

LAW OF MONGOLIA

31 May 2013

Ulaanbaatar city

**LAW ON COMBATING MONEY LAUNDERING
AND TERRORISM FINANCING**

**CHAPTER ONE
GENERAL PROVISIONS**

Article 1. Purpose of the Law

1.1. The purpose of this Law is to combat money laundering and terrorism financing and to establish legal basement of organizing preventive measures against money laundering and terrorism financing.

Article 2. Legislation

2.1. The law on combating money laundering and terrorism financing shall consist of the Constitution of Mongolia, the Criminal Code, this Law and other legal acts adopted in conformity with these laws.

2.2. If an international treaty to which Mongolia is a party is inconsistent with this Law then the provisions of the international treaty shall prevail.

Article 3. Definitions of terms

3.1. The meaning of the following terms used in this Law shall be as follows:

3.1.1. “Money laundering” means the acquisition, conversion or transfer of an asset knowing that the asset is the proceeds of crime or the concealment or disguise of the illicit origin of the asset, transfer of rights of ownership of the asset, conversion of the true nature, location of that asset for the purposes of making the assets’ appearance as legal.

3.1.2. “Terrorism financing” means the provision, collection or transfer of asset directly or indirectly, in the knowledge that they are to be used to carry out a terrorist act or to finance a terrorist organization, or an individual terrorist.

3.1.3 “Cash transaction” means a transaction involving local and foreign currency as well as checks, bills and securities widely used in international settlement.

3.1.4. "Non cash transactions" means transactions involving internationally accepted payment orders, invoices, letters of credit, collection service, payment cards, electronic settlements, leverage, loan and other non-cash payments;

3.1.5. "Politically exposed person" is defined as pursuant to Article 20.2 of Law on preventing from conflict of interest and regulating public and private interest in civil service.

3.1.6. "Beneficial owner" means the natural person who directs or controls a customers' action or activity; or the natural person on whose behalf a transaction is being conducted; or the natural person who ultimately owns a customer if that customers ownership is exercised by one or more companies in a chain of ownership.

3.1.7. "Shell bank" means a bank incorporated and licensed in a jurisdiction in which it has no physical presence.

3.1.8. "Customer" means a person who is using services provided by the entities described in Article 4.1;

3.1.9. "Asset" is defined as pursuant to Article 83 of Civil Code of Mongolia.

CHAPTER TWO PREVENTIVE MEASURES

Article 4. Entities described in Article 4.1

4.1. The following entities shall report to the Financial Information Unit described in Article 16.1 of this Law on transactions described in Article 7 of this Law:

- 4.1.1. banks;
- 4.1.2. non-bank financial institutions;
- 4.1.3. insurance companies;
- 4.1.4. investment funds;
- 4.1.5. licensed securities market entities;
- 4.1.6. savings and credit cooperatives;
- 4.1.7. real estate agents;
- 4.1.8. notaries;

4.2. Entities described in Article 4.1 shall not open an anonymous or numbered account or an account in fictitious names or make a transaction from or to such accounts, or use closed accounts.

Article 5. Knowing the customer

5.1. Entities described in Article 4.1 shall identify and verify customer information based on reliable independent sources of information or documents in the following circumstances:

5.1.1. prior to establishing a business relation;

5.1.2. prior to conducting a occasional transactions equal to or more than 20 million togrogs (or equivalent foreign currency) of natural and legal persons who has not established consistent business relations and who has no permanent bank account;

5.1.3. if the total sum of several inter-related transactions made within 24 hours is 20 million togrogs (equivalent foreign currency) or above even the individual value of any of these transactions is less than the threshold specified in Article 5.1.2;

5.1.4. if there are doubts about the veracity and accuracy of previously obtained information on customers;

5.1.5. if there are grounds to suspect that the customer or the transaction is involved with money laundering or terrorism financing;

5.2. For the purposes of identifying and verifying customer information pursuant to Article 5.1 the information that entities described in Article 4.1 must obtain from their customers shall include:

5.2.1. if the customer is an individual, the customer's full name, date of birth, registration number, and a copy of his or her citizen's identify card (an officer who receives the information shall verify it with the original document and make the note about the authenticity free of charge), notarized copy of an identity card if delivered by post;

5.2.2. if the customer is a legal entity, its name, address, national registration and tax payer number, contact phone number, a copy of its national registration certificate (an officer who receives the information shall verify it with the original document and make note about the authenticity free of charge), notarized copy of the document if delivered by post and detailed information on its management;

5.2.3. The information on the nature of the business relationship, description of transaction and beneficiary of wire transfers for the purposes of understanding and knowing whether the account is opened or transaction is conducted on behalf of a beneficial owner;

5.2.4. if the customer is a legal entity, entities described in Article 4.1 shall identify the name and the surname of a beneficial owner, and take reasonable measures to verify the identity of the beneficial owner, and understand the ownership and control structure of that customer.

5.2.5. if the customer is a legal person or arrangement entities described in Article 4.1 shall verify that any person purporting to act on behalf of the customer is so authorized, and should identify and verify the identity of that person;

5.2.6. full name, registration number, residential address, contact phone number of a sender and a receiver of wire transfers between banks and other financial institutions;

5.3. Any other requirements related to the enhanced customer due diligence shall be regulated by a regulation approved by the Governor of the Bank of Mongolia;

5.4. Entities described in Article 4.1 are obligated to refuse to provide service if a customer refuses to provide information as indicated in Article 5.2;

5.5. Entities described in Article 4.1 shall pay special attention to transactions conducted by new or developing technologies and take certain measures to prevent the associated risks of money laundering and financing of terrorism that may arise from these transactions;

5.6. Entities described in Article 4.1.1 shall obtain following information prior to opening a correspondent account in a foreign bank to make international remittance, transfer, or payment:

5.6.1. Information on determining a basic function of the bank;

5.6.2. Information on a reputation of the bank from the public sources and from the relevant authority that the bank is regulated;

5.6.3. Assess the respondent's AML/CFT policies, internal monitoring programs

5.6.4. Inquiry whether the bank has been investigated or linked to money laundering and terrorist financing activity or has been subject to regulatory actions.

5.7. Entities described in Article 4.1.1 shall refuse to enter into a correspondent banking relationship with shell banks or banks that have correspondent relations with shell banks;

5.8. Entities described in Article 4.1 shall identify high risk categories of business relations and transactions and apply enhanced customer due diligence measures in the case of high risk business relations;

Article 6. Transactions of special monitoring

6.1. Entities described in Article 4.1 shall undertake special monitoring of the following transactions:

6.1.1. transactions with unusually large amount;

6.1.2. transactions that have not apparent or visible economic or lawful purpose;

6.1.3. transactions conducted in the name of a politically exposed persons;

6.1.4. transactions made via countries that are defined by the international organizations responsible for anti money laundering and combating of financing of terrorism as strategically deficient in anti money laundering and combating the financing of terrorism;

6.2. Entities described in Article 4.1 shall undertake all possible measures to obtain additional information or an explanation of the transactions described in Article 6.1 of this Law and examine the background, source of funds and purpose of transactions or business relationships and findings shall be kept in writing.

Article 7. Reporting of transactions

7.1 Entities described in Article 4.1 shall report about cash and foreign transactions above 20 million togrog to the Financial Information Unit within 5 working days consistent with approved by FIU procedures and formats.

7.2. If a reporting entity suspects or knows that an asset or transaction or attempted transaction is related to money laundering or terrorism financing or is related to proceeds of crime it shall submit a report to the Financial Information Unit within 24 hours in accordance to the approved by the Financial Information Unit procedures and formats.

7.3. Entities described in Article 4.1 shall deliver the information to the Financial Information Unit by fax, in electronic form, or in writing by the prescribed by the Financial Information Unit forms and procedures.

7.4. Entities described in Article 4.1 shall provide information to the competent law enforcement authorities and authorities responsible for anti-terrorism on specific transactions and their participants in accordance with the procedure jointly adopted by the Governor of the Bank of Mongolia and the Member of the Government in charge of legal affairs.

Article 8. Retaining information and documentation on customers.

8.1. Entities described in Article 4.1 of this law shall retain information and records of transactions, accounts and information of customers obtained in accordance with Article 5 and 6 of this law for at least five years after the date of transaction and the closure of the account.

8.2. Entities specified in Article 4.1 of this law shall keep records and information specified in Article 8.1 of this law in a way that they can be made available on timely basis to competent authorities.

Article 9. Information on suspicious transactions

9.1. The following information on suspicious transaction shall be submitted to the Financial Information Unit:

9.1.1. Name and addresses of the entities specified in Article 4.1 of this law and the identity of the officials who submitted the information;

9.1.2. Information on customers and beneficiaries;

9.1.3. Information on purpose, value, form, date, account number, account holder and other participants of the transaction;

9.1.4. Brief explanation of grounds and circumstance to suspect the transaction;

9.1.5. Other related documents.

Article 10. Monitoring of accounts

10.1. If there are grounds to suspect that an account of a customer of an entity specified in Article 4.1 of this law is used for money laundering and terrorism financing purposes the Financial Information Unit may monitor that account.

Article 11. Asset freezing, suspension

11.1. If there are grounds to suspect that a transaction is used for the purposes of money laundering or terrorism financing the Head of the Financial Information Unit may suspend the transaction up to 3 working days and a court shall extend the period if required.

11.2. The decision specified in Article 11.1 of this law shall be delivered to the reporting entity in writing, or, if this not possible, by phone and the written decision shall be delivered within 24 hours.

11.3. During the suspension of a transaction initiated in accordance with Article 11.1 of this law, the Financial Information Unit shall undertake the following measures;

11.3.1. Obtain necessary information from related local and foreign institutions;

11.3.2. If the established facts are sufficient to suspect that the given transaction had the purpose of money laundering or terrorism financing, then it shall be reported to the competent authorities and the related documents shall be sent to those parties for investigation;

11.3.3. If it is established that the given transaction did not have the purpose of money laundering or terrorism financing, then the suspension decision shall be annulled and the reporting entity shall be immediately informed.

Article 12. Relieving from liabilities.

12.1. The provision of reports by entities described in Article 4.1 to the Financial Information Unit and competent authorities, in accordance with provision of this Law, shall not be considered as a breach of banking and professional confidentiality.

12.2. Notwithstanding that the transaction to which a report relates was established not to have the purpose of money laundering or terrorism financing, it will not be accountable for entities described in Article 4.1.

12.3. Neither the Financial Information Unit nor entities described in Article 4.1 are liable for any damages arising from the suspension of a specific transaction, in accordance with Article 11 of this Law.

12.4. If damages are inflicted on a person or legal entity due to wrongful actions undertaken by a reporting entity and Financial Information Unit, then the damages issue shall be settled according to the related laws.

Article 13. Confidentially of reports

13.1. Entities described in Article 4.1 and the Financial Information Unit are prohibited from disclosing information on customers' transaction to any other person other than as provided for in Article 7.4 of this Law.

13.2. The Head, supervisors, analysts and other officers of the Financial Information Unit shall not disclose at any time confidential information related to customers' transactions other than for purposes authorised by this Law even after the end of his/her tenure.

Article 14. Internal monitoring of entities described in Article 4.1.

14.1. Entities described in Article 4.1 shall develop and implement an internal monitoring program to combat money laundering and terrorism financing. The program shall contain the following:

14.1.1. Policies and procedures on detecting suspicious transactions, security and confidentiality of information, reporting and transfer of information and documents to the Financial Information Unit and other competent authorities.

14.1.2. Rules and procedures for the appointment and discharge of compliance officers responsible for the supervision and implementation of laws and regulations related to combating money laundering and terrorism financing, powers and obligations of compliance officers and the implementation of the rules provided for in Article 14.1.1 of this Law.

14.1.3. Requirement for providing training for the compliance officers provided for in Article 14.1.2 of this Law.

14.1.4. Assessment of their money laundering or terrorist financing risk in relation to their customers, services and products and procedures in relation to enhanced customer due diligence in case of higher risk customers.

14.2. The program provided for in Article 14.1 of this Law shall be submitted for registration to the Financial Information Unit.

Article 15. Transportation of currency across the borders of Mongolia

15.1. Travellers carrying more than 15 million togrogs or equivalent amount of foreign currency, bearer negotiable instruments, e-money across the Mongolian border shall declare faithfully in declaration forms.

15.2. Mongolian Customs General Administration shall consolidate cash declarations made under Article 15.1 of this Law and transmit to the Financial Information Unit every month according to the relevant regulations.

15.3. The Format of declaration forms for the purpose of Article 15.2 shall be approved by the Head of the Mongolian Customs General Administration in consultation with the Head of the Financial Information Unit.

CHAPTER THREE

RIGHTS AND RESPONSIBILITIES OF STATE COMPETENT AUTHORITIES

Article 16. Financial Information Unit

16.1. The Financial Information Unit is the autonomous and independent agency whose functions are to receive information specified in Article 7 of this law from entities stipulated in Article 4.1 of this law, analyze them, and disseminate to the competent law enforcement authorities if transactions and transaction attempts are suspected to be related to money laundering or terrorism financing.

16.2. The Financial Information Unit shall be established at the Bank of Mongolia.

16.3. The strategic plan, structure, budget of the Financial Information Unit shall be approved by the Governor of the Bank of Mongolia based on the proposal made by the Cooperation Council.

16.4. The Head of the Financial Information Unit shall be appointed and dismissed by the Governor of the Bank of the Mongolia in consultation with the head of the competent law enforcement authority.

16.5. The Head of the Financial Information Unit shall meet the following requirements:

16.5.1. At least 5 years of relevant professional experience in banking, financial or legal sector;

16.5.2. Have no overdue debts or liabilities;

16.6. The supervisors of the Financial Information Unit shall meet the following requirements:

16.6.1. At least 2 years of relevant professional experience in banking, financial or legal sector;

16.6.2. Have no overdue debts or liabilities;

16.7. The Head of the Financial Information Unit shall be the senior state inspector, and supervisor and analyst of the Financial Information Unit shall be state inspectors of financial information.

16.8. The Governor of Bank of Mongolia shall certify the senior state inspector and the senior state inspector shall certify the state inspector.

16.9. The Head, supervisors, and analysts of the Financial Information Unit shall have the power to obtain inquiry from government agencies for the purposes of conducting supervision and perform duties prescribed in this law, if required.

Article 17. Rights and responsibilities of competent law enforcement authority

17.1. The representatives of competent law enforcement authority shall be seconded in the Financial Information Unit.

17.2. The representatives of competent law enforcement authority shall have the rights to conduct supervision and obtain inquiry pursuant to Article 16.9 of this law.

17.3. The representatives under Article 17.1 of this law shall be appointed or dismissed by the Head of Financial Information Unit with the agreement of the head of competent law enforcement authority.

17.4. Joint working group of the Financial Information Unit and competent law enforcement authority can be established, if required.

Article 18. Functions of the Financial Information Unit

18.1. The Financial Information Unit shall have the following functions, in addition to those provided in Article 10 and 11 of this law:

18.1.1. To receive, collect, and analyze information reported from entities stipulated in Article 4.1 of this law and as well as information in database of relevant local and foreign institutions;

18.1.2. To disseminate information to competent law enforcement authorities and anti terrorism agencies according to regulation if sufficient grounds to suspect transaction found that transactions are related to money laundering, terrorism financing, and other criminal

activities, and to compile database on reports of suspicious, cash and non cash transactions submitted to competent authorities;

18.1.3. To provide feedback on a timely basis about measures taken on suspicious, cash and non cash transaction reports to entities described in Article 4.1 stipulated in Article 4.1 of this law and competent law enforcement authorities;

18.1.4. Develop and provide methodology to monitor and detect suspicious transactions and examine information related to money laundering and terrorism financing and monitor its implementation by the entities specified in Article 4.1;

18.1.5. To enhance public awareness to combat and prevent money laundering and terrorism financing;

18.2. The supervisors of the Financial Information Unit shall have the power to examine the compliance of the laws to combat money laundering and terrorism financing and to require rectification of any breaches of the Law by entities described in Article 4.1, or to make recommendations to the competent authorities for further action including the cancellation of special licenses.

18.3. Financial Information Unit shall monitor how entities described in Article 4.1 and their officers fulfill their obligations imposed by this law.

18.4. The Financial Information Unit shall submit annual report of its activities on a yearly basis to the Financial stability council.

18.5. The Financial Information Unit shall have right to require inquiry of state registration, property registration, social insurance registration, border crossing registration, investment registration, records of transactions between banks from competent authorities for the purposes of performing duties prescribed in this law.

Article 19. Monitoring and ensuring compliance of entities described in Article 4.1

19.1. The Bank of Mongolia shall supervise and regulate entities stipulated in provision 4.1.1 of this law and the Financial Regulatory Commission and the Financial Information Unit shall supervise and regulate entities stipulated in provisions 4.1.2 through 4.1.7 of this law to ensure compliance with their obligations imposed by this Law and relevant regulations.

19.2. The Bank of Mongolia, Financial Regulatory Commission, and Financial Information Unit shall take the following actions in relation to monitoring compliance with this law.

19.2.1. To take the necessary measures to establish appropriate criteria applicable to this Law, to take part directly or indirectly in the directorship, management, or operation of entities stipulated Article 4.1 of this law;

19.2.2. Supervise and regulate entities stipulated in Article 4.1 of this Law to ensure compliance with their obligations imposed by this Law;

19.2.3. To issue instructions, regulations, guidelines, and recommendations for compliance of obligations imposed by this law on entities described in Article 4.1 of this Law;

19.2.4. To cooperate with and exchange information with other competent authorities and provide assistance in investigations, prosecutions, or proceedings related to money laundering and terrorism financing;

19.2.5. Financial Information Unit and competent authorities shall develop standards and criteria applicable to the reporting of suspicious transactions;

19.2.6. Publicize and maintain statistics concerning measures adopted and sanctions imposed in enforcing this Law;

Article 20. Database

20.1. The Financial Information Unit shall have a unified database of information compiled in accordance with the provisions of this Law.

20.2. The regulation on storage and use of information in the database shall be approved by the Head of the Financial Information Unit.

Article 21. Cooperation with similar foreign institutions

21.1. Financial Information Unit shall cooperate with foreign institutions and international organizations which conduct similar activities and have similar confidentiality requirements imposed by law.

21.2. Financial Information Unit may provide the required information at the request of the institutions provided for in Article 20.1 and in accordance with the respective laws.

CHAPTER FOUR MISCELLANEOUS

Article 22. Cooperation Council

22.1. The Cooperation Council, whose functions shall be to ensure the implementation of laws related to combating the money laundering and terrorism financing, to exchange information, to mitigate risk, to prepare recommendations on preventative measures shall be established at the Financial Information Unit.

22.2. The Cooperation Council shall be consisted of representatives of Ministries in charge of foreign relation, finance and justice, Prosecutor office, Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the Financial Information Unit.

22.3. The function of working office of Cooperation Council shall be implemented by the Financial Information Unit.

22.4. The rules, composition and management of the Cooperation Council shall be approved by the Governor of the Bank of Mongolia.

Article 23. Liabilities to be imposed on those who breach the Law.

23.1 Liabilities in accordance with respective law shall be imposed on those who breach this Law.

Article 24. Coming into force

24.1. This law shall come into force on 31 May, 2013.

Speaker of
the Great Khural
of Mongolia

Z.Enkhbold