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Anti-Money Laundering Law in Thailand Due to be Updated

Thailand's legal framework for preventing transactions that are deliberately designed to conceal the unlawful origin of funds is primarily contained within the Anti-Money Laundering Act B.E. 2542 (1999) (AMLA), as amended. As international money laundering practices evolve and emerge over time, prevention measures must evolve with them. Therefore the Financial Action Task Force (FATF) recently recommended amendments to the AMLA, along with the Counter Terrorism and Proliferation of Weapons of Mass Destruction Financing Act B.E. 2559 (2016) (CFTA), in order to be consistent with the latest international standards. The amendments passed through the public hearing stage on June 15, 2020, and the laws will now continue through the cabinet and parliament.

Key Draft Amendments to the AMLA

The definition of “financial institution” is expanded to include operators of many financial technology services, including:

- ▶ asset management and digital asset businesses;
- ▶ trustees in capital market trusts;
- ▶ derivatives businesses;
- ▶ authorized juristic persons under foreign exchange controls;
- ▶ personal loan businesses;
- ▶ nano- and pico-finance businesses;
- ▶ peer-to-peer lending businesses;
- ▶ crowdfunding platforms;
- ▶ regulated e-payment systems and services;
- ▶ non-bank credit card service providers; and
- ▶ additional businesses related to financial services or financial technology services at risk for money laundering (by further announcement in ministerial regulations).

The definition of “professions” (formerly known as “section-16 professions”) is expanded to include additional occupations and businesses, such as accounting, auditing, auto trading and leasing, legal consulting, and additional professions at risk for money laundering (by further announcement in ministerial regulations).

For cash transactions exceeding the prescribed threshold, parties in the listed professions are assigned record-keeping duties in addition to their current reporting duties.

The authority and power of the Anti-Money Laundering Office are expanded to include acting as a central financial intelligence agency to regulate, check, and rate the operations of companies and branches both within and outside of Thailand.

Key Draft Amendments to the CFTA

- ▶ A channel is established for section-6 designated persons (i.e. people who have been listed as a terrorist by

the U.N. Security Council) to submit a petition for reconsideration and delisting to the U.N. Security Council via Thailand's Ministry of Foreign Affairs.

- ▶ If a designated person's funds and assets are frozen, qualifying financial institutions and professions are given an exemption that enables them to deposit funds (e.g., due payments, interest, etc.) earned prior to the freeze into the frozen account.

Additional Updates to CDD Regulations

In addition to the above draft amendments, the new Ministerial Regulation on Customer Due Diligence B.E. 2563 (2020) came into force on August 12, 2020. This repealed and replaced the former version from 2013 (as amended), and contains the following key updates:

- ▶ The definition of a “Politically Exposed Person” (PEP) has been amended for clarity and ease of compliance, according to the FATF recommendations. Also, certain new definitions have been added, such as “senior management,” “family member,” “intimate person,” “business relationship,” “risk,” and “reliable source of information.”
- ▶ The measures to assess, manage, and relieve risks have been streamlined for consistency with international standards. For example, reduction of a customer's risk level now requires approval from senior management. Foreign PEPs and customers from any country in the FATF list of high-risk jurisdictions are to be treated as high-risk customers, whereas domestic PEPs are subject to CDD for risk assessment.
- ▶ customer due diligence (CDD) and know-your-customer measures have been enhanced for certain types of customers, such as juristic persons, trusts, and so on.
- ▶ Reporting entities are excused from identifying the beneficial owners of certain types of customers, such as governmental authorities, special financial institutions, listed companies, mutual funds, and so on.
- ▶ For international electronic transfer of funds below THB 50,000 (approximately USD 1,600), the transferring financial institution must also transmit information about the transferor and transferee to the receiving financial institution.

The new amendments and additional updates to the anti-money laundering regulations give more certainty to many issues that were ambiguous before. This will be beneficial for both regulators and the public since less interpretation is needed in order to apply the regulations, and there is therefore less room for ambiguity or error. In addition, the amendments to the AMLA make Thailand's anti-money laundering regulations more relevant and better suited to fighting modern money laundering schemes that utilize new technological innovations and financial technologies. As a result, entities that are now included in the definition of “financial institution” and “profession” will need to be more aware of the obligations that they will need to comply with. Finally, the amendments to the CFTA include the establishment of the petition submission channel, which has been a persistent obstruction to legal proceedings and will be a great relief for regulators and institutions alike.

We expect that these revisions will lead to positive changes for many financial institutions in Thailand, as well as for those foreign banks that operate (or wish to establish a presence) in Thailand. However, they make it more important than ever for such institutions to ensure strict compliance with the law. 🏠