

Title Money Laundering Control Act

Amended Date 2009.06.10

Article 1 This Act is explicitly enacted to regulate unlawful money laundering activities and to eradicate related serious crimes.

Article 2 As used in this Act, “money laundering” include the following behaviours:

1. Knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves or;
2. Knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others.

Article 3 As used in this Act, “serious crimes” include the following crimes:

1. Crimes for which the minimum punishment is 5 years or more imprisonment.
2. Crimes prescribed in Articles 201 and 201-1 of the Criminal Code.
3. Crimes prescribed in Paragraph 3 of Article 240, Paragraph 2 of Article 241, and Paragraph 1 of Article 243 of the Criminal Code.
4. Crimes prescribed in Paragraph 1 of Article 296, Paragraph 2 of Article 297, Paragraph 2 of Article 298, and Paragraph 1 of Article 300 of the Criminal Code.
5. Crimes prescribed in Paragraphs 2 to 4 of Article 23, and Paragraph 2 of Article 27 of the **Child and Youth Sexual Transaction Prevention Act**.
6. Crimes prescribed in Paragraphs 1 to 3 of Article 12, Paragraphs 1 and 2 of Article 13 of the **Controlling Guns, Ammunition and Knives Act**.
7. Crimes prescribed in Paragraph 1 of Article 2, Paragraph 1 of Article 3 of the **Punishment of Smuggling Act**.
8. Crimes prescribed in Subparagraph 1, Paragraph 1 of Article 171 of the Securities and Exchange Act, in violation of Paragraphs 1 and 2 of Article 155, or Paragraph 1 of Article 157-1, Subparagraphs 2 and 3 of Paragraph 1 of Article 171, and Subparagraph 8 of Paragraph 1 of Article 174 of the Securities and Exchange Act.

9. Crimes prescribed in Paragraph 1 of Article 125, Paragraph 1 of Article 125-2, Paragraph 4 of Article 125-2 applicable to Paragraph 1 of Article 125-2, and Paragraph 1 of Article 125-3 of the Banking Act.
10. Crimes prescribed in Articles 154 and 155 of the Bankruptcy Law.
11. Crimes prescribed in Paragraph 1 and second part of Paragraph 2 of Articles 3, Article 4 and Article 6 of the Organized Crime Prevention Act.
12. Crimes prescribed in Paragraph 1 of Article 39 and Paragraph 1 of Article 40 of Agricultural Finance Act.
13. Crimes prescribed in Paragraph 1 of Article 58 and Paragraph 1 of Article 58-1 of **the Act Governing Bills Finance Business..**
14. Crimes prescribed in Paragraph 1 of Article 168-2 of the Insurance Law.
15. Crimes prescribed in Paragraph 1 of Article 58 and Paragraph 1 of Article 57-1 of the Financial Holding Company Act.
16. Crimes prescribed in Paragraph 1 of Article 48-1 and Paragraph 1 of Article 48-2 of the Trust Enterprise Act.
17. Crimes prescribed in Paragraph 1 of Article 38-2 and Paragraph 1 of Article 38-3 of the Credit Cooperative Act.
18. Crimes prescribed in Article 11 of this Act.

The following crimes also fall into the category of “serious crimes” if the property or property interests obtained from the commission of the crime(s) exceeds NT 5 million dollars:

1. The crimes prescribed in Paragraph 2 of Article 336 and Article 344 of the Criminal Code.
2. The crimes prescribed in Paragraph 1, the second half of Paragraph 2 to Paragraph 6 of Article 87, Article 88, Article 89, Paragraph 1, second half of Paragraph 2 and Paragraph 3 of Article 90, Paragraph 1, second half of Paragraph 2 and Paragraph 3 of Article 91 of the Government Procurement Act.

Article 4 As used in this Act, the “property or property interests obtained from the commission of the crime” means:

1. The property or benefits on property obtained directly from the commission of the crime.
2. The remuneration obtained from the commission of the crime.
3. The property or property interests derived from the preceding two subparagraphs. This provision, however, is not applicable to a third party who obtains in good faith.

Article 5 As used in this Act, the “financial institutions” include the following institutions:

1. banks;
2. trust and investment corporations;
3. credit cooperative associations;
4. credit department of farmers’ associations;
5. credit department of fishermen’ s associations;
6. Agricultural Bank of Taiwan;
7. postal service institutions which also handle the money transactions of deposit, transfer and withdrawal;
8. negotiable instrument finance corporations;
9. credit card companies;
10. insurance companies;
11. securities brokers;
12. securities investment and trust enterprises;
13. securities finance enterprises;
14. securities investment consulting enterprises;
15. securities central depository enterprises;
16. futures brokers;
17. trust enterprises;
18. other financial institutions designated by the competent authorities of enterprises bearing financial purposes..

The provisions governing financial institutions of this Act apply to the following institutions:

1. Jewelry retail businesses
2. Other financial institutions likely to be used for money laundering and designated by the Ministry of Justice in consultation with central competent authorities governing target businesses.

If the central competent authorities governing target businesses of financial institutions set forth in the preceding two paragraphs are

ambiguous, the Executive Yuan shall designate the authorities in charge of.

The Ministry of Justice may, as it deems necessary, require the institutions set forth in the Paragraphs 1 and 2 of this Article to accept monetary instruments other than cash as payment for financial transactions.

Article 6 Every financial institution referred to in this Act shall establish its own money laundering prevention guidelines and procedures, and submit those guidelines and procedures to the central authorities governing target businesses for reference. The content of the money laundering prevention guidelines and procedures shall include the following items:

1. The operation and the internal control procedures for money laundering prevention;
2. The regulatory on-job training for money laundering prevention instituted or participated in by the financial institution referred to in this Act;
3. The designation of a responsible person to coordinate and supervise the implementation of the established money laundering prevention guidelines and procedures;
4. Other cautionary measures prescribed by the central authorities governing target businesses .

The money laundering prevention guidelines and procedures of financial institutions mentioned in the Paragraph 2 of the preceding Article may be directly prescribed by the central authorities governing target businesses.

Article 7 For any currency transaction exceeding a certain amount of money, the financial institutions referred to in this Act shall ascertain the identity of customer and keep the transaction records as evidence, and submit the currency transaction, the customer' s identity and the transaction records to the Investigation Bureau, Ministry of Justice.

The amount and the scope of the currency transaction, the procedures for ascertaining the identity of the customer, and the method and length of time for keeping the transaction records as evidence referred to in the preceding paragraph shall all be established by the central authorities governing target business in consultation with the Ministry of Justice and the Central Bank.

Any financial institution which violates the provisions set forth in Paragraph 1 of this Article shall be punished by a fine between NT 200,000 dollars and NT 1 million dollars.

Article 8 For any financial transaction suspected of relating to the crimes prescribed in Article 11 herein, the financial institutions referred to

in this Act shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the Investigation Bureau, Ministry of Justice. This provision also applies even if the transaction is not completed.

The reporting financial institution will be discharged from its confidentiality obligation to the customer when reporting the suspect financial transaction in compliance with the preceding paragraph of this Article.

The scope and procedures of the reporting referred to in Paragraph 1 of this Article shall all be stipulated by the central authorities governing target businesses in consultation with the Ministry of Interior, the Ministry of Justice and the Central Bank.

Any financial institution which violates the provisions set forth in Paragraph 1 of this Article shall be fined between NT200, 000 dollars and NT 1 million dollars. However, if the financial institution is able to prove that the cause of such violation is not attributable to the intentional act or negligent act of its employee(s), no fine shall be imposed.

Article 9

Whenever the prosecutor obtains sufficient evidence to prove that the offender has committed a crime prescribed in Article 11 herein by using banking account, remittance, currency transaction or other means of payment, the prosecutor may request the court to order the financial institution to freeze the transactions and funds for forbidding the withdrawal, transfer, payment, delivery, assignment or to make other necessary disposition for a period not more than 6 months. The prosecutor based on their own authority may take the mentioned actions as above and request the court' s approval within three days whenever the prosecutor has reasonable ground to believe the property or property interests obtained by from the commission of crime is likely to disappear under exigent circumstances, but the actions must be immediately suspended if the prosecutor fails to obtain the court' s approval within three days or the prosecutor does not petition for approval from the court within three days.

During the trial proceeding, the presiding judge has discretion to order a financial institution to freeze the transactions and funds for forbidding the withdrawal, transfer, payment, delivery, assignment or to make other necessary disposition ex officio.

The orders as described in the preceding paragraph must be in written form and meet the requirements set forth in Article 128 of the Criminal Procedure Code.

When deemed necessary, applications for extension of the period referred to in Paragraph 1 shall be made by the public prosecutor with specific reasons and submitted to the court not later than 5 days prior to the expiration of the period. The extension shall not

exceed 6 months and only one extension is allowed.

Paragraph 1 and the preceding paragraph of this Article shall also apply to the foreign governments, foreign institutions or international organizations requesting this government to assist on money laundering cases based on the treaties or agreements entered with this government or based on the principle of reciprocity according to Article 16, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such activity is not being investigated or tried in this jurisdiction. The provisions set forth in Chapter 4 of the Criminal Procedure Code with respect to interlocutory appeal shall apply to the orders referred to in Paragraphs 1, 2 and 4.

- Article 10 Cross-Border Passengers or Service Crew on Board of Transport carry the following items shall make declarations to the customs. The customs shall forward subsequently to the Investigation Bureau, Ministry of Justice.
1. Cash of foreign currency with total amount exceeding a certain amount.
 2. Negotiable securities with face value exceeding a certain amount.
- The regulations of aforementioned threshold of certain amount of currency and negotiable securities, the scope, procedures and other matters in relation to declaration and forwarding shall be stipulated by the Ministry of Finance in consultation with the Ministry of Justice, the Central Bank, and the Financial Supervisory Commission of the Executive Yuan.
- Foreign currencies carried but failed to declare in accordance with the provision in Paragraph 1 shall be confiscated. In the event of untruthful declaration with regard to the amount of foreign currency carried, the amount exceeding the number declared shall be confiscated; Failure to make declaration with regard to the amount of negotiable securities carried according to Paragraph 1 or in the event of untruthful declaration, a fine equivalent to the amount not declared or not truthfully declared shall be imposed.

- Article 11 Whoever engages in money laundering activity referred to in Subparagraph 1, Paragraph 1 of Article 2 shall be sentenced to imprisonment for not more than five years; in addition thereto, a fine of not more than NT 3 million dollars may be imposed. Whoever engages in money laundering activity referred to in Subparagraph 2, Paragraph 1 of Article 2 shall be sentenced to imprisonment for not more than seven years; in addition thereto, a fine of not more than NT 5 million dollars may be imposed. Any person who collects or provides property or property interests for him or herself or others to commit any of the following

crimes, thereby intimidating the public or threatening the government, a foreign government or institution, or an international organization shall be sentenced to imprisonment for not less than 1 year and not more than 7 years; in addition thereto, a fine of not more than NT 10 million dollars may be imposed:

1. Crimes prescribed in Paragraph 1 and Paragraph 3 of Article 173, Article 176 to which Paragraph 1 and Paragraph 3 of Article 173 apply mutatis mutandis, Paragraph 1 and Paragraph 3 of Article 178, Paragraph 1 and Paragraph 4 of Article 183, Paragraph 1, Paragraph 2 and Paragraph 5 of Article 184, Article 185, Paragraph 1 to Paragraph 5 of Article 185-1, Article 185-2, Paragraph 1, Paragraph 2 and Paragraph 4 of Article 186-1, Article 187-1, Paragraph 1, Paragraph 2 and Paragraph 4 of Article 187-2, Article 187-3, Article 188, Paragraph 1, Paragraph 2 and Paragraph 4 of Article 190, Paragraph 1 to Paragraph 3 of Article 190-1, Article 191-1, Paragraph 2 of Article 192, Paragraph 1 and Paragraph 2 of Article 271, Article 278, Article 302, Paragraph 1 to Paragraph 3 of Article 347, Article 348, and Article 348-1 of Criminal Code.
2. Crimes prescribed in Article 7 of the **Controlling Guns, Ammunition and Knives Act**.
3. Crimes prescribed in Article 100 of Civil Aviation Act.

The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging in money laundering activities referred to in the preceding three paragraphs during the course of conducting normal business operation shall be punished accordingly. In addition, the legal entity or the natural person shall also be fined accordingly, but this is not applicable to the representative of a legal entity or a natural person who has done the best to prevent or stop the money laundering activities. After committing the crimes referred to in the preceding four paragraphs, if the offender surrenders to the authorities within six months, the punishment shall be exempted; if the surrender is over six months, the punishment shall be reduced or exempted; if the offender confesses during the custodial interrogation or the trial, the punishment shall be reduced.

The punishments of crimes prescribed in Paragraph 1 to Paragraph 3 hereof shall apply to the nationals who commit the crimes outside the territory.

Article 12 Any person engages in the money laundering activity referred to in Subparagraph 2 of Paragraph 1 of Article 2 but the property or property interests obtained from a serious crime or crimes which committed by his or her lineal relatives, spouse or any other

relatives living together or jointly owning the property, the punishment may be reduced.

Article 13 Any government official who discloses or turns over a reported transaction suspected of committing a crime prescribed in Article 11 herein or documents, pictures, information or things relating to an alleged crime prescribed in Article 11 herein to others shall be sentenced to imprisonment for not more than three years.

Any employee of a financial institution without a government official position discloses or hands over a reported transaction suspected of committing a crime prescribed in Article 11 herein or documents, pictures, information or things relating to an alleged crime prescribed in Article 11 herein to others shall be sentenced to imprisonment for not more than two years, detention, or a fine of not more than NT 500,000 dollars.

Article 14 The property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 11 of this Act, other than that which should be returned to the injured party or a third party, shall be confiscated, regardless of whether the property or property interests belong to the offender or not. Whenever the above property or property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender.

The offender's property may be seized, if necessary, to recover the property or property interests mentioned in the preceding paragraph.

The preceding two paragraphs of this Article also applies to foreign governments, foreign institutions or international organizations requesting this government to assist on money laundering cases based on the treaties or agreements entered with this government or based on the principle of reciprocity according to Article 16, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such activity is not being investigated or tried in this jurisdiction.

Article 15 The property or property interests confiscated, other than cash, investment securities or negotiable instruments, may be distributed by the Ministry of Justice to the prosecutor offices, the judicial police departments, or other government agencies assisting the investigation of the money laundering activities for official use, in accordance with the provisions set forth in Paragraph I of the preceding Article

The Ministry of Justice may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which assisting this government to execute the confiscation of the property or property interests obtained from the commission of a crime.

The Executive Yuan shall promulgate regulations for management, distribution and use of the property or property interests mentioned in the preceding two paragraphs.

Article 16 The government may, based on the principle of reciprocity, enter into cooperative treaties or other international written agreements relating to the prevention of money laundering activities with foreign governments, institutions or international organizations. With regard to the request for assistance by foreign governments, institutions or international organizations, unless provisions otherwise stipulated in the applicable treaties or agreements, the declared or reported information according to Articles 7, 8 , 10 and the related investigation result can be provided based on the principle of reciprocity.

Article 17 This Act shall go into effect upon promulgation.