



COUNTER TERRORISM FINANCING ACT B.E. 2556 (2013)

BHUMIBOL ADULYADEJ, REX;
Given on the 1st Day of February B.E. 2556;
Being the 68th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on suppression of the financing of terrorism;

This Act contains certain provisions in relation to the restriction of rights and liberties of persons, 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;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows.

Section 1 This Act shall be called the “Counter Terrorism Financing Act B.E. 2556 (2013)”.

Section 2 This Act shall come into force on the day following the date of its publication in the Government Gazette.

Section 3 In this Act:

“assets” means funds, property or intangible object, susceptible of having a value and of being appropriated, including the fruit thereof, and shall include legal documents or instruments in any form, whether in paper or any other material or in electronic form, evidencing title to, possession, right to claim, or any other interest in, such funds or property;

“terrorist act” means any act which constitutes an offense related to terrorism under the Penal Code, or any act which constitutes an offense within the scope of international conventions and treaties related to terrorism, to which Thailand is a party or acceded, whether such act is committed inside or outside the Kingdom;

“designated person” means a person, group of persons, legal persons or entities, listed as designated persons pursuant to a resolution of, or notification issued under the United Nations Security Council or a person, group of persons, legal persons or entities who were designated by Court order under this Act;

“reporting entity” means reporting entities under the law on anti-money laundering;

“assets freezing” means prohibition of making transfer, selling, moving or disposition or conversion, utilization of, or dealing in any way with such assets which would result in changing in amount, value, quantity, location, or character of the assets;

“Board” means the Anti-Money Laundering Board under the law on anti-money laundering;

“Transaction Committee” means the Transaction Committee under the law on anti-money laundering;

“Office” means the Anti-Money Laundering Office.

Section 4 Upon the issuance of a resolution or declaration under the United Nations Security Council designating persons, groups of persons, legal persons or entities, at the advice of the Office, Minister of Justice shall make notification of the designated persons without delay. Rules and procedures shall be prescribed by the Ministerial Regulation.

Delisting of persons designated under paragraph one shall be made upon the issuance of Resolution or Declaration of the United Nations Security Council resulting in the delisting of such persons from the designation list.

Section 5 In the case where there are reasonable grounds to suspect that any person is connected with the commission of terrorist act or terrorist financing or acts on behalf of or at the direction of or under the control of such a person, the Office, with the consent of the Transaction Committee shall consider referring the names of such person to the public prosecutor for consideration of filing an ex parte petition to the Court for an order to designate such person. Where there is a probable evidence to believe as follows, the Court shall order the designation;

(1) Such person may be involved in terrorist act or terrorist financing or;

(2) Such person acts on behalf of or at the direction of or under the control of the person designated under (1) or under Section 4

Such connection with the commission of terrorist act or terrorist financing or action on behalf of or at the direction of or under the control of such a person under paragraph one has to exist on the day the court orders the designation.

The Office shall regularly review the designation list under paragraph one. Where there is circumstantial change, the Office, with the consent of the Transaction Committee, shall consider referring the matter to the public prosecutor to consider filing an ex parte petition with the Court for an order to delist such person from the designation list.

Rules and procedures followed by the Office and the Transaction Committee under paragraph one and three, shall be in accordance with the Ministerial Regulation, by which the Office shall appoint a committee for considering the name to be delisted before submission to the Transaction Committee for approval.¹

The Office, the Transaction Committee, the public prosecutor and the Court shall implement this Section without delay.

Section 6 The Office shall make notification of the list of designated persons under Section 4 and 5 and shall instruct the designated persons and reporting entities or

¹ The Anti-Laundering Office and the Transaction Committee can rely on section 38 and section 40 of the Anti-Money Laundering Act, B.E. 2542 in gathering witnesses and evidence for use in consideration of submitting names to the Public Prosecutor for his consideration of filing a petition to the court for its designation of the person(s). As it is related to terrorism or terrorist financing, which is a predicate offence under the said Act, it is not necessary to have provisions for the mutatis mutandis application of section 38 and section 40 under this Act.

persons holding the assets of the designated persons to take the following actions without delay;

- (1) Freeze the assets of the designated persons or a person acting on behalf of, or at the direction of, or an undertaking controlled by such persons;
- (2) Inform the Office of the frozen assets;
- (3) Inform the Office of a customer or former customer who is listed as a designated person or who has or had conducted transactions with such a person.

Rules and procedures for making notification and giving notice to the persons under paragraph one, including actions to be taken under (1) (2) and (3) shall be prescribed by an ordinance issued by the Board.

A reporting entity shall set out a risk assessment policy or any guidance for the prevention of the financing of terrorism or other measures necessary for the implementation in accordance with this Act. Rules and procedures shall be prescribed by an ordinance issued by the Board.

Section 7 The maintenance and management of the frozen assets shall be in accordance with rules prescribed by the Board.

Section 8 Any person shall be excluded from liability for a loss or claim resulting from the performing of an act under Section 6 where such act is carried out in good faith, unless gross negligence is proven.

Section 9 Persons designated under Section 5 or whose assets were frozen under Section 6 due to being a designated person under Section 5 may file a written petition with the Court for consideration on the following matters:

- (1) To order the delisting of such persons from the designation list;
- (2) To lift the freezing of assets;
- (3) To seek permission to take any action with the frozen assets.

Where there is a permission granted according to (3), the Court may stipulate any necessary conditions to prevent the assets from being used to finance terrorism and where there appears to be facts that such permission may provide opportunity for such assets to be used for financing of terrorism, the Court may set any further conditions or may revoke the permission.

Section 10 A person other than persons designated under Section 4 or Section 5 may file a written petition with the Court to order the followings;

- (1) payment for debt due to the person whose assets were frozen under Section 6 under contracts or obligations which were concluded on or before the date the account became subject to freezing;
- (2) payment of interest or other benefits due on the account in favor of the person whose assets were frozen under Section 6;
- (3) payment for debt, according to the Court's final decision, of the person whose assets were frozen due to being a designated person under Section 5;
- (4) for undertaking in any way with the frozen assets of the person whose assets were frozen due to being a designated person under Section 5;

In case of permission granted under paragraph one, if debt is to be paid or money to be transferred into or out of the account of a person whose assets were frozen under Section 6, the Court may prescribe conditions as it deems appropriate for the prevention of use of the assets for financing terrorism.

Section 11 Judicial procedures under Section 5, Section 9 and Section 10 shall be brought to the Civil Court and Civil Procedural Code shall apply *mutatis mutandis*.

Section 12 For the benefit of implementing this Act, the Board shall have the following powers and duties:

- (1) to set out the rules, regulations and notification under this Act;
- (2) to set out the guideline for supervision, examining, monitoring and assessment in accordance with this Act;
- (3) to set out guidelines and procedures necessary for the reporting entity or any other person for the performing of its duties in accordance with this Act;
- (4) to monitor and evaluate the results of the execution of this Act.

Section 13 For the benefit of implementing this Act, the Office shall have the following powers and duties;

- (1) to provide guidance for persons on obligations in taking action under this Act;
- (2) to monitor, evaluate, examine, and supervise proper compliance with this Act as well as taking legal action with those who violated or failed to observe the provision of this Act;
- (3) to receive or disseminate report or information useful to implementation of this Act or other laws;
- (4) to gather, collect information and evidence for the assets freezing, seizure or confiscation under this Act or other laws;

Section 14 Any person who violates or fails to comply with Section 6 (1) or (2) shall be liable to an imprisonment not exceeding three years or a fine not exceeding three hundred thousand baht or both.

Any reporting entity who violates or fails to comply with Section 6 (1) or (2) shall be liable to a fine not exceeding one million baht, as well as a daily fine of ten thousand baht until rectification is made.

Where violation under paragraph two has resulted from the orders or action of a person or failure to give instructions or to perform the duty of a director, manager, or a person responsible for the operations of the legal person, such person shall be liable to a term of imprisonment not exceeding three years or a fine not exceeding three hundred thousand baht or both.

Section 15 Any reporting entity who violates or fails to comply with Section 6 (3) shall be liable to a fine not exceeding five hundred thousand baht and a daily fine of five thousand baht until rectification is made.

Where violation under paragraph one has resulted from the orders or action of a person or failure to give instructions or to perform the duty of a director, manager, or a person responsible for the operations of the legal person, such person shall be liable to a term of imprisonment not exceeding one year or a fine not exceeding one hundred thousand baht or both.

Section 16² Any person who provides, collects or conducts financial or asset transactions or undertaking in any way, directly or indirectly, with the knowledge that the beneficial person of the financial benefit or assets or from such undertaking is the designated

² Provisions of section 16 are based on principles in line with international standards. They explicitly indicate that a terrorist financing offence and a terrorist act are two distinct concepts, with the former being an offence in itself without any linkage to a specific terrorist offence(s). Therefore, provision, collection of funds or assets or any undertaking for the benefits whatsoever of a designated person or a person or entity linked to terrorism is an offence under this section whether or not the offender does the act directly or indirectly and whether or not the funds or assets or undertaking were used or intended to be used in or linked to the commission or attempted commission of a terrorist act.

person, or with the intention that the financial benefit or assets or such undertaking are to be used for the benefits whatsoever of the designated person or of a person or organization involved in a terrorist act(s) shall be deemed to have committed a financing of terrorism offense and shall be liable to a term of imprisonment from two to ten years or a fine from forty thousand to two hundred thousand baht or both.

Any person who directs, or aids or abets, or conspires in the commission of an offense under paragraph one shall be liable to the same penalty as the principal of the offense.

Any person who attempts to commit an offense under paragraph one shall be liable to two-thirds of the penalty specified for such offense.

Any legal person who commits an offense under paragraph one, two or three shall be liable to a fine from five hundred thousand baht to two million baht.

Where violation of a legal person under paragraph four has resulted from the orders or action of a person or failure to give instructions or to perform the duty of a director, manager, or a person in authority in the operation of the legal person, such person shall be liable to a term of imprisonment from two to ten years or a fine from forty thousand to two hundred thousand baht or both.

The offense under this Section shall be a predicate offense under the law on anti-money laundering.

Section 17 Prime Minister shall have charge and control of the execution of this Act and shall have the power to issue a Ministerial Regulation to implement this Act.

The Ministerial Regulation shall take effect upon its publication in the Government Gazette.

Countersigned by:

Yingluck Shinawatra

Prime Minister