

Office of the Prime Minister

No. _55_/PM
City of Vientiane, 27 / 03 /2006

Decree

**On
Anti-Money Laundering**

- Based on the Law pertaining to the Government of the Lao P.D.R. Number 02/NA dated 06 May 2003.
- Based on the proposal of the Governor of the Bank of the Lao P.D.R.

The Prime Minister hereby decrees

Section I

General Provisions

Article 1: Objective

The Decree on Anti-money laundering establishes the mechanism, means and measures for combating and deterring money laundering, aiming at strengthening the economic and financial system, creating a stable and orderly social environment and enhancing international cooperation in combating and deterring money laundering.

Article 2: Definition of terms

The following terms used in this Decree are understood as follows:

- 1. Money Laundering** refers to the acquisition of money or assets deriving from offences as specified in Annex 1 of this Decree, that have been transformed, utilized, possessed, transferred or converted in order to give such money or assets the legitimate appearance
- 2. Reporting Institution** refers to individuals or entities such as commercial banks, financial institutions, insurance companies, casinos and others, as specified

in Annex 2 of this Decree, which are obligated to report on any suspicious transaction to the Money Laundering Intelligence Unit.

3. Organization responsible for supervising the Reporting Institutions refers to an organization which has the right and responsibility to supervise and guide Reporting Institutions, namely: the Bank of the Lao P.D.R., Ministry of Finance and Ministry of Commerce.

4. Transaction refers to any deal conducted between Reporting Institutions and their customers relating to account opening, cash deposit and withdrawal, currency exchange, domestic and international transfers, purchase-sale of material, goods or services and others.

5. Acquiring money or assets deriving from offences refers to the acquisition of money or assets deriving from unlawful activities such as: illicit trafficking in narcotic drugs, illicit arms trafficking, trafficking in human beings, corruption, sexual exploitation and other conducts as listed in Annex 1 of this Decree.

6. Transformation of assets deriving from offences refers to the conversion of the assets deriving from offences as specified in Annex 1 of this Decree, into different kind of assets such as: from currency to gold, from gold to real estate, from real estate back to currency or other assets that appear legitimate.

7. Utilization of money or assets deriving from offences refers to the usage of money or assets illegally acquired, for entering into a transaction or a business activity or buying assets aiming at recuperating money or assets that appear legitimate.

8. Possession of money and assets deriving from offences refers to having in possession of illegally acquired money or assets or putting under the custody of others, aiming at making such assets appear legitimate.

9. Transfer of money and assets deriving from offences refers to the sending, transferring of ownership of money or assets, the money transfer from one account to another between banks or financial institutions domestically and internationally in order to make the money or assets appear legitimate.

10. Exchange of money or assets deriving from offences refers to the making use of money or assets acquired from offences for exchanging into other currencies or other payment instruments or other types of assets, aiming at making the money or assets obtained through such exchanges, appear legitimate.

11. High risk individual refers to an individual having decision making power who is periodically determined by the Money Laundering Intelligence Unit.

Article 3. Scope and application of the Decree

1. The present Decree is applicable throughout the territory of the Lao PDR.
2. This Decree applies to :
 - Lao citizens, foreign residents, stateless individuals ,foreigners living in the Lao PDR;
 - Foreign individual or entity not residing in the Lao PDR, who has

entered into a transaction in the Lao PDR.

Article 4. Fundamental principles for combating and deterring money laundering.

The detecting, combating and deterring of money laundering shall be conducted in accordance with the rules and procedures established under the law to ensure sovereignty, national security and normalcy in the running of the socio-economy; protect the legitimate interest of individuals and entities; combat all cases of power abuse and warrant that the acts of combating and deterring money laundering shall not undermine the legal rights and benefits of the citizens and entities.

The combating and deterring of money laundering shall become the responsibility of all individuals, entities and organizations.

Article 5. Individuals and agencies responsible for combating and deterring money laundering.

Individuals, entities directly responsible for combating and deterring money laundering shall be the Reporting Institutions as specified under Annex 2 of this Decree, as well as other concerned agencies as stipulated under the law of the Lao PDR.

Section II

Measures for combating and deterring money laundering.

Article 6. Obligation to serve a Notice.

In order to ensure the effectiveness of combating and deterring of money laundering, any individual or organization having knowledge of an act or behavior of another individual or organization, which is suspected of being an offence of money laundering shall be required to serve a notice on such an offence.

Article 7. Notice serving channel.

Any individual or organization having knowledge of an act or behavior which is suspected of money laundering shall be required to immediately notify the Anti-Money Laundering Intelligence Unit in writing or through facsimile transmission.

The Anti-Money Laundering Intelligence Unit shall issue an acknowledgement of receipt of such a Notice to the notifying party.

Article 8. Confidentiality abstention.

Any confidentiality requirement stipulated in the reporting institution's own regulation or in any agreement which is not consistent with this Decree, shall be abstained from enforcement.

Article 9. Combating and deterring measures.

Reporting institutions are obligated to take the following measures to combat and deter money laundering:

- establish an efficient internal monitoring system to ensure the combating and deterring of money laundering;
- put in place and implement policies, plans, systems and mechanisms to efficiently combat and deter money laundering;
- provide training to build knowledgeable and capable personnel for combating and deterring money laundering;
- collaborate with and provide information to concerned authorities for combating and deterring money laundering;
- adopt provisional measures as stipulated under Paragraph 1 of Article 12, of this Decree.

Article 10. Data Collection and Control Officers.

Institutions which are obligated to report on money laundering shall employ Customers' Data Collecting Officers, as well as Control and Reporting Officers.

Article 11. Data Collection and Reporting.

Reporting Institution shall create an Information Center to establish summaries of the collected data relating to its operations.

Control Officers of Reporting Institutions, who know of any act or information, behavior of an individual or organization suspected of having committed a money laundering offence, shall be required to immediately report in writing or through facsimile transmission, to the Money Laundering Intelligence Unit.

Upon noticing a suspicious transaction, the Reporting Institution is able to take provisional measures stipulated under Paragraph 1 of Article 12 of this Decree. In addition, a report shall be made to the Money Laundering Intelligence Unit and the concerned authority for consideration.

Article 12. Application of provisional deterring measures.

In combating and deterring money laundering, the following deterring measures may be applied:

1. Cessation or declining the service;
2. Freezing of account balance;
3. Freezing or confiscating assets;
4. Detaining the offender;
5. Other deterring measures as stipulated under the Law.

The application of the deterring measures shall be made in accordance with the laws and regulations with assurance that the day to day operation of the financial-monetary system will not be adversely affected.

Article 13. Collection of Detailed Information on the Customers.

The Reporting Institutions shall require the customers or their assignees to show identity card, family log book, passport or other documents certifying the identity of the customers or their assignees when entering into a transaction. Photocopies of the documents shall be made to serve as proofs, particularly for transactions that are of high value or suspicious nature. Details on information collection is set out under a separate regulation.

Article 14. Information Retention by the Reporting Institutions.

The Reporting Institutions shall retain and make available to the concerned authorities, all information and documents relating to the reported transactions as follows:

- Information on the customers themselves and the beneficiaries of the transaction collected through the Customers Due Diligence process, shall be retained for at least ten years in accordance with the document retention regulation, starting to count from the date of account closing or the terminating date of the transaction relation;
- Information on customers' transactions shall be retained for at least 5 years starting from the completion date of the transaction.

Article 15. Content of the Report.

Upon observing a money laundering transaction, transaction with value higher than the limit set by the Money Laundering Intelligence Unit, suspicious transaction of general customers or high risk personalities, Reporting Institutions shall urgently report to the Money Laundering Intelligence Unit, with the following principal content:

- First and family names, identity and address of the persons making the transaction;
- First and family names, identity and address of the beneficiaries or those assigned to transact on the others' behalf.
- Details of the transactions, namely the transactions with value greater than the limit set by the Anti-Money Laundering Intelligence Unit or any transaction relating to cash deposits and withdrawals, currency exchanges, transfer, buying–selling of checks and other transactions which appear suspicious of money laundering.

The detailed content of the report is specified in the reporting form developed by the Anti- Money Laundering Intelligence Unit.

Article 16. Confidentiality of the Notice and Report.

Any act of serving a Notice or making a Report on money laundering shall be kept confidential.

Article 17. Currency and precious metal reporting at border.

A person entering or leaving the Lao PDR carrying cash, payment instruments or precious metals exceeding a value determined periodically by the concerned authorities, shall declare the amount in cash, payment instruments or precious metals to the customs officers stationed at the border, using the form developed by the Anti-Money Laundering Intelligence Unit.

The customs officers at the border shall verify the correctness of the declaration and send all such declarations to the Anti-Money Laundering Intelligence Unit.

Article 18. Relation with the High Risk Personalities.

If a customer who is a high risk personality requires to enter into a transaction, the concerned official of the Reporting Institution shall act as follows:

- Request authorization from the Directorate or the Management of the Institution before entering into business relation with such a customer;
- Take all necessary measures to ascertain the source of money or assets;
- Pursue continuously the business relation with such a customer.

Article 19. Foreign Correspondent Banks.

Financial institutions maintaining business relation with correspondent banks abroad or any other similar relation, shall act as follows:

- Verify the correspondent banks' legitimacy as entities with which business relation has been established;
- Collect information on the nature of business operations of their correspondent banks abroad;
- Assess the credibility and conduct of supervision and control activities of their correspondent banks abroad, basing on the information revealed to the public.
- Ensure that prior approval from the Directorate or Management of the Bank has been obtained, each time that the business relation with a foreign correspondent bank is to be established.
- Evaluate the record of Money Laundering control performance of the correspondent banks.

Article 20. Special attention on certain transactions.

Reporting Institutions shall pay special attention to every transaction which is complex and of particularly high value, and transaction which appears irregular and lacks legitimate objective.

Reporting Institutions shall pay special attention to business relation and transaction entered into with an individual and entity, domiciling in a country which does not have money laundering laws and regulations, or having such laws and regulations which have not been strictly enforced.

Article 21. Responsibility of the Supervisory Agencies.

Supervisory Agencies of Reporting Institutions have the following responsibilities:

- Put in place necessary measures to prevent individuals who are not suited to undertake the control function from becoming a member of the Directorate or Management of the Reporting Institutions;
- Supervise and control the Reporting Institutions on a regular basis;

- Issue regulations and guidelines on Customers' Due Diligence;
- Cooperate with other agencies to combat , deter and carry out money laundering prosecution.
- Guide Control Officers of the Reporting Institutions under their purview, to immediately inform the Anti-Money Laundering Intelligence Unit of any suspicious transaction.

Article 22. Protection of notifying and reporting parties.

In order to encourage the notices and reports on money laundering which are very important contribution in deterring and combating money laundering, there needs to be reassurance that notifying and reporting individuals or organizations shall not be considered as having committed an offence of revealing secret information. The Anti-Money Laundering Intelligence Unit shall ensure that such acts of notifying and reporting be kept confidential, and assistance be provided to those making the notices and reports for any damages done to them, as a result of their acts of notifying or reporting.

The confidentiality of the notifying and reporting shall also be maintained for the provision of anti-money laundering information between the Anti-Money Laundering Intelligence Unit of the Lao P.D.R. and the concerned organizations of foreign countries as stipulated under article 27 of this Decree.

Section III

Anti-Money Laundering Intelligence Unit.

Article 23. Location and Mandates

The Anti-Money Laundering Intelligence Unit shall form part of the Bank of Lao P.D.R., having mandates and responsibility in collecting, analyzing and reporting information on money laundering taken place within the country or abroad, to be submitted to the authorities for taking legal action to combat and deter money laundering.

Article 24. Staffing Structure

The Anti-Money Laundering Intelligence Unit shall consist of the Head of the unit, the Deputy Head and some technical staff., which shall be specified under a separate regulation.

Article 25. Rights and Duties.

The Anti-Money Laundering Intelligence Unit shall have the following rights and duties:

- to examine the information on money laundering received from or reported by individuals, organizations and reporting institutions;
- to maintain international relation and cooperation in the area of anti-money laundering as approved by the higher authority;
- to analyze information on money laundering;

- to compile reports for submission to the investigating agency of the police force for legal action, provided that there is evidence to support money laundering suspicion;
- to warn the Reporting Institution about the serious offence which forms the cause and source of money laundering, as specified in Annex 1 of this Decree, by publishing documents on money laundering typologies and methods to detect money laundering to serve as reference for the Reporting Institution in carrying out its reporting duty ;
- to determine the limit for the value of a transaction to serve as the base for the monitoring and reporting duties of the Reporting Institution;
- to issue regulation on Customers' Due Diligence and the reporting of suspicious transactions or transactions with value over the determined limit;
- to advise the Reporting Institution on the appointment of Control Officers to monitor and control the implementation of the regulations issued by the Anti-Money Laundering Intelligence Unit;
- to recommend that the Supervisory Agencies pay close attention on guiding and monitoring the Reporting Institutions under their purview, in order for them to detect and report on money laundering suspicious transactions;
- to establish training program and provide training for its own staff and those of Reporting Institutions in respect of money laundering;
- to report on its activities to the Governor of Bank of the Lao P.D.R., and other concerned government agencies on a regular basis;
- to exercise its other rights and duties as provided under this Decree and as assigned by the Governor.

Article 26. Keeping and Destroying Information and Documents.

The Anti-Money Laundering Intelligence Unit shall keep all information and documents on money laundering cases which have been transmitted to the Investigating Agency of the Police Force for legal proceedings. Other information which have not been transmitted to the Investigating Agency, shall be kept for five years before they could be destroyed.

Article 27. Communication and exchange of information with foreign states.

The Anti-Money Laundering Intelligence Unit receives, sends and exchanges information on money laundering with foreign Anti-Money Laundering Intelligence Unit with which the Lao P.D.R. has signed an agreement, been or not been party thereof. The sending, receipt and exchange of information on money laundering, shall require prior approval of the Government, through the Ministry of Foreign Affairs of the Lao P.D.R.

Information on money laundering sent to or received from foreign states shall be kept confidential and the usage of which shall be controlled. In the event that the receiving party wishes to use the information received as evidence for any legal proceedings, prior approval from the sending party shall be required.

Section IV

International Cooperation in Combating and Deterring Money Laundering.

Article 28. The Responsibility of the State Agency in International Relation.

1. The Bank of the Lao P.D.R. shall consider and implement the International Treaties on the exchange of information on money laundering suspicious transaction, as delegated by the Government
2. The Ministry of Justice, Ministry of National Security and Ministry of Foreign Affairs shall be responsible for negotiating and partaking in the treaties with foreign states, as determined by the Government on the cooperation in combating and deterring money laundering, extraditing criminals and conducting legal proceedings.
3. The Bank of the Lao P.D.R., Ministry of National Security, Ministry of Justice and other concerned authorities shall have the mandate to advise on international cooperation in the area of combating and deterring money laundering.

Article 29. International Cooperation.

International cooperation in combating and deterring money laundering shall be carried out as follows:

1. Coordinate in detecting ,combat and deter money laundering as specified under the Law.
2. Sign and partake in international treaties in combating and deterring money laundering as delegated by the Government.
3. Collect, research and exchange information and experience in the combat of money laundering.
4. Coordinate, Co-operate and mutually assist one another in staff training and raising the level of technical knowledge in combating and deterring money laundering.
5. Implement cooperation agreements on legal proceedings and extradition of criminals as signed or partaken by the Lao P.D.R.

The international relation and cooperation in combating and deterring money laundering shall be established in writing and shall be sent to the Anti-Money Laundering Intelligence Unit of the Bank of the Lao P.D.R. and the Interpol Department of the Ministry of National Security. Electronic mail may be used in the case of urgent requirement of information from foreign state, which shall however, be subsequently followed by a written communication within seven days.

Article 30. Content of and documentation for requesting cooperation.

The content of and documentation for requesting cooperation in combating and deterring money laundering consist of :

- Name of country and requesting Agency;
- Name of country and Agency of the country receiving the request;
- Content, objective and time frame of the request;
- Other details on assets and the offenders;
- Copies of proof documents and other agreements of the requesting country's authority.

Article 31. Declining of the request.

The concerned authority for combating and deterring money laundering may decline the request of the foreign state, in the event that :

- Such a request may affect the national sovereignty and security or the major interest of the Lao P.D.R.;
- Such a request is not consistent with the terms of the treaty signed or partaken by the Lao .P.D.R.;
- The request is not consistent with Article 29 of this Decree;
- The request for the extradition of an offender against whom the Lao P.D.R. is conducting legal proceedings for money laundering.

In declining the request of a foreign state, the concerned authority shall inform the requesting country in writing.

Section V

Rewards for good performers and punishment measures for Offenders.

Article 32. Rewards for good performers.

Individuals or organizations with outstanding performance in respect of the implementation of this Decree through: notifying, reporting, carrying out intelligence activity or making other contribution toward combating and deterring money laundering, shall be duly honored and otherwise rewarded in accordance with the existing regulation.

Article 33. Punishment measures for the offenders.

Any individual, entity or organization carrying out or partaking in money laundering shall be duly punished in accordance with the existing laws and regulations.

Reporting Institutions which fail to report as stipulated under this Decree, shall be reprimanded by the agency in charge of supervising the Reporting Institutions. After the reprimand and upon continued violation, the offender shall be penalized with the fine amounting from ten to thirty million Kip and duly punished in accordance with the existing law.

Section VI

Final Provisions

Article 34. Implementation

The Bank of the Lao P.D.R. and the Ministry of National Security shall issue the guideline for implementing this Decree within the limit of their respective authority.

The Ministries, Agencies, Capital City and Provinces shall recognize and strictly implement this Decree.

Article 35. Effectiveness

This Decree shall become effective after ninety days from the date of signing by the Prime Minister of the Lao P.D.R. Any other stipulation and regulation previously issued which are inconsistent with the content of this Decree shall become null and void.

Prime Minister of the Lao P.D.R.

(Signed and sealed)

Boun yang Vorachith

Annex 1.

Criminal offences which are considered as serious offences for money laundering are as follows:

- Terrorism;
- Financing of terrorism ;
- Human trafficking and smuggling;
- Sexual exploitation;
- Human export or illegal migration;
- Production, sales and possession narcotic drugs;
- Illicit arms and dynamite trafficking;
- Concealment and trafficking of peoples' property;
- Corruption;
- Receipt and giving bribes;
- Swindling;
- Embezzlement;
- Robbery;
- Property stealing and seizing;
- Counterfeiting and using counterfeit money;
- Murder, grievous bodily injury;
- Illegal apprehension and detention;
- Violation of state tax rules and regulations;
- Extortion;
- Check forgery, illicit usage false checks or bonds and other financial instruments;
- And any other crimes in respect of which a penalty may include a sentence to prison for a period of one year or more.

Annex 2.

Reporting Institution consists of:

- Commercial banks;
- Financial institutions;
- Insurance companies;
- Casinos, games, lottery ;
- All types of loan making and credit providing companies;
- Pawn shops;
- Financial leasing companies;
- Currency transfer companies;
- Companies or agents for sales and management of payment instrument such as: credit cards, traveler cheques, bank drafts and others;
- Securities companies or companies that provide financial services relating to the trading of securities;
- Foreign exchange shops;
- Companies that provide investment service, or manage capital on the behalf of other individuals or legal entities;
- Dealers in precious metals and antiques;
- Attorney offices and Notary offices;
- And any others as additionally provided by the Bank of the Lao P.D.R.