashier’s check shall be deemed an integral part of the payment.

Clause 22. A member of the auction committee is prohibited from participation to bid in the auction by oneself or by one or another person under the command when performing duty as a member of the auction committee.

Clause 23. Upon the auction committee deeming that no one will bid in the auction or the bid price is lower than the price prescribed in Clause 13 or in case that the bid may not be in good faith, the committee shall be authorized to withdraw that property from the auction, cancel the auction or postpone the auction and file report to the Secretary-General.

Clause 24. At the completion of the auction, if the winning buyer fails to make the payment or deposit the sums as agreed upon or under the contract clause, the said property shall be auctioned again. In this latter auction, the buyers shall be notified of the schedule, date, time and place of auction and if the proceeds from this auction are not worth the previous auction, the original winning buyer shall be demanded to pay the balance or a legal action shall be taken, if necessary.

Clause 25. In auctioning the property for which the possessor shall have to be licensed by the competent authority, e.g., firearms, the winning buyer shall deposit the sums not less than 25% of the buying price and the license shall be presented to the auction committee within one month from the date on which the auction was completed together with making the outstanding payment in full. Beyond the said period, if the license could not be presented, the deposit shall be confiscated and the auction committee shall proceed with the auction again under Clause 24.

In case of the failure of the winning buyer to present the license not caused by the winning buyer being intentional or negligent, the auction committee shall extend the schedule as deemed expedient but not exceeding one month.

Clause 26. During the auction the auction committee shall record the auction of each property in the form prescribed by the Secretary-General and upon the completion of the auction, a report shall be filed to the Secretary-General for acknowledgement.

Chapter 3

Transfer and Delivery of Property

Clause 27. In auctioning the property, subject to the provisions of Clause 25, upon the winning buyer having already made the full payment, the Secretary-General shall be recommended to hand over the property to the winning buyer. Should the property be required to have a new register of the owner's name, e.g., firearms, car, boat, the Secretary-General shall notify the relevant competent authority to further undertake the registration matter.

In case of the property under paragraph one being the land or building located on the land having the title deed or certificate for the land, the Secretary-General shall notify the land official to further undertake the registration matter.

Clause 28. All expenses pertaining to the delivery of the property, e.g., tax and duty, fees, moving costs or any other relevant expenses, shall be borne by the winning buyer.

Clause 29. In case of auctioning the property having also an evidence of other person as the co-owner or being the property under mortgage or being the property having other preferential right, the auction committee shall also notify the person duty bound to keep the property for custody.

Chapter 4

Procedure of Receiving Money and Keeping Money for Custody

Clause 30. In receiving money from the auction of property, upon the buyer having already made the payment the auction committee shall issue a receipt together with three copies in triplicate. The original shall be given to the buyer while one copy shall be delivered to the person duty bound to keep the property for custody and one copy to the Director of Inspection and Analysis Division for keeping in the case file and another copy shall be kept as the stub.

Clause 31. Normally the money shall be received in cash. However, should the auction committee deem it expedient, it may be received in check or bill of exchange whereas the check or bill of exchange number shall also be noted in the receipt. In case of the check or bill of exchange not belonging to the authority, state organization or state enterprise, the check or bill of exchange shall be ordered for payment by the bank or certified by the bank.

Clause 32. Upon receiving money from the auction of property, whether being the payment in cash, check or bill of exchange, the audit committee shall deliver money to the person duty bound to keep the property for custody under the Anti-Money Laundering Board

Regulation on the Custody and Management of the Seized or Attached Property, 2000, for further custody.

Clause 33. For receiving the money in check or bill of exchange, if the money could not be collected, the person duty bound to keep the property for custody shall notify the Secretary-General for further demanding payment from the winning buyer or taking legal actions.

Announced this 29th day of October 2001

General Chaovalit Yongjaiyuth

(Chaovalit Yongjaiyuth)

Chairperson

Anti- Money Laundering Board