

The Anti-Money Laundering Law

The Pyidaungsu Hluttaw Law No.11, 2014

The 14th Waning of Tabaung, 1375 M.E.

14 March, 2014

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The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title, Jurisdiction and Definition

1. This Law shall be called the Anti-Money Laundering Law.
2. This Law shall have jurisdiction on any person who commits any offence punishable under this Law within the limits of the Union of Myanmar, or on board a vessel, an aircraft, and any motor vehicle registered under the existing law of Myanmar, and a Myanmar citizen or any person residing permanently in the Union of Myanmar who commits the said offence beyond the limits of the country.
3. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) **Central Body** means the Central Body on Anti-Money Laundering formed under this Law;
 - (b) **Financial Intelligence Unit** means the Unit formed under this Law to investigate and take action on financial matters related to this Law;
 - (c) **Scrutiny Board** means the Board formed by the Financial Intelligence Unit;
 - (d) **Investigation Board** means the Board formed and assigned by the Central Body under this Law;
 - (e) **Reporting organization** means banks and financial institutions, non financial business and professions stipulated by this Law to report. In this expression, an organization assigned to report, by notification from time to time by the Central Body is also included;

- (f) **Competent Authority** means the authority assigned by the Central Body to supervise the Reporting organization to ensure compliance with the requirements under this Law;
- (g) **Banks and financial institutions** mean banks and financial institutions established by the Myanmar Financial Institutions Law and other relevant laws. In this expression, commercial banks or development banks, credit societies, finance companies, securities exchange companies, money changers, microfinance institutions, insurance companies and other institutions that conduct one or more of the following activities as a business for or on behalf of a customer are also included:
 - (i) private banking and receiving deposits and return funds from the public;
 - (ii) financing of commercial transactions including forfeiting and lending money including consumer credit and mortgage credit;
 - (iii) operating lending money business and lending financial right other than arrangements relating to consumer activities;
 - (iv) transferring money or any value;
 - (v) paying, issuing and managing by credit and debit cards, traveller's cheques, money orders, bank drafts and electronic means;
 - (vi) issuing financial guarantees and commitments;
 - (vii) trading of the following financial instruments:
 - (aa) transacting money market instruments including cheques, bills, certificates of deposit and derivatives, foreign currency, interest rate and price index instruments and transferable securities;
 - (bb) trading commodities for future;

- (viii) participating in issuing securities and providing financial services relating to such issues;
 - (ix) managing individual or collective portfolio;
 - (x) keeping safe deposit box and administering of money or liquid securities on behalf of other persons;
 - (xi) managing, administering or investing money or funds on behalf of other persons;
 - (xii) underwriting and placing other investment-related insurance, life and general insurance including insurance intermediation by agents and mediator;
 - (xiii) exchanging money and currency;
- (h) Shell Bank means a bank that has no physical presence in the country in which it is incorporated and licensed or located, and which is not affiliated with a regulated financial group that is subject to effective consolidated supervision.
- (i) **Anyone, an individual or a person** includes a company, an association, an organization or a group of persons that are formed legally or not;
- (j) **Beneficial owner** means a person who principally owns or controls a customer or delegates to conduct transaction with other person on his behalf. In this expression, a person who exercises effective control over any company or arrangement;
- (k) **Customer** means a person involved in any of the followings:
- (i) a person who transfers money, opens a bank account or makes a commitment;
 - (ii) a signatory to a transfer or an account;
 - (iii) a person assigned to transfer, an transferor, a person who has the right or responsibility to transfer;

- (iv) a person who has the authority to transfer or control an account;
- (v) a person who attempts to deal with the matters mentioned in clause (i) to clause (iv);
- (l) **Domestic and foreign politically exposed person** means a person who is prominent or has been entrusted with public functions within the country or in any foreign country and family members or close associates of such persons;
- (m) **International politically exposed persons** mean a director, a deputy director, a member of the board of directors and a senior member of an international organization, a member who has the similar position or a person who has been entrusted with such function and family members or close associates of such persons;
- (n) **Money laundering** means the commission of any of the followings:
 - (i) converting or transferring of money and property, knowing or having reason to know that it is money and property obtained by illegal means for the purpose of disguising or concealing the source or for the purpose of assisting before or after commission of the offence to any person who is involved in the commission of any offence to evade the legal action under this Law;
 - (ii) changing the true nature, source, location and disposition of money and property, knowing or having reason to know that it is money and property obtained by illegal means and conceal or disguise of ownership or rights of such money and property;
 - (iii) acquiring, possessing or using of money and property, knowing or having reason to know at the time of receipt that it is money and property obtained by illegal means;

- (iv) Participating, facilitating, aiding, supporting, managing, counseling, being a member of an organized group in committing, attempting to commit or conspiring to commit any offences contained in clauses (i) to (iii) by action or omission and pertaining by any other means;
- (o) **Money** means legal tender coins, their lower denominations and currency notes issued and exchangeable by the Central Bank of Myanmar or a foreign country, promissory notes, bills of exchange, cheques bonds, treasury bills and debentures, foreign currencies and any kind of instruments or certificates related to foreign currencies which are negotiable instruments;
- (p) **Property** means moveable or immoveable property in any form whether cooperated or incorporeal, tangible or intangible. In this expression, title documents to such assets, interests, rights, dividend, title and other incomes obtained by using electronic means are also included;
- (q) **Money and property obtained by illegal means** mean money and property obtained directly or indirectly by committing any offence applicable to this Law or act or omission of committing any such offence. In this expression, money or property and interests based and derived from such money and property and money or property that are transferred or converted as other property or business are also included;
- (r) **Negotiable instruments** mean negotiable instruments, promissory notes, payment orders and financial instruments in transferable form as travelers' cheques including cheques that can be transacted by withdrawal form on behalf of the owner or by endorsement signing without restriction or by using name of fictitious payee or by any other form indicating its transferability. In this expression, bearer cheques, promissory notes, payment orders and partial deeds are also included;

- (s) **Instrumentality** means property used or intended to be used in order to commit offence contained in this Law, to commit money laundering or financing of terrorism;
- (t) **Account** means any transaction of the followings made by a bank and financial organization or non-financial business and professions:
 - (i) accepting deposit of money or property;
 - (ii) allowing the transfer of money or property and the withdrawal from a bank account;
 - (iii) giving or ordering negotiable instruments on behalf of other person and ordering to withdraw or save payment orders;
 - (iv) facility or arrangement for a safe deposit box or for any other form of safe deposit;
- (u) **Customer due diligence** means a system of process including continual focus on obtaining complete information about the customer and the transaction records since the time of business relationship in order to investigate whether the transaction of the customer is related to money laundering and financing of terrorism and reporting to the relevant competent authorities;
- (v) **Wire or electronic transfer** means all transfer of money by electronic means from a financial business on behalf of a person to a beneficiary of another financial business;
- (w) **Designated non-financial business and profession** includes the followings:
 - (i) Casinos;
 - (ii) Real estate agents;
 - (iii) Dealers in precious metals and precious stones;

- (iv) Lawyers, notaries and accountants or other independent legal professionals who carry out transaction for their client concerning the following activities in respect of transfer, receipt and entrust of money and property:
 - (aa) buying and selling immoveable property;
 - (bb) managing money, securities or other assets of the client;
 - (cc) managing banks, savings or securities accounts;
 - (dd) organizing contributions for the establishment, operation or management of companies;
 - (ee) establishing, operating and managing legal organizations or arrangements and buying and selling of business entities;
- (v) Trust and company service providers who carry out as a business for other persons of the following services:
 - (aa) acting as formation agent of legal organizations;
 - (bb) acting as a director or secretary of a company, a partner of a partnership, or as a person in a similar position in other legal organization or arrangement;
 - (cc) providing a registered office or accommodation or business address or correspondence or administrative address for a company, a partnership or any other legal organization or arrangement;
- (vi) acting as a trustee of an express trust or performing the equivalent function for any form of legal organization or arrangement;
- (vii) acting as or arranging for another person to act as a nominee shareholder for another person;

- (x) **Implementation of group-wide** means supervision and coordination on its branch offices and subordinate companies in respect of guidelines of anti-money laundering and countering the financing of terrorism by any principal company or any other type of company.

Chapter II

Objectives

4. The objective of this Law are as follows:
- (a) to enable to take effective action against money laundering and financing of terrorism and to prevent subsequent offences;
 - (b) to prevent interference in the executive, economic and social sectors of the State through money laundering or financing of terrorism;
 - (c) to implement anti-money laundering and countering the financing of terrorism in accord with the international conventions acceded by the State;
 - (d) to co-operate with international organizations, regional organizations and neighbouring States for anti- money laundering , countering the financing of terrorism and combating original offences;
 - (e) to issue directives and guidance related to the system of anti-money laundering and countering the financing of terrorism in cooperation with financial institutions and other relevant government departments and organizations by conducting national risk assessment.

Chapter III

Offences Applicable to this Law

5. Laundering of money and properties derived from commission of any of the following offences shall be applicable to this Law;
- (a) offences committed by organized criminal group;

- (b) offences relating to sexual exploitation including sexual exploitation of children;
- (c) offences relating to infringement of the Intellectual Property Right (offences relating to Intellectual Property);
- (d) offences relating to environmental crime;
- (e) offences relating to tax evasion and other tax crimes;
- (f) offences relating to piracy;
- (g) offences relating to terrorism;
- (h) offences relating to insider trading to get illicit profits by a person who is the first to know the information by using the said information himself or providing it to another person and market manipulation;
- (i) committing of any offence punishable with imprisonment for a term of a minimum of one year and above under any existing law of the State;
- (j) offences prescribed by the Union Government that are applicable to this Law by notification from time to time;
- (k) participating, abetting, supporting, providing, managing, advising and being a member of an organized criminal group and other related offence by action or omission in committing, attempting to commit or conspiring to commit any offence contained in sub-sections (a) to (j).

Chapter IV

Formation of the Central Body and Duties and Powers thereof

6. The Union Government shall form the Central Body with 15 persons comprising the Union Minister for the Ministry of Home Affairs as Chairman and appropriate citizens as members.

7. The duties of the Central Body are as follows:

- (a) laying down the policies of anti-money laundering and countering the financing of terrorism and coordinating with the relevant government departments and organizations in accord with the said policies;
- (b) laying down and implementing national strategy on anti-money laundering and countering the financing of terrorism;
- (c) conducting the national risk assessment of money laundering and financing of terrorism and forming and assigning the committees in order to implement the whole system of anti-money laundering and countering the financing of terrorism effectively by using risk based approach methods in cooperation with the relevant government departments and organizations and reporting organizations;
- (d) monitoring the implementation of national policies and strategies laid down under sub-sections (a) and (b) and the national risk assessment under sub-section (c) and reporting requirement of reporting organizations, government departments and other related organizations;
- (e) issuing directives prescribing the following facts in order to be followed by the reporting organizations:
 - (i) customer due diligence process and enhancing customer due diligence process in the case of the risk was identified as being high;
 - (ii) customer verification process after establishing business relationship or conducting transaction;
- (f) co-operating with State Parties of the United Nations Conventions, international and regional organizations and neighbouring States in respect of exchange of information, investigation and taking action relating to money laundering;

- (g) guiding the relevant government departments and organizations so that banks and financial institutions, economic enterprises may not be established and operated by money laundering;
 - (h) laying down the policy and guiding the awareness and enhancement of anti-money laundering and countering the financing of terrorism of public services from reporting sector, legal sector, judicial sector and prevention and suppression sector and non- government organizations which are involved in the process of anti-money laundering and countering the financing of terrorism of the State;
 - (i) submitting the report of activities of the Central Body to the Union Government in accord with the stipulations.
8. The powers of the Central Body are as follows:
- (a) continuous assessment of the risks of money laundering and financing of terrorism, keeping the updated results of assessment, dissemination of appropriate information among the said results to the relevant authorities and reporting organizations and causing to report the said information to the Financial Intelligence Unit;
 - (b) prescribing, with the approval of the Union Government, the value of money and property to be reported;
 - (c) issuing an order to the responsible persons of the banks and financial institutions in order to allow search and seizure of money and property in banks and financial institutions as exhibit, examining, duplicating, if necessary, search and seizure of the financial records as exhibit by the Scrutiny Board and revoking the said order;
 - (d) issuing the prohibitory order to the relevant departments, organizations and persons not to change, transfer, conceal, obliterate and convert money and property relating to money laundering during the investigation period under this Law, directing to seal and revoking the said order:

- (e) assigning duties to the Financial Intelligence Unit to scrutinize, investigate, inspect, search, and seize as exhibit in respect of money or property obtained by laundering in accord with the stipulations;
- (f) passing permitted order of the return of seized property as exhibit under a bond by the Scrutiny Board and supervising the revocation of such permission;
- (g) giving necessary protection and conferring the deserved reward to the informer in respect of money and property or instrumentalities relating to money laundering;
- (h) forming the staff office comprising experts in order to assist functions and duties of the Central Body;
- (i) informing and communicating with relevant Ministry, department or commission or organization to take suitable action among the following actions to a company or reporting organizations which are punished by a Court under this Law:
 - (i) terminating the business and revocation of the business licence of the said company or organization;
 - (ii) prohibiting not to carry out any activity during a period not exceeding two years;
 - (iii) closing a branch of the company by prescribing a period not exceeding five years;
 - (iv) prohibiting not to use the premises connected with the commission of offences contained in this Law until a period not exceeding five years;
 - (v) suspending, restricting or revocating the licence and prohibiting the continuation of financial institutions, non-financial business and professions;

- (j) placing the company or reporting organizations which are punished by a Court under this Law under the supervision of the Central Body in accord with the prescribed conditions during a period for not exceeding one year;
- (k) publicizing the measures contained in sub-sections (i) and (j) through media, radio and television or by electronic means or by any other means.

Chapter V

Formation of the Financial Intelligence Unit and Functions and Duties thereof

9. The Central Body shall form the Financial Intelligence Unit as a Unit which may operate freely to serve as a central national agency of Myanmar to receive, request and analyze the reports and other information related to money laundering, financing of terrorism and predicate offences and to disseminate the result of analysis, and related information urgently to relevant persons or organizations or internal and external counterpart agencies upon request, if it suspects that it relates to money laundering, terrorist financing, or any offences applicable to this law.

10. The Financial Intelligence Unit:

- (a) shall issue, from time to time, the reporting forms , contents of the reports, procedures that should be conducted after reporting and methods of reporting which should be conducted by the reporting organizations;
- (b) may urgently provide the result of scrutiny or other relevant information to the relevant responsible person or organizations and may give the said in accord with the request of domestic and foreign partners if it suspects that money laundering or any offence applied to this Law is committed;
- (c) shall compile, maintain and disseminate information and statistics on trends of money laundering and financing of terrorism , monitor assessment results and forms, trends and risks of such offence;

- (d) shall cooperate and exchange information with other domestic organizations implemented the matters contained in this Law;
 - (e) shall provide awareness, training and assistance to government departments and organization for enabling to support the implementation of this Law;
 - (f) may request the relevant reporting organizations, by limiting a period, to send necessary new information in designated forms for enabling to carry out the functions and duties of the Unit systematically;
 - (g) is entitled to access any report or information received and maintained by reporting organizations, implementing organizations and other government departments and organizations;
 - (h) may cooperate with the relevant domestic and foreign organizations in the tasks of anti-money laundering and countering the financing of terrorism;
 - (i) may enter into an agreement or arrangement with foreign counterpart agencies .In the absence of an agreement, cooperation may take place based on the principle of reciprocity;
 - (j) shall perform the function assigned by any existing Law.
11. The Financial Intelligence Unit, with the approval of the Central Body:
- (a) may, on its volition or upon request, exchange the information or cooperate with domestic or foreign competent authorities that perform similar functions and are subject to secrecy obligations as the Unit;
 - (b) shall inform any information which is exchanged or cooperated under sub-section (a)to comply with the following means by foreign counterpart agencies:
 - (i) causing to use the same manner and usage by the Financial Intelligence Unit ;

- (ii) causing to use for anti-money laundering, countering the financing of terrorism or combating offences contained in section 5 ;
 - (iii) causing to obtain the consent of organization if the said information is intended to use for any other purpose;
 - (c) The Financial Intelligence Unit may obtain the information referred to sub-section (g) of section 10 based on a request for assistance received from a foreign counterpart agency and may take other action in support of such a request that is consistent with its authority in domestic matters.
12. The Financial Intelligence Unit shall:
- (a) keep secret of each investigation matter;
 - (b) report the submission of the Scrutiny Board to the Central Body.

Chapter VI

Formation of the Scrutiny Board and Functions and Duties thereof

13. The Financial Intelligence Unit shall, after receiving and scrutinizing the reports and information received under the provisions of this Law and information relating to money laundering and offences applied to this Law, form and assign the Scrutiny Board including members of Financial Intelligence Unit if it suspects by the result of the scrutiny that money laundering or any offence related to this Law is committed.

14. The Scrutiny Board may scrutinize in respect of money laundering, financing of terrorism, money and properties obtained by illegal means and assets of terrorists and may carry out the matters relating to provisional freeze of the said money and properties as follows:

- (a) identification and search of the traces of money and properties obtained by money laundering or assets of terrorists or financiers of terrorism;
- (b) searching, obstructing, controlling, freezing and seizing as exhibit of money and properties obtained by illegal means or assets of

- terrorist or financiers of terrorism and returning the seized properties under a bond;
- (c) sealing or prohibiting not to transact by other means of the said money and properties during the period of scrutiny;
 - (d) requesting the reporting organizations to give out financial or other records and examining the records;
 - (e) requesting and of examining the required documents from the person under scrutiny or other person or government departments and organization or banks and financial institutions;
 - (f) inspecting, searching and seizing as exhibit of building, land and work-site that are derived from money and properties obtained by illegal means and named under other person.
15. The Scrutiny Board shall:
- (a) keep secret of each scrutinized matters;
 - (b) report the measures to the Financial Intelligence Unit.

Chapter VII

Formation of the Investigation Board and Function and Duties thereof

16. The Central Body shall, subject to the report on findings of the Financial Intelligence Unit, form the Investigation Board comprising at least 3 members chaired by any member of the Central Body to investigate the case relating to money laundering.
17. The Investigation Board:
- (a) may summon and examine the required person regarding the report of the Scrutiny Board and may further acquire the required evidences;
 - (b) shall submit its findings together with comments and remarks to the Central Body according to the report of Scrutiny Board and further evidences;
 - (c) shall keep secret of each investigation matter.

Chapter VIII

Preventive Measures and Duty to Report

18. Reporting organizations shall carry out the risk assessment of money laundering and financing of terrorism according to the information provided by the Central Body in accord with sub-section (a) of section 8. The risk assessment and any underlying evidence and information shall be recorded in writing, be kept up-to-date and be readily available to the relevant authorities.

19. Reporting organizations:

- (a) shall carry out customer due diligence under this Law , at appropriate time, on accounts and customers existing prior to implementation of this Law based on product, service and risk . The customer due diligence processes shall be carried out as follows if the results of risk assessment under sub-section (c) of section 7 and information provided by the Central Body under sub-section (a) of section 8 have been received:
 - (i) when the risk of money laundering was identified as being high according to risk assessment, conducting enhanced customer due diligence measures consistent with the identified risk and determining whether the transaction or other activities appear unusual or suspicious;
 - (ii) when the risk of money Laundering was identified as being low according to risk assessment, conducting simplified customer due diligence measures consistent with the identified risk;
 - (iii) simplified customer due diligence measures under sub-section (ii) shall be terminated if it is suspected that the case is relating to money laundering or financing of terrorism or in case of a high risk;
- (b) shall carry out customer due diligence measures contained in sub-section (a) in the following period and situations:
 - (i) before carrying out a transaction or opening and account for a customer;

- (ii) before carrying out a transaction, for a customer who is not in an established business relationship with the reporting organization, when the transaction involves an amount which equals to or exceeds an amount defined by the Central Body, whether conducted as a single transaction or several transactions appear to be linked;
 - (iii) before carrying out a domestic or international wire or electronic transaction for a customer;
 - (iv) whenever doubts exist about the veracity or adequacy of previously obtained customer identification data;
 - (v) whenever there is a suspicion of money laundering and financing of terrorism;
- (c) shall, if the amount of the transaction in respect of it referred to sub-section(b) is unknown at the time of operation, identify in accord with the provision of sub-section (a) as soon as the said amount becomes known or the threshold is reached ;
- (d) shall conduct customer due diligence measures under sub-section (a) as follows:
- (i) identifying the customer and verifying the customer's identity by means of reliable and independent sources, documents, data or information;
 - (ii) collecting and understanding information regarding the purpose and the intended nature of business relationship;
 - (iii) identifying the beneficial owner and taking all reasonable measures to verify the identity of the beneficial owner such that the reporting organization know who the beneficial owner is and understand and verify the ownership and control structure of the company or legal arrangement;
 - (iv) verifying whether the person acting on behalf of the customer for the person, company, organization or legal arrangements is so authorized and verifying the identity of that person; verifying the legal status of the person, company, organization or legal arrangement; obtaining information concerning the customer's name, legal form, address and

directors and provisions regulating the power to bind the company or legal arrangements;

- (v) enhancing customer due diligence measures contained in clauses (i) to (iv) if it has reasonable ground to believe that the customer is a domestic and foreign politically exposed person or international politically exposed person;
- (e) shall, if it is unable to comply with obligations contained in sub-section (d), not carry out or terminate the matters of clauses (i) to (iii) and report this situation to the Financial Intelligence Unit;
- (f) may carry out customer due diligence measures under sub-section (d) although business relationship has been established;
- (g) shall keep documents, data or information collected under this section including data especially relating to money laundering and financing of terrorism, high risk customers and business relationships up-to-date and relevant.

20. Reporting organizations shall exercise ongoing customer due diligence measures with respect to each business relationship. Moreover, any transaction shall be closely examined to ensure that they are consistent with their knowledge of their customer, commercial activities and risk profile and if necessary, source of funds.

21. Reporting organizations:

- (a) shall monitor the following activities:
 - (i) all complex, unusual large transaction or unusual patterns of transaction that have no apparent or visible economic or lawful purpose;
 - (ii) any business relationship or transaction with a person from or in a country which does not apply sufficient measures to prevent money laundering and financing of terrorism;
- (b) shall examine the background and purposes of transaction or business relationships contained in sub-section (a), as far as possible, and the findings shall be recorded in writing;

- (c) shall, where the risk of money laundering or financing of terrorism under sub-section (a) is identified as being high, enhance customer due diligence measures.

22. Reporting organizations shall have appropriate risk management systems to determine whether or not a customer or a beneficial owner is domestic and foreign politically exposed person or an international politically exposed person and carry out as follows:

- (a) in respect of international politically exposed person:
 - (i) obtaining approval from senior management before establishing or continuing a business relationship;
 - (ii) taking all reasonable measures to identify the source of wealth and funds;
 - (iii) applying enhanced ongoing customer due diligence measures and monitoring such business relationship.
- (b) in respect of domestic and foreign politically exposed persons, applying the measures contained in sub-section (a) where the reporting organizations determine the risk as being high.

23. Reporting organizations shall maintain records of the following information and ensure that the records and underlying information are readily available to the Financial Intelligence Unit and other competent authorities and the records should be sufficient for the reconstruction of individual transactions:

- (a) documentation, records obtained through customer due diligence process and documents obtained from scrutiny including accounts of customer or beneficial owner and business correspondence for at least five years after the business relationship has been terminated or the occasional transaction has been carried out;
- (b) records of transaction in both domestic and international, attempted or executed for five years after the transaction has been carried out;
- (c) copies of transaction reports submitted under chapter 8 of this Law and other related documents for at least five years after the report was submitted to the Financial Intelligence Unit;

- (d) risk assessment and other underlying information after that has completed or has updated for a period exceeding five years;
24. (a) Reporting organizations may rely on a third party which has a capacity to perform the following elements among the customer due diligence measures:
- (i) enabling to obtain all information, without delay, contained in sub-section (d) of section 19;
 - (ii) enabling to make available of identification data and other documents relating to customer due diligence measures without delay if it is requested;
 - (iii) enabling to satisfy the maintenance, supervision or monitor and assessment for compliance with the requirements, on behalf of itself, contained in sections 21 to 23,
- (b) The identification and verification of the customer under sub-section (a) is the main duty of the reporting organization.
25. Reporting organizations shall identify and assess the risks of money laundering and financing of terrorism that may arise in relation to new products, services, business or technologies and take appropriate measures to manage and mitigate such risks.
26. The bank and financial institution shall carry out the followings in addition to perform normal customer due diligence measures contained in section 19 before entering into cross border correspondent banking and other similar relationships:
- (a) collecting, and attempting to know the business of the respondent institution, its reputation and whether it has been investigated or taken action relating to money laundering or financing of terrorism and the information about the quality of supervision;
 - (b) obtaining approval from senior management;

- (c) conducting an assessment of the quality of anti-money laundering and countering the financing of terrorism of the respondent institution;
 - (d) recording the responsibilities of anti-money laundering and countering the financing of terrorism of each institution.
27. (a) Banks and financial institution shall scrutinize in accord with the stipulations in performing wire or electronic transfer. The messages and payments in the wire or electronic transfer shall be included in such information. If there is no account number, a unique reference number shall be specified for such transfer. The information contained in the provisions of this section shall be maintained and transmitted by the financial institutions acting as intermediaries in a chain of payments;
- (b) Sub-section (a) of this section shall not apply to the followings:
 - (i) transaction on credit card or debit card and transaction on credit card or debit card number together with such transaction;
 - (ii) transfer between banks and financial institutions if both the originator and the beneficial owner are banks and financial institutions acting on their own behalf;
 - (c) A bank and a financial institution shall not execute a wire or electronic transfer which is unable to comply with the provisions contained in sub-section (a);
 - (d) A bank and a financial institution processing or receiving a cross-border wire or electronic transfer shall:
 - (i) supervise to maintain the information of originator and beneficiary or the owner together with such transaction;
 - (ii) take reasonable action to identify the wire or electronic transfer which do not apply with sub-section (a);

- (iii) issue the necessary procedures to execute, receive, reject or suspend such transaction and to take follow-up actions;
 - (e) If technical limitations prevent the information of the originator or beneficial owner contained in sub-section (a) to remain the record of domestic wire or electronic transfer, a record should be kept by the institution receiving the above all information from the institution ordering or processing the transfer;
 - (f) A financial institution processing the cross border wire or electronic transfer that lacks information required under sub-section (a) shall verify the beneficial owner in respect of such transaction;
 - (g) The Central Bank of Myanmar shall issue directives that should be undertaken by banks and financial institutions processing the wire or electronic transaction.
28. (a) Reporting organizations shall adopt, develop and implement internal programs, policies, procedures and controls for the implementation of the provisions of this Law and for managing effectively to mitigate the risks identified pursuant to this Law. Moreover they shall monitor the implementation of such policies and controls and enhance them, if necessary. In such policies and controls, the following data shall be included:
- (i) customer due diligence measures, ongoing due diligence, monitoring the transaction, reporting obligations and record keeping obligations;
 - (ii) procedures to ensure high standard of integrity of its employees and a system to evaluate the personal, employment and financial history of these employees;
 - (iii) ongoing training programmes for employees to assist with regard to know-your-customer, specific responsibilities of anti-money laundering and countering the financing of

terrorism and the transaction which are required to report contained in chapter VIII;

- (iv) an independent audit function to check in compliance with and effectiveness of the measures taken action in execution of this Law.
- (b) Reporting organizations shall designate a compliance officer at the senior management level;
- (c) Types of measures to take action shall be determined for each of the requirements contained in this section. In this determination, the size of business, customers, transaction, products, services and delivery channels and scope, geographic and country coverage of the business shall be concluded together with the risk of money laundering and financing of terrorism;
- (d) The following processes shall be ensured:
 - (i) causing to apply the policies and controls issued under this Law widely on a group-wide basis including foreign branches and majority owned subsidiaries;
 - (ii) causing to have information sharing procedures within a financial group for the purposes of carrying out customer due diligence measures and managing the risks of money laundering and financing of terrorism including procedures to safeguard and use the information sharing.

29. Reporting organizations shall ensure the following powers to the officer appointed under sub-section (b) of section 28:

- (i) power to access any documents, records, registers and accounts necessary for the performance of his tasks;
- (ii) power to request and access any information, notice, explanation or document from any employee of the reporting organization.

30. (a) No one shall establish or operate shell bank in Myanmar;

- (b) Financial institutions shall not commence or continue business relationship with shell banks or in countries in which shell banks are situated;
 - (c) Financial institutions shall not permit the shell bank to commence or operate business relationship with respondent bank and financial institution which permit their accounts to be used.
31. (a) The Financial Intelligence Unit shall identify the countries which do not insufficiently comply measures for anti- money laundering and countering the financing of terrorism and shall issue directives to be applied in relation to such countries.
- (b) Reporting organizations shall comply exactly with the directives issued under sub-section (a).
 - (c) Competent Regulatory Authorities shall supervise the reporting organizations to comply exactly.
32. Reporting organizations shall promptly report to the Financial Intelligence Unit if the amount of transaction of money or property is equal to or exceeds the designated threshold or it has reasonable ground to believe that any money or property is obtained by illegal means or is related to money laundering or financing of terrorism or attempt to do so.
33. Responsible persons of government departments and organizations or reporting organizations shall not disclose any report or relevant information and any measure under section 32 to any person other than among employees and legal counsel.
34. Financial institutions shall report to the Financial Intelligence Unit any cash transaction in an amount which is equal to or exceeds the designated threshold by a single transaction or several transaction that appear to be linked.
35. Lawyers, notaries and other legal professionals shall have no obligation to report information determining the legal position including the advice for prosecution or to avoid prosecution in respect of their customers.

Chapter IX

Supervision

36. Competent Authority:

- (a) shall supervise reporting organizations to comply with the provisions contained in this Law without fail;
- (b) shall undertake the assessment of potential risk of money laundering and financing of terrorism of reporting organizations. The assessment shall, from time to time, be updated and shall adopt measures to ensure that risks are adequately managed;
- (c) may collect information and other data from reporting organizations and conduct in-site and off-site examinations on a group-wide basis by himself or by his representative;
- (d) may compel the copy of any information and document maintained by reporting organizations;
- (e) may lay down and apply measures on reporting organizations for failure to comply with the provisions contained in Chapter VIII of this Law;
- (f) may cooperate and share information with other competent authorities in investigations or prosecutions relating to money laundering, financing of terrorism or offences applicable to this Law;
- (g) may stipulate measures consistent with the provisions of this Law and existing domestic laws and regulations by the foreign branches or majority owned subsidiaries of the reporting organizations and may verify whether or not they comply with such stipulations;
- (h) shall report promptly to the Financial Intelligence Unit any transaction and facts that could be related to money laundering or financing of terrorism;
- (i) may establish and apply fit and proper criteria for owning, controlling, or participating, directly or indirectly, in the

administration, management or operation of the reporting organizations;

- (j) may report to the Central Body in order to suspend, restrict or revoke license and prohibit the continuation of non-financial business and professions;
- (k) shall maintain statistics concerning measures taken under this Law.

37. Competent Authority may impose one or more of the following supervision or measure against reporting organizations or directors, board of directors, executive officials or administrator of the reporting organization who fail to comply with the obligations under Chapters VIII of this Law:

- (a) written warnings;
- (b) compel by specific instructions;
- (c) causing to submit the reports in accord with the stipulation in respect of measures on the identified violation,
- (d) other appropriate measures. Practice

38. Competent Authorities shall report the measures imposed under section 37 to the Central Body through the Financial Intelligence Unit.

Chapter X

Cross-Border Transportation of Currency or Bearer Negotiable Instruments

39. If a person who enters into or departs from the territory of the State takes currency or bearer negotiable instrument, precious stone or metal upon which the value is equal to or exceeds the designated threshold prescribed by the Central Body in his possession or baggage or arranges for the transportation via mail or by any type of vehicles into or outside the territory, he shall declare officially to the Customs Department.

40. The Customs Department has the power to seize some or all currency, bearer negotiable instruments or precious metals and stones that are disclosed or falsely declared in accord with section 39 and that are suspected to be related to money laundering or offences applicable to this Law. In doing so, it may apply,

as may be necessary, the provisions contained in the Sea Customs Act to investigate relating to properties.

41. The Customs Department shall have the power to cause the persons concerned comply with the provisions contained in this Chapter under the following facts and the Laws related to Customs:

- (a) carrying out the controls on persons, their baggage, their means of transport and mail or containers; and
- (b) requesting or obtaining new information related to original ownership of such currency, negotiable instruments, precious metals and stones from the persons referred to in sub-section (a) if a false declaration or a failure to declare is discovered or if there is suspicion of money laundering, financing of terrorism or any offence contained in this Law.

42. Information obtained by the Customs Department under the provisions of this Law shall be provided to the Financial Intelligence Unit and the Foreign Exchange Management Department of the Central Bank of Myanmar.

Chapter XI

Offences and Penalties

43. Whoever commits money laundering shall, on conviction, be punished with imprisonment for a term which may extend to ten years or with fine or with both. If the offender is a company or an organization, a fine which may extend to five hundred million kyats shall be imposed on such company or organization. The beneficial owner shall be punished with imprisonment for a term which may extend to seven years.

44. Any responsible person from the reporting organization violates the provisions contained in sections 18 to 25, 28 and 29 or any responsible person from banks and financial institutions violates the provisions contained in sections 26 and 27 shall, on conviction, be punished with imprisonment for a term which may extend to three years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to one hundred million kyats shall be imposed on such company or organization.

45. Whoever violates the provision contained in sub-section (a) of section 30 or any responsible person from banks and financial institutions violates or attempts to commit sub-sections (b) and (c) of section 30 shall, on conviction, be punished with imprisonment for a term which may extend to seven years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

46. Any responsible person from the reporting organization, in reporting to Financial Intelligence Unit under section 32, presents false statement or conceals facts shall, on conviction, be punished with imprisonment from a minimum of three years to a maximum of seven years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

47. Whoever intentionally or negligently violates or fails to comply with the provisions contained in section 39, or makes a false declaration of money or negotiable instrument under section 40, or conceals facts which should be disclosed to a customs official, an official or any competent authority shall, on conviction, be punished with imprisonment for a term which may extend to three years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

48. Whoever fails to comply with prohibitory orders and directives relating to money and property issued to him during the investigation period under this Law shall, on conviction, be punished with imprisonment for a term not exceeding seven years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

49. Any responsible person from a bank and a financial institution violates the provisions contained in section 34 shall, on conviction, be punished with imprisonment for a term which may extend to three years and may also be liable to a fine. If the offender is a company or an organization, a fine which may

extend to three hundred million kyats shall be imposed on such company or organization.

50. Any reporting organization, government department and government organization or a director, an official and staff thereof violates the provisions contained in section 33 shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine or with both.

51. Any member of the Scrutiny Board or Investigation Board commits any of the following acts or omissions in scrutiny and investigation of an offence applicable to this law shall, on conviction, be punished with imprisonment from a minimum of three years to a maximum of seven years and may also be liable to a fine:

- (a) demanding or accepting money or any property either for himself or for another person as a gratification;
- (b) substituting of an offender with any other person in order not to take action against him or hiding without taking action against him;
- (c) concealing, obliterating, converting, transferring by any means or disguising of money and property obtained from money laundering in order not to take action;
- (d) amending, altering, adding, substituting, making false entry in documents.

52. The Court shall:-

- (a) pass the confiscation order or administrative order in accord with the stipulations on exhibit and money relating to the case if punishment is imposed under any offence contained in this Law;
- (b) coordinate with relevant government organization in order to contribute 5% of fine to the fund for anti-money laundering and countering the financing of terrorism;
- (c) collect as if it is an arrear of revenue from such company or organization if the fine is not paid by the person imposed under this Law.

Chapter XII

International Cooperation

53. The Central Body shall coordinate with international and regional organizations and State parties of international or regional organizations relating to anti-money laundering to take appropriate measures including the following matters:

- (a) exchanging information relating to money laundering and financing of terrorism;
- (b) arranging, preparing, managing the anti-money laundering and countering the financing of terrorism and cooperating in accord with the Mutual Legal Assistance in Criminal Matters Law;
- (c) conducting training, technical cooperation and capacity building on anti-money laundering and countering the financing of terrorism;
- (d) conducting the awareness of anti-money laundering and countering the financing of terrorism;
- (e) cooperating capacity building in anti-money laundering and countering the financing of terrorism compatible with international standards;
- (f) cooperating in research and development functions of anti-money laundering and countering the financing of terrorism.

Chapter XIII

Extradition

54. (a) Money laundering contained in this Law shall be determined as extraditable offence and the extradition shall be executed in accord with the existing laws.
- (b) In respect of extradition under this Law, it shall be carried out subject to other conditions provided by the Law of the requested State.

55. With respect to the request for extradition of an offender who commits any money laundering offence contained in this Law within the country and mutual legal assistance in criminal matters by any State party of any international or regional organization:

- (a) money laundering offences pertinent to this Law shall not be deemed as a political offence, an offence related to it or an offence committed for political purposes;
- (b) it shall not be refused on the sole ground that the committed money laundering offence stated in the request is a political offence or a related offence to it or an offence committed for political purposes.

Chapter XIV

Fund for Anti-Money Laundering and Countering the Financing of Terrorism

56. The Central Body shall establish a fund for anti-money laundering and countering the financing of terrorism with the following receipts and properties:

- (a) contribution from the Union Fund in accord with the existing law;
- (b) 5% of fine imposed by the court;
- (c) money and properties donated from domestic and foreign well-wishers.

57. The Central Body may grant the fund for anti-money laundering and countering the financing of terrorism to use or bear the expenses for the following matters:

- (a) expenses that are required to perform the tasks of the Financial Intelligence Unit, Scrutiny Board and Investigation Board;
- (b) matters carried out by laying down the necessary plans for anti-money laundering and countering the financing of terrorism;

- (c) matters of the deserving reward to person and organizations which contribute scrutiny, investigation and reveal anti-money laundering and financing of terrorism;
- (d) expenses of awareness and education programmes and capacity building programmes relating to anti-money laundering and countering the financing of terrorism;
- (e) expenses of buying and installing the equipment for functions of anti-money laundering and countering the financing of terrorism;
- (f) matters of cooperation with international and regional organizations and foreign countries in respect of anti-money laundering and countering the financing of terrorism;
- (g) expenses of other necessary matters and other emergency functions specified by the Central Body;
- (h) matters of deserving the reward to the person who endeavors to reveal the money laundering and financing of terrorism.

Chapter XV

Miscellaneous

58. The relevant Ministry shall allocate a separate budget for the Financial Intelligence Unit.
59. (a) No prosecution and taking action by criminal, civil, disciplinary or administrative means on reporting organizations or their directors, officers or staff who submit reports or provide information in good faith in accord with the provisions of this Law for the breach of the provisions of banking, professional secrecy and agreement.
- (b) The provisions of this law shall prevail the provisions of financial and professional secrecy and confidentiality to be followed by the reporting organizations or their directors, officials or staff.
60. The burden of proof lies on the accused that money and property are not obtained by illegal means in respect of any offence contained in section 5.

61. The prosecuting body, in the prosecution of money and property obtained by illegal means:

- (a) shall presume that it is prima facie evidence under law if it can be prove that illegal money and property are obtained by commission of any offence contained in section 5. It shall not be required to prove that how the predicate offence applicable to this law that generates such money and property is committed;
- (b) shall not consider the amount of money and properties obtained by committing the offence contained in sub-section (a);
- (c) to the extent that knowledge, intent or purpose of offender are the elements of the predicate offences, may be inferred from objective factual circumstances in offences of money laundering and financing of terrorism.

62. In respect of money and properties obtained from money laundering cases, if any other person who is not under scrutiny and investigation is able to prove clearly that such money and properties were transferred in good faith with consideration, his right and privilege shall not be affected.

63. Whoever shall be guaranteed for obtaining the fair treatment and other rights compatible with International Human Rights Law in scrutinizing, investigating and taking action on money laundering cases under this Law.

64. Whoever accused of and in custody pursuant to money laundering offence shall have the right to communicate without delay with the nearest appropriate embassy or consulate or representative of the State of which he is a national in order to get his rights.

65. The relevant government departments and organizations shall abide by the orders issued under this Law.

66. The person who is serving or served in the Central Body, Financial Intelligence Unit, the Competent Authority, Reporting Organizations and other government departments and such organizations implementing this Law shall keep of secret any information received within his duty period until the

termination of duty, and every responsible person may use the information in accord with the provision of this Law or under the order of a court. It shall be taken action by the Official Secrets Act if this provision is violated.

67. Money or property derived from the commission of any offence applied to this Law contained in section 5:

- (a) shall be taken action only under this Law against offences relating to money and property derived from the commission of any offence contained in sub-section (n) of section 3 after this Law has come into force;
- (b) shall be taken action under the Control of Money Laundering Law against offences relating to money and property derived from the commission of any offence contained in sub section (n) of section 3 before this Law has come into force.

68. In prosecuting any offence contained in this Law, the prior sanction of the Central Body or organization authorized by the Central Body shall be obtained.

69. In implementing the provisions of this Law:

- (a) the Ministry of Home Affairs may, with the approval of the Union Government, issue the necessary rules, regulations and bye-laws;
- (b) the Ministry of Home Affairs and the Central Body may issue the necessary notifications, orders, directives and procedures;
- (c) the Central Bank of Myanmar, the Competent Authority and the Financial Intelligence Unit may, with the approval of the Central Body, issue the necessary directives, procedures and bye-laws.

70. Rules, regulations, bye-laws, orders and directives issued by the Control of Money Laundering Law (The State Peace and Development Council Law No. 6/2002) or by any other authority may continue to apply if those are not contradict with this Law.

71. The Control of Money Laundering Law (The State Peace and Development Council Law No. 6/ 2002) is hereby repealed by this Law.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President

Republic of the Union of Myanmar