

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

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 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”.

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

Clause 3. In this regulation:

“Property” means the property ordered to be seized or attached under Section 48 by the Transaction Committee or the Secretary-General, as the case may be.

Clause 4. The Secretary-General shall take charge hereunder and shall be authorized to issue 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

General Provisions

Clause 5. The Secretary-General may order the stakeholder to take the property for custody and utilization with guarantee or security or the said property may be put up for auction or used for benefits to the authority upon finding that the said property is not suitable for custody or the custody may be a burden on the authority due to the following:

(1) The property is fresh product, easily perishable and, if delay, poses a risk for damages or expenses beyond the valuable part thereof.

(2) The property has the characteristics which may cause filthiness and messiness or foul smell or may cause disturbance or nuisance.

(3) The property is very heavy or inconvenient for moving or very large or requires large space for storage.

(4) The property by its nature may be easily hazardous, e.g., chemicals or inflammable objects.

(5) The property is to be kept for custody in a particular place to preserve its quality or requires special procedure or method of storage.

Clause 6. Following the order of the Secretary-General under Clause 5, the Board shall be reported at the first occasion of its meeting.

Chapter 2

Permitting the Stakeholder to Take the Property for Custody and Utilization

Clause 7. The consideration to permit the stakeholder to take the property for custody and utilization shall be made under the conditions as follows:

(1) Reason, necessity and urgency to take the property for custody and utilization.

(2) Reliability of the person to take the property for custody and utilization.

(3) Category and value of the property and the manner of taking the property for custody and utilization whether or not there will be risk or risk against damages in any way.

(4) The permitted period of taking the property for utilization.

Clause 8. In permitting the stakeholder to take the property for custody and utilization with guarantee, upon the permitted person having made the contract of taking the property for custody and utilization and made the guarantee contract to the Secretary-General, such property shall be handed over to the permitted person.

Clause 9. In permitting the stakeholder to take the property for custody and utilization with security, upon the permitted person having made the contract of taking the property for custody and utilization together with submission of the security to the Office, such property shall be handed over to the permitted person.

Clause 10. The Secretary-General may prescribe any conditions for the permitted stakeholder to comply therewith for the permission under Clause 8 and Clause 9.

Clause 11. The security may be either one or several of the following:

(1) Cash.

(2) Thai government bond.

(3) Cashier's check or draft from which the money may be withdrawn on the day of submission as security.

(4) Shares or debentures issued by a juristic person established by specific law.

(5) Immovable property.

(6) Other securities deemed acceptable by the Secretary-General as the guarantee.

Clause 12. In case of the permitted person violating or failing to comply with the prescribed conditions or the taking of property for custody and utilization not being undertaken as permitted, the Secretary-General may issue an order revoking the permission, in whole or part thereof, or may prescribe any additional conditions.

In case that it is deemed expedient, the Secretary-General may issue an order requiring additional or better security submission within a specified period of time.

Clause 13. The Secretary-General shall notify the order under Clause 12 to the permitted person for prompt compliance therewith and in case of the permitted person failing to comply with that order within a specified period of time, the Secretary-General shall revoke that permission, in whole or part thereof, as deemed expedient.

Clause 14. The permitted person shall immediately return the property taken for custody and utilization to the Office upon:

(1) An issuance of order revoking the permission.

(2) Expiry of the permission period or

(3) The court issuing an order under Section 51.

The return of the property shall be in accordance with the rules prescribed by the Office.

Clause 15. If not prescribed otherwise, the security shall be undertaken as follows:

(1) The Secretary-General shall return the security to the person permitted to take the property for custody and utilization upon such person having properly looked after and utilized the property in accordance with the contract and having already returned that property.

However, in case of the returned property being defected or damaged in any way due to being taken for custody and utilization, the damages shall be proportionally deducted from such security or the damages may not be deducted.

(2) The Secretary-General shall confiscate that security when the permitted person fails to return the property under the contract for whatever reasons.

Chapter 3

Auction

Clause 16. In auctioning the property under Clause 5, the Secretary-general shall appoint an auction committee of not less than three persons having a civil servant holding the position from or lower than director of division or equivalent as the committee member and secretary being duty bound to auction off the property as ordered.

Clause 17. The auction shall be openly undertaken, in this respect, under the regulation prescribed by the committee.

Clause 18. The proceeds from the auction shall be kept by the Office under the Anti- Money Laundering Board Regulation on the Custody and Management of the Seized or Attached Property in connection with the custody of the property in cash.

Chapter 4

Using the Property for Benefits to the Authority

Clause 19. For the request to use the property for benefits to the authority, the chief of such authority shall make the request in writing to the Secretary-General with the details as follows:

(1) Duty and responsibility of that authority especially in part of the wish to utilize the property.

(2) Category of the property to be utilized.

(3) Reasons and necessities to utilize the property, manner and period of utilization.

(4) The custody and responsibility in case of the property requested for utilization being defected, damaged or lost.

Clause 20. In case of the Secretary-General deeming that the property under Clause 4 would benefit the working of the unit under the command of the Office, the Secretary-General may permit that unit to utilize the property.

Clause 21. For the consideration to permit other authority to utilize the property, the Secretary-General shall take into consideration the following conditions:

(1) Such authority is duty bound to suppress the predicate offense or support the compliance with the law governing anti-money laundering.

(2) Reasons and necessities for the request to utilize the property.

(3) The burden on the government should such property not be utilized.

(4) The potential damage or risk from utilizing such property.

(5) Circumstance in the proceedings on such property.

(6) Other behavior as deemed expedient.

Clause 22. For the utilization of property by an authority other than the authority under Clause 21 (1), the Secretary-General shall express opinions to the Board for consideration on a case-by-case basis.

Clause 23. When any authority has been permitted to utilize any property, the Secretary-General shall arrange documents for delivery and acceptance of such property as evidence and give written notice to the Office of the Auditor-General of Thailand.

Clause 24. The authority utilizing the property is duty bound to use and maintain that property. If the property is damaged or lost, a prompt action shall be undertaken under the official regulation and the Secretary-General shall be immediately notified in order for the Secretary-General to file report to the Board.

Clause 25. When it is not necessary to utilize that property any longer or at the expiry of the permission period or upon the Secretary-General revoking the permission, the authority utilizing the property shall return that property together with the evidence of return in writing within a specified period of time.

The property under paragraph one shall be returned in the existing conditions at the time accepting that property unless deteriorated by the conditions of that property itself. In case that the property may not be returned in the said conditions, the Secretary-General shall consider taking actions as deemed expedient and then file report to the Board.

Clause 26. Prior to the expiry of the period permitted to utilize the property, if the authority utilizing the property deems that it is necessary to utilize that property further, the chief of that authority shall give written notice to the Secretary-General not less than 15 days prior to the expiry of the said period citing the reasons and necessities to utilize that property further.

The Secretary-General shall consider the reasons and necessities under paragraph one by taking into consideration the conditions under Clause 21 and in case of the Secretary-General not permitting the utilization of that property any longer, that authority shall return the property together with the evidence of return in writing within a specified period of time and the provisions of paragraph two of Clause 25 shall be enforced.

Announced this 7th day of September 2000

Bunyat Bunthatdhan

(Mr. Bunyat Bunthatdhan)

Chairperson

Anti-Money Laundering Board

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