

Jurisdiction update: Thailand — AML

Jul 02 2013 [Michael Ramirez](#)



This Compliance Complete country profile looks at Thailand, which traditionally has had a reputation as a "crossroads" for numerous illegal activities and of the laundering of significant sums of tainted money.

Member of the Financial Action Task Force (FATF)? No.

Any Egmont members? Yes. Thailand's Anti-Money Laundering Office (AMLO) is a member of the Egmont Group.

The offence

Money laundering: Violators are punishable by imprisonment for a term of one year to 10 years and/or a fine of 20,000 to 200,000 baht. Failure to comply with the Act's reporting requirements is punishable by a fine of up to 500,000 baht and an additional fine of up to 5,000 baht a day for every day that one fails to comply. Filing a false report is punishable by imprisonment of up to two years and/or a fine of 50,000 to 500,000 baht.

Regulation

The law, known as the Anti-Money Laundering Act (the Act), was passed in March 1999 with the aim of combating not only the drug trade, but other illicit activities, such as corruption, criminal fraud and prostitution.

Enforcement of the Act was not immediate, however. There were some initial delays in the establishment of an enforcement agency and in passing implementing legislation. Once established, enforcement of the Act started in October 2000 and during the first five months alone approximately 150 million baht in assets was seized. Since that time, billions of baht have been frozen and/or seized under the legislation.

The Act was amended on March 2, 2008, with the aim of broadening the overall scope of targeted offences, increasing the powers to conduct investigations and seizures and to attack the controversial issue of perceived government corruption. A further amendment became effective in 2009, expanding the types of businesses subject to the Act's reporting requirements beyond just financial institutions. Under this amendment, non-financial businesses, such as traders in jewellery, car dealers, and real estate brokers, are now required to report transactions that exceed the values prescribed in the relevant ministerial regulations. The most recent amendment was released on February 1, 2013.

Financial intelligence unit

Of the total number of transactions reported to AMLO annually, a relatively small portion result in further investigation for violation of the Act. That said, the trend is for more active participation and enforcement by AMLO in recent years.

Targeted crimes

Thai law enforcement officials initially proposed the enactment of a money laundering law to target the regular transfer of money and property derived from the rampant trade in illegal drugs, as well as to comply with requirements for membership under the 1988 "Convention Against Illegal Traffic in Narcotic Drugs and Psycho-Toxic Substances." Additional predicate criminal offences were added both during the legislative process again during subsequent amendments. The February 2013 amendments not only added twelve new categories of predicate offences, but also confirmed application of the Act to predicate offenses committed outside Thailand, provided such acts would have constituted a predicate offense had they been committed in Thailand.

Currently, the Act covers the transfer or conversion of funds or property obtained from the following predicate offenses:

1. Drug trafficking
2. Prostitution and other sexual offences
3. Fraud against the public
4. Fraud involving financial institutions
5. Abuse of position by a government official
6. Extortion
7. Trade in contraband

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8. Terrorism
9. Gambling offences, with particular emphasis on large scale organization of gambling games
10. Participation in racketeering groups or participation in a criminal association
11. Receiving stolen property only as it constitutes assisting in the selling, buying, pawning or receiving, in any way, property obtained from the commission of an offence with the nature of business conduct
12. Counterfeiting or alteration of currencies, seals, stamps and tickets with the nature of business conduct
13. Criminal trading only where it is associated with the counterfeiting or violating of intellectual property rights to goods or the commission of an offense under the laws on the protection of intellectual property rights with the nature of business conduct
14. Forgery of a document of right, electronic cards or passports with a nature of regular or business conduct
15. The unlawful use, holding, or possessing of natural resources or a process of illegal exploitation of natural resources with a nature of business conduct
16. The commission of an offense relating to murder or grievous bodily injury which leads to the acquisition of assets
17. Restraining or confining a person only where it is to demand or obtain benefits or to negotiate for any benefits
18. Theft, extortion, blackmail, robbery, gang-robbery, fraud or misappropriation with a nature of regular conduct
19. Acts of piracy under anti-piracy law
20. Unfair securities trading practice under the law on securities and stock exchange
21. Offenses related to arms and arms equipment which is or may be used in combat or war under the law on arms control

Focus on corruption

Under the Act, it is a crime to transfer, convert or receive the transfer of funds or property arising from the above referenced criminal offences for the purpose of hiding or concealing the source of the funds. Violators are punishable by imprisonment for a term of one year to ten years and/or a fine of 20,000 to 200,000 baht. Violators are defined under the Act as persons who commit or attempt to commit a money laundering offence or aid another person in committing a money laundering offence.

It is also important to note that the March 2008 amendments include provisions targeted specifically at government officials, whereby the aforementioned fines and maximum prison sentences are doubled for government officials and can be tripled if certain categories of government officials are involved in a conspiracy to commit a money laundering offence. This represents a concerted effort to tackle the consistent problem of institutional corruption in Thailand.

Banking transactions are a primary activity subject to scrutiny under the Act, but other financial transactions are also covered. For example, an individual who secretly uses money from a drug sale to purchase shares of publicly traded stocks on the Stock Exchange of Thailand could be prosecuted under the Act. Furthermore, a corrupt government official who uses money obtained from a bribe to then purchase land runs the risk of being exposed, having the land confiscated and being subject to double-scale fines. Even property developers, who knowingly hold or accept money for concealment that they know is derived from one of the stated criminal offences, can be subject to enforcement under the Act.

Enforcement officials can seize, without a warrant, money or property connected with the commission of one of the enumerated criminal offences or a money laundering offence. In such cases, the owner of the seized property must be able to demonstrate that the property is unrelated to the commission of one of the enumerated crimes, or a money laundering offence, in order to recover the property.

Reporting requirements

A key provision of the Act is the requirement that financial institutions and other businesses that tend to be used as vehicles for money laundering report all cash transactions of 2 million baht or more. Property transactions in excess of 5 million baht must also be reported. Also required for reporting are all suspicious transactions that may be related to one of the enumerated criminal offences, are more complex than normal, lack economic plausibility, or appear to have been undertaken to avoid compliance with the anti-money laundering law. For such transactions, the financial institutions must require their customers to provide a detailed record of the transactions. The latter requirement is generally left to the practical discretion of the financial institution which must then choose between customer confidentiality concerns and compliance with the Act.

The AMLO has also implemented separate regulations which require all persons entering or leaving Thailand to declare currency in their possession where the amount meets or exceeds certain statutory minimum levels.

Failure to comply with the Act's reporting requirements is punishable by a fine of up to 500,000 baht and a daily fine of up to 5,000 baht a day through the period of violation or not acting correctly. Filing a false report is punishable by imprisonment of up to two years and/or a fine of 50,000 to 500,000 baht.

Thailand has made great progress in its legislative efforts to combat illicit crime and the transfer of funds related to such crimes. While much has been done and the laws are in place, ultimate success depends on the practical enforcement of the law.

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