

# **The Anti-Money Laundering Law**

**The Pyidaungsu Hluttaw Law No.11, 2014**

**The 14<sup>th</sup> Waning of Tabaung, 1375 M.E.**

**14 March, 2014**

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The Pyidaungsu Hluttaw hereby enacts this Law.

**Chapter I**

**Title, Jurisdiction and Definition**

1. This Law shall be called the Anti-Money Laundering Law.
2. This Law shall have jurisdiction on any person who commits any offence punishable under this Law within the limits of the Union of Myanmar, or on board a vessel, an aircraft, and any motor vehicle registered under the existing law of Myanmar, and a Myanmar citizen or any person residing permanently in the Union of Myanmar who commits the said offence beyond the limits of the country.
3. The following expressions contained in this Law shall have the meanings given hereunder:
  - (a) **Central Body** means the Central Body on Anti-Money Laundering formed under this Law;
  - (b) **Financial Intelligence Unit** means the Unit formed under this Law to investigate and take action on financial matters related to this Law;
  - (c) **Scrutiny Board** means the Board formed by the Financial Intelligence Unit;
  - (d) **Investigation Board** means the Board formed and assigned by the Central Body under this Law;
  - (e) **Reporting organization** means banks and financial institutions, non financial business and professions stipulated by this Law to report. In this expression, an organization assigned to report, by notification from time to time by the Central Body is also included;

- (f) **Competent Authority** means the authority assigned by the Central Body to supervise the Reporting organization to ensure compliance with the requirements under this Law;
- (g) **Banks and financial institutions** mean banks and financial institutions established by the Myanmar Financial Institutions Law and other relevant laws. In this expression, commercial banks or development banks, credit societies, finance companies, securities exchange companies, money changers, microfinance institutions, insurance companies and other institutions that conduct one or more of the following activities as a business for or on behalf of a customer are also included:
  - (i) private banking and receiving deposits and return funds from the public;
  - (ii) financing of commercial transactions including forfeiting and lending money including consumer credit and mortgage credit;
  - (iii) operating lending money business and lending financial right other than arrangements relating to consumer activities;
  - (iv) transferring money or any value;
  - (v) paying, issuing and managing by credit and debit cards, traveller's cheques, money orders, bank drafts and electronic means;
  - (vi) issuing financial guarantees and commitments;
  - (vii) trading of the following financial instruments:
    - (aa) transacting money market instruments including cheques, bills, certificates of deposit and derivatives, foreign currency, interest rate and price index instruments and transferable securities;
    - (bb) trading commodities for future;

- (viii) participating in issuing securities and providing financial services relating to such issues;
  - (ix) managing individual or collective portfolio;
  - (x) keeping safe deposit box and administering of money or liquid securities on behalf of other persons;
  - (xi) managing, administering or investing money or funds on behalf of other persons;
  - (xii) underwriting and placing other investment-related insurance, life and general insurance including insurance intermediation by agents and mediator;
  - (xiii) exchanging money and currency;
- (h) Shell Bank means a bank that has no physical presence in the country in which it is incorporated and licensed or located, and which is not affiliated with a regulated financial group that is subject to effective consolidated supervision.
- (i) **Anyone, an individual or a person** includes a company, an association, an organization or a group of persons that are formed legally or not;
- (j) **Beneficial owner** means a person who principally owns or controls a customer or delegates to conduct transaction with other person on his behalf. In this expression, a person who exercises effective control over any company or arrangement;
- (k) **Customer** means a person involved in any of the followings:
- (i) a person who transfers money, opens a bank account or makes a commitment;
  - (ii) a signatory to a transfer or an account;
  - (iii) a person assigned to transfer, an transferor, a person who has the right or responsibility to transfer;

- (iv) a person who has the authority to transfer or control an account;
- (v) a person who attempts to deal with the matters mentioned in clause (i) to clause (iv);
- (l) **Domestic and foreign politically exposed person** means a person who is prominent or has been entrusted with public functions within the country or in any foreign country and family members or close associates of such persons;
- (m) **International politically exposed persons** mean a director, a deputy director, a member of the board of directors and a senior member of an international organization, a member who has the similar position or a person who has been entrusted with such function and family members or close associates of such persons;
- (n) **Money laundering** means the commission of any of the followings:
  - (i) converting or transferring of money and property, knowing or having reason to know that it is money and property obtained by illegal means for the purpose of disguising or concealing the source or for the purpose of assisting before or after commission of the offence to any person who is involved in the commission of any offence to evade the legal action under this Law;
  - (ii) changing the true nature, source, location and disposition of money and property, knowing or having reason to know that it is money and property obtained by illegal means and conceal or disguise of ownership or rights of such money and property;
  - (iii) acquiring, possessing or using of money and property, knowing or having reason to know at the time of receipt that it is money and property obtained by illegal means;

- (iv) Participating, facilitating, aiding, supporting, managing, counseling, being a member of an organized group in committing, attempting to commit or conspiring to commit any offences contained in clauses (i) to (iii) by action or omission and pertaining by any other means;
- (o) **Money** means legal tender coins, their lower denominations and currency notes issued and exchangeable by the Central Bank of Myanmar or a foreign country, promissory notes, bills of exchange, cheques bonds, treasury bills and debentures, foreign currencies and any kind of instruments or certificates related to foreign currencies which are negotiable instruments;
- (p) **Property** means moveable or immoveable property in any form whether cooperated or incorporeal, tangible or intangible. In this expression, title documents to such assets, interests, rights, dividend, title and other incomes obtained by using electronic means are also included;
- (q) **Money and property obtained by illegal means** mean money and property obtained directly or indirectly by committing any offence applicable to this Law or act or omission of committing any such offence. In this expression, money or property and interests based and derived from such money and property and money or property that are transferred or converted as other property or business are also included;
- (r) **Negotiable instruments** mean negotiable instruments, promissory notes, payment orders and financial instruments in transferable form as travelers' cheques including cheques that can be transacted by withdrawal form on behalf of the owner or by endorsement signing without restriction or by using name of fictitious payee or by any other form indicating its transferability. In this expression, bearer cheques, promissory notes, payment orders and partial deeds are also included;

- (s) **Instrumentality** means property used or intended to be used in order to commit offence contained in this Law, to commit money laundering or financing of terrorism;
- (t) **Account** means any transaction of the followings made by a bank and financial organization or non-financial business and professions:
  - (i) accepting deposit of money or property;
  - (ii) allowing the transfer of money or property and the withdrawal from a bank account;
  - (iii) giving or ordering negotiable instruments on behalf of other person and ordering to withdraw or save payment orders;
  - (iv) facility or arrangement for a safe deposit box or for any other form of safe deposit;
- (u) **Customer due diligence** means a system of process including continual focus on obtaining complete information about the customer and the transaction records since the time of business relationship in order to investigate whether the transaction of the customer is related to money laundering and financing of terrorism and reporting to the relevant competent authorities;
- (v) **Wire or electronic transfer** means all transfer of money by electronic means from a financial business on behalf of a person to a beneficiary of another financial business;
- (w) **Designated non-financial business and profession** includes the followings:
  - (i) Casinos;
  - (ii) Real estate agents;
  - (iii) Dealers in precious metals and precious stones;

- (iv) Lawyers, notaries and accountants or other independent legal professionals who carry out transaction for their client concerning the following activities in respect of transfer, receipt and entrust of money and property:
  - (aa) buying and selling immoveable property;
  - (bb) managing money, securities or other assets of the client;
  - (cc) managing banks, savings or securities accounts;
  - (dd) organizing contributions for the establishment, operation or management of companies;
  - (ee) establishing, operating and managing legal organizations or arrangements and buying and selling of business entities;
- (v) Trust and company service providers who carry out as a business for other persons of the following services:
  - (aa) acting as formation agent of legal organizations;
  - (bb) acting as a director or secretary of a company, a partner of a partnership, or as a person in a similar position in other legal organization or arrangement;
  - (cc) providing a registered office or accommodation or business address or correspondence or administrative address for a company, a partnership or any other legal organization or arrangement;
- (vi) acting as a trustee of an express trust or performing the equivalent function for any form of legal organization or arrangement;
- (vii) acting as or arranging for another person to act as a nominee shareholder for another person;



- (x) **Implementation of group-wide** means supervision and coordination on its branch offices and subordinate companies in respect of guidelines of anti-money laundering and countering the financing of terrorism by any principal company or any other type of company.

## **Chapter II**

### **Objectives**

4. The objective of this Law are as follows:
- (a) to enable to take effective action against money laundering and financing of terrorism and to prevent subsequent offences;
  - (b) to prevent interference in the executive, economic and social sectors of the State through money laundering or financing of terrorism;
  - (c) to implement anti-money laundering and countering the financing of terrorism in accord with the international conventions acceded by the State;
  - (d) to co-operate with international organizations, regional organizations and neighbouring States for anti- money laundering , countering the financing of terrorism and combating original offences;
  - (e) to issue directives and guidance related to the system of anti-money laundering and countering the financing of terrorism in cooperation with financial institutions and other relevant government departments and organizations by conducting national risk assessment.

## **Chapter III**

### **Offences Applicable to this Law**

5. Laundering of money and properties derived from commission of any of the following offences shall be applicable to this Law;
- (a) offences committed by organized criminal group;

- (b) offences relating to sexual exploitation including sexual exploitation of children;
- (c) offences relating to infringement of the Intellectual Property Right (offences relating to Intellectual Property);
- (d) offences relating to environmental crime;
- (e) offences relating to tax evasion and other tax crimes;
- (f) offences relating to piracy;
- (g) offences relating to terrorism;
- (h) offences relating to insider trading to get illicit profits by a person who is the first to know the information by using the said information himself or providing it to another person and market manipulation;
- (i) committing of any offence punishable with imprisonment for a term of a minimum of one year and above under any existing law of the State;
- (j) offences prescribed by the Union Government that are applicable to this Law by notification from time to time;
- (k) participating, abetting, supporting, providing, managing, advising and being a member of an organized criminal group and other related offence by action or omission in committing, attempting to commit or conspiring to commit any offence contained in sub-sections (a) to (j).

## **Chapter IV**

### **Formation of the Central Body and Duties and Powers thereof**

6. The Union Government shall form the Central Body with 15 persons comprising the Union Minister for the Ministry of Home Affairs as Chairman and appropriate citizens as members.

7. The duties of the Central Body are as follows:

- (a) laying down the policies of anti-money laundering and countering the financing of terrorism and coordinating with the relevant government departments and organizations in accord with the said policies;
- (b) laying down and implementing national strategy on anti-money laundering and countering the financing of terrorism;
- (c) conducting the national risk assessment of money laundering and financing of terrorism and forming and assigning the committees in order to implement the whole system of anti-money laundering and countering the financing of terrorism effectively by using risk based approach methods in cooperation with the relevant government departments and organizations and reporting organizations;
- (d) monitoring the implementation of national policies and strategies laid down under sub-sections (a) and (b) and the national risk assessment under sub-section (c) and reporting requirement of reporting organizations, government departments and other related organizations;
- (e) issuing directives prescribing the following facts in order to be followed by the reporting organizations:
  - (i) customer due diligence process and enhancing customer due diligence process in the case of the risk was identified as being high;
  - (ii) customer verification process after establishing business relationship or conducting transaction;
- (f) co-operating with State Parties of the United Nations Conventions, international and regional organizations and neighbouring States in respect of exchange of information, investigation and taking action relating to money laundering;

- (g) guiding the relevant government departments and organizations so that banks and financial institutions, economic enterprises may not be established and operated by money laundering;
  - (h) laying down the policy and guiding the awareness and enhancement of anti-money laundering and countering the financing of terrorism of public services from reporting sector, legal sector, judicial sector and prevention and suppression sector and non- government organizations which are involved in the process of anti-money laundering and countering the financing of terrorism of the State;
  - (i) submitting the report of activities of the Central Body to the Union Government in accord with the stipulations.
8. The powers of the Central Body are as follows:
- (a) continuous assessment of the risks of money laundering and financing of terrorism, keeping the updated results of assessment, dissemination of appropriate information among the said results to the relevant authorities and reporting organizations and causing to report the said information to the Financial Intelligence Unit;
  - (b) prescribing, with the approval of the Union Government, the value of money and property to be reported;
  - (c) issuing an order to the responsible persons of the banks and financial institutions in order to allow search and seizure of money and property in banks and financial institutions as exhibit, examining, duplicating, if necessary, search and seizure of the financial records as exhibit by the Scrutiny Board and revoking the said order;
  - (d) issuing the prohibitory order to the relevant departments, organizations and persons not to change, transfer, conceal, obliterate and convert money and property relating to money laundering during the investigation period under this Law, directing to seal and revoking the said order:

- (e) assigning duties to the Financial Intelligence Unit to scrutinize, investigate, inspect, search, and seize as exhibit in respect of money or property obtained by laundering in accord with the stipulations;
- (f) passing permitted order of the return of seized property as exhibit under a bond by the Scrutiny Board and supervising the revocation of such permission;
- (g) giving necessary protection and conferring the deserved reward to the informer in respect of money and property or instrumentalities relating to money laundering;
- (h) forming the staff office comprising experts in order to assist functions and duties of the Central Body;
- (i) informing and communicating with relevant Ministry, department or commission or organization to take suitable action among the following actions to a company or reporting organizations which are punished by a Court under this Law:
  - (i) terminating the business and revocation of the business licence of the said company or organization;
  - (ii) prohibiting not to carry out any activity during a period not exceeding two years;
  - (iii) closing a branch of the company by prescribing a period not exceeding five years;
  - (iv) prohibiting not to use the premises connected with the commission of offences contained in this Law until a period not exceeding five years;
  - (v) suspending, restricting or revocating the licence and prohibiting the continuation of financial institutions, non-financial business and professions;

- (j) placing the company or reporting organizations which are punished by a Court under this Law under the supervision of the Central Body in accord with the prescribed conditions during a period for not exceeding one year;
- (k) publicizing the measures contained in sub-sections (i) and (j) through media, radio and television or by electronic means or by any other means.

## **Chapter V**

### **Formation of the Financial Intelligence Unit and Functions and Duties thereof**

9. The Central Body shall form the Financial Intelligence Unit as a Unit which may operate freely to serve as a central national agency of Myanmar to receive, request and analyze the reports and other information related to money laundering, financing of terrorism and predicate offences and to disseminate the result of analysis, and related information urgently to relevant persons or organizations or internal and external counterpart agencies upon request, if it suspects that it relates to money laundering, terrorist financing, or any offences applicable to this law.

10. The Financial Intelligence Unit:

- (a) shall issue, from time to time, the reporting forms , contents of the reports, procedures that should be conducted after reporting and methods of reporting which should be conducted by the reporting organizations;
- (b) may urgently provide the result of scrutiny or other relevant information to the relevant responsible person or organizations and may give the said in accord with the request of domestic and foreign partners if it suspects that money laundering or any offence applied to this Law is committed;
- (c) shall compile, maintain and disseminate information and statistics on trends of money laundering and financing of terrorism , monitor assessment results and forms, trends and risks of such offence;

- (d) shall cooperate and exchange information with other domestic organizations implemented the matters contained in this Law;
  - (e) shall provide awareness, training and assistance to government departments and organization for enabling to support the implementation of this Law;
  - (f) may request the relevant reporting organizations, by limiting a period, to send necessary new information in designated forms for enabling to carry out the functions and duties of the Unit systematically;
  - (g) is entitled to access any report or information received and maintained by reporting organizations, implementing organizations and other government departments and organizations;
  - (h) may cooperate with the relevant domestic and foreign organizations in the tasks of anti-money laundering and countering the financing of terrorism;
  - (i) may enter into an agreement or arrangement with foreign counterpart agencies .In the absence of an agreement, cooperation may take place based on the principle of reciprocity;
  - (j) shall perform the function assigned by any existing Law.
11. The Financial Intelligence Unit, with the approval of the Central Body:
- (a) may, on its volition or upon request, exchange the information or cooperate with domestic or foreign competent authorities that perform similar functions and are subject to secrecy obligations as the Unit;
  - (b) shall inform any information which is exchanged or cooperated under sub-section (a)to comply with the following means by foreign counterpart agencies:
    - (i) causing to use the same manner and usage by the Financial Intelligence Unit ;

- (ii) causing to use for anti-money laundering, countering the financing of terrorism or combating offences contained in section 5 ;
  - (iii) causing to obtain the consent of organization if the said information is intended to use for any other purpose;
  - (c) The Financial Intelligence Unit may obtain the information referred to sub-section (g) of section 10 based on a request for assistance received from a foreign counterpart agency and may take other action in support of such a request that is consistent with its authority in domestic matters.
12. The Financial Intelligence Unit shall:
- (a) keep secret of each investigation matter;
  - (b) report the submission of the Scrutiny Board to the Central Body.

## **Chapter VI**

### **Formation of the Scrutiny Board and Functions and Duties thereof**

13. The Financial Intelligence Unit shall, after receiving and scrutinizing the reports and information received under the provisions of this Law and information relating to money laundering and offences applied to this Law, form and assign the Scrutiny Board including members of Financial Intelligence Unit if it suspects by the result of the scrutiny that money laundering or any offence related to this Law is committed.

14. The Scrutiny Board may scrutinize in respect of money laundering, financing of terrorism, money and properties obtained by illegal means and assets of terrorists and may carry out the matters relating to provisional freeze of the said money and properties as follows:

- (a) identification and search of the traces of money and properties obtained by money laundering or assets of terrorists or financiers of terrorism;
- (b) searching, obstructing, controlling, freezing and seizing as exhibit of money and properties obtained by illegal means or assets of



- terrorist or financiers of terrorism and returning the seized properties under a bond;
- (c) sealing or prohibiting not to transact by other means of the said money and properties during the period of scrutiny;
  - (d) requesting the reporting organizations to give out financial or other records and examining the records;
  - (e) requesting and of examining the required documents from the person under scrutiny or other person or government departments and organization or banks and financial institutions;
  - (f) inspecting, searching and seizing as exhibit of building, land and work-site that are derived from money and properties obtained by illegal means and named under other person.
15. The Scrutiny Board shall:
- (a) keep secret of each scrutinized matters;
  - (b) report the measures to the Financial Intelligence Unit.

## **Chapter VII**

### **Formation of the Investigation Board and Function and Duties thereof**

16. The Central Body shall, subject to the report on findings of the Financial Intelligence Unit, form the Investigation Board comprising at least 3 members chaired by any member of the Central Body to investigate the case relating to money laundering.
17. The Investigation Board:
- (a) may summon and examine the required person regarding the report of the Scrutiny Board and may further acquire the required evidences;
  - (b) shall submit its findings together with comments and remarks to the Central Body according to the report of Scrutiny Board and further evidences;
  - (c) shall keep secret of each investigation matter.

## Chapter VIII

### Preventive Measures and Duty to Report

18. Reporting organizations shall carry out the risk assessment of money laundering and financing of terrorism according to the information provided by the Central Body in accord with sub-section (a) of section 8. The risk assessment and any underlying evidence and information shall be recorded in writing, be kept up-to-date and be readily available to the relevant authorities.

19. Reporting organizations:

- (a) shall carry out customer due diligence under this Law , at appropriate time, on accounts and customers existing prior to implementation of this Law based on product, service and risk . The customer due diligence processes shall be carried out as follows if the results of risk assessment under sub-section (c) of section 7 and information provided by the Central Body under sub-section (a) of section 8 have been received:
  - (i) when the risk of money laundering was identified as being high according to risk assessment, conducting enhanced customer due diligence measures consistent with the identified risk and determining whether the transaction or other activities appear unusual or suspicious;
  - (ii) when the risk of money Laundering was identified as being low according to risk assessment, conducting simplified customer due diligence measures consistent with the identified risk;
  - (iii) simplified customer due diligence measures under sub-section (ii) shall be terminated if it is suspected that the case is relating to money laundering or financing of terrorism or in case of a high risk;
- (b) shall carry out customer due diligence measures contained in sub-section (a) in the following period and situations:
  - (i) before carrying out a transaction or opening and account for a customer;

- (ii) before carrying out a transaction, for a customer who is not in an established business relationship with the reporting organization, when the transaction involves an amount which equals to or exceeds an amount defined by the Central Body, whether conducted as a single transaction or several transactions appear to be linked;
  - (iii) before carrying out a domestic or international wire or electronic transaction for a customer;
  - (iv) whenever doubts exist about the veracity or adequacy of previously obtained customer identification data;
  - (v) whenever there is a suspicion of money laundering and financing of terrorism;
- (c) shall, if the amount of the transaction in respect of it referred to sub-section(b) is unknown at the time of operation, identify in accord with the provision of sub-section (a) as soon as the said amount becomes known or the threshold is reached ;
- (d) shall conduct customer due diligence measures under sub-section (a) as follows:
- (i) identifying the customer and verifying the customer's identity by means of reliable and independent sources, documents, data or information;
  - (ii) collecting and understanding information regarding the purpose and the intended nature of business relationship;
  - (iii) identifying the beneficial owner and taking all reasonable measures to verify the identity of the beneficial owner such that the reporting organization know who the beneficial owner is and understand and verify the ownership and control structure of the company or legal arrangement;
  - (iv) verifying whether the person acting on behalf of the customer for the person, company, organization or legal arrangements is so authorized and verifying the identity of that person; verifying the legal status of the person, company, organization or legal arrangement; obtaining information concerning the customer's name, legal form, address and

directors and provisions regulating the power to bind the company or legal arrangements;

- (v) enhancing customer due diligence measures contained in clauses (i) to (iv) if it has reasonable ground to believe that the customer is a domestic and foreign politically exposed person or international politically exposed person;
- (e) shall, if it is unable to comply with obligations contained in sub-section (d), not carry out or terminate the matters of clauses (i) to (iii) and report this situation to the Financial Intelligence Unit;
- (f) may carry out customer due diligence measures under sub-section (d) although business relationship has been established;
- (g) shall keep documents, data or information collected under this section including data especially relating to money laundering and financing of terrorism, high risk customers and business relationships up-to-date and relevant.

20. Reporting organizations shall exercise ongoing customer due diligence measures with respect to each business relationship. Moreover, any transaction shall be closely examined to ensure that they are consistent with their knowledge of their customer, commercial activities and risk profile and if necessary, source of funds.

21. Reporting organizations:

- (a) shall monitor the following activities:
  - (i) all complex, unusual large transaction or unusual patterns of transaction that have no apparent or visible economic or lawful purpose;
  - (ii) any business relationship or transaction with a person from or in a country which does not apply sufficient measures to prevent money laundering and financing of terrorism;
- (b) shall examine the background and purposes of transaction or business relationships contained in sub-section (a), as far as possible, and the findings shall be recorded in writing;

- (c) shall, where the risk of money laundering or financing of terrorism under sub-section (a) is identified as being high, enhance customer due diligence measures.

22. Reporting organizations shall have appropriate risk management systems to determine whether or not a customer or a beneficial owner is domestic and foreign politically exposed person or an international politically exposed person and carry out as follows:

- (a) in respect of international politically exposed person:
  - (i) obtaining approval from senior management before establishing or continuing a business relationship;
  - (ii) taking all reasonable measures to identify the source of wealth and funds;
  - (iii) applying enhanced ongoing customer due diligence measures and monitoring such business relationship.
- (b) in respect of domestic and foreign politically exposed persons, applying the measures contained in sub-section (a) where the reporting organizations determine the risk as being high.

23. Reporting organizations shall maintain records of the following information and ensure that the records and underlying information are readily available to the Financial Intelligence Unit and other competent authorities and the records should be sufficient for the reconstruction of individual transactions:

- (a) documentation, records obtained through customer due diligence process and documents obtained from scrutiny including accounts of customer or beneficial owner and business correspondence for at least five years after the business relationship has been terminated or the occasional transaction has been carried out;
- (b) records of transaction in both domestic and international, attempted or executed for five years after the transaction has been carried out;
- (c) copies of transaction reports submitted under chapter 8 of this Law and other related documents for at least five years after the report was submitted to the Financial Intelligence Unit;

- (d) risk assessment and other underlying information after that has completed or has updated for a period exceeding five years;
24. (a) Reporting organizations may rely on a third party which has a capacity to perform the following elements among the customer due diligence measures:
- (i) enabling to obtain all information, without delay, contained in sub-section (d) of section 19;
  - (ii) enabling to make available of identification data and other documents relating to customer due diligence measures without delay if it is requested;
  - (iii) enabling to satisfy the maintenance, supervision or monitor and assessment for compliance with the requirements, on behalf of itself, contained in sections 21 to 23,
- (b) The identification and verification of the customer under sub-section (a) is the main duty of the reporting organization.
25. Reporting organizations shall identify and assess the risks of money laundering and financing of terrorism that may arise in relation to new products, services, business or technologies and take appropriate measures to manage and mitigate such risks.
26. The bank and financial institution shall carry out the followings in addition to perform normal customer due diligence measures contained in section 19 before entering into cross border correspondent banking and other similar relationships:
- (a) collecting, and attempting to know the business of the respondent institution, its reputation and whether it has been investigated or taken action relating to money laundering or financing of terrorism and the information about the quality of supervision;
  - (b) obtaining approval from senior management;

- (c) conducting an assessment of the quality of anti-money laundering and countering the financing of terrorism of the respondent institution;
  - (d) recording the responsibilities of anti-money laundering and countering the financing of terrorism of each institution.
27. (a) Banks and financial institution shall scrutinize in accord with the stipulations in performing wire or electronic transfer. The messages and payments in the wire or electronic transfer shall be included in such information. If there is no account number, a unique reference number shall be specified for such transfer. The information contained in the provisions of this section shall be maintained and transmitted by the financial institutions acting as intermediaries in a chain of payments;
- (b) Sub-section (a) of this section shall not apply to the followings:
    - (i) transaction on credit card or debit card and transaction on credit card or debit card number together with such transaction;
    - (ii) transfer between banks and financial institutions if both the originator and the beneficial owner are banks and financial institutions acting on their own behalf;
  - (c) A bank and a financial institution shall not execute a wire or electronic transfer which is unable to comply with the provisions contained in sub-section (a);
  - (d) A bank and a financial institution processing or receiving a cross-border wire or electronic transfer shall:
    - (i) supervise to maintain the information of originator and beneficiary or the owner together with such transaction;
    - (ii) take reasonable action to identify the wire or electronic transfer which do not apply with sub-section (a);

- (iii) issue the necessary procedures to execute, receive, reject or suspend such transaction and to take follow-up actions;
  - (e) If technical limitations prevent the information of the originator or beneficial owner contained in sub-section (a) to remain the record of domestic wire or electronic transfer, a record should be kept by the institution receiving the above all information from the institution ordering or processing the transfer;
  - (f) A financial institution processing the cross border wire or electronic transfer that lacks information required under sub-section (a) shall verify the beneficial owner in respect of such transaction;
  - (g) The Central Bank of Myanmar shall issue directives that should be undertaken by banks and financial institutions processing the wire or electronic transaction.
28. (a) Reporting organizations shall adopt, develop and implement internal programs, policies, procedures and controls for the implementation of the provisions of this Law and for managing effectively to mitigate the risks identified pursuant to this Law. Moreover they shall monitor the implementation of such policies and controls and enhance them, if necessary. In such policies and controls, the following data shall be included:
- (i) customer due diligence measures, ongoing due diligence, monitoring the transaction, reporting obligations and record keeping obligations;
  - (ii) procedures to ensure high standard of integrity of its employees and a system to evaluate the personal, employment and financial history of these employees;
  - (iii) ongoing training programmes for employees to assist with regard to know-your-customer, specific responsibilities of anti-money laundering and countering the financing of



terrorism and the transaction which are required to report contained in chapter VIII;

- (iv) an independent audit function to check in compliance with and effectiveness of the measures taken action in execution of this Law.
  - (b) Reporting organizations shall designate a compliance officer at the senior management level;
  - (c) Types of measures to take action shall be determined for each of the requirements contained in this section. In this determination, the size of business, customers, transaction, products, services and delivery channels and scope, geographic and country coverage of the business shall be concluded together with the risk of money laundering and financing of terrorism;
  - (d) The following processes shall be ensured:
    - (i) causing to apply the policies and controls issued under this Law widely on a group-wide basis including foreign branches and majority owned subsidiaries;
    - (ii) causing to have information sharing procedures within a financial group for the purposes of carrying out customer due diligence measures and managing the risks of money laundering and financing of terrorism including procedures to safeguard and use the information sharing.
29. Reporting organizations shall ensure the following powers to the officer appointed under sub-section (b) of section 28:
- (i) power to access any documents, records, registers and accounts necessary for the performance of his tasks;
  - (ii) power to request and access any information, notice, explanation or document from any employee of the reporting organization.
30. (a) No one shall establish or operate shell bank in Myanmar;

- (b) Financial institutions shall not commence or continue business relationship with shell banks or in countries in which shell banks are situated;
  - (c) Financial institutions shall not permit the shell bank to commence or operate business relationship with respondent bank and financial institution which permit their accounts to be used.
31. (a) The Financial Intelligence Unit shall identify the countries which do not insufficiently comply measures for anti- money laundering and countering the financing of terrorism and shall issue directives to be applied in relation to such countries.
- (b) Reporting organizations shall comply exactly with the directives issued under sub-section (a).
  - (c) Competent Regulatory Authorities shall supervise the reporting organizations to comply exactly.
32. Reporting organizations shall promptly report to the Financial Intelligence Unit if the amount of transaction of money or property is equal to or exceeds the designated threshold or it has reasonable ground to believe that any money or property is obtained by illegal means or is related to money laundering or financing of terrorism or attempt to do so.
33. Responsible persons of government departments and organizations or reporting organizations shall not disclose any report or relevant information and any measure under section 32 to any person other than among employees and legal counsel.
34. Financial institutions shall report to the Financial Intelligence Unit any cash transaction in an amount which is equal to or exceeds the designated threshold by a single transaction or several transaction that appear to be linked.
35. Lawyers, notaries and other legal professionals shall have no obligation to report information determining the legal position including the advice for prosecution or to avoid prosecution in respect of their customers.

## **Chapter IX**

### **Supervision**

36. Competent Authority:

- (a) shall supervise reporting organizations to comply with the provisions contained in this Law without fail;
- (b) shall undertake the assessment of potential risk of money laundering and financing of terrorism of reporting organizations. The assessment shall, from time to time, be updated and shall adopt measures to ensure that risks are adequately managed;
- (c) may collect information and other data from reporting organizations and conduct in-site and off-site examinations on a group-wide basis by himself or by his representative;
- (d) may compel the copy of any information and document maintained by reporting organizations;
- (e) may lay down and apply measures on reporting organizations for failure to comply with the provisions contained in Chapter VIII of this Law;
- (f) may cooperate and share information with other competent authorities in investigations or prosecutions relating to money laundering, financing of terrorism or offences applicable to this Law;
- (g) may stipulate measures consistent with the provisions of this Law and existing domestic laws and regulations by the foreign branches or majority owned subsidiaries of the reporting organizations and may verify whether or not they comply with such stipulations;
- (h) shall report promptly to the Financial Intelligence Unit any transaction and facts that could be related to money laundering or financing of terrorism;
- (i) may establish and apply fit and proper criteria for owning, controlling, or participating, directly or indirectly, in the

administration, management or operation of the reporting organizations;

- (j) may report to the Central Body in order to suspend, restrict or revoke license and prohibit the continuation of non-financial business and professions;
- (k) shall maintain statistics concerning measures taken under this Law.

37. Competent Authority may impose one or more of the following supervision or measure against reporting organizations or directors, board of directors, executive officials or administrator of the reporting organization who fail to comply with the obligations under Chapters VIII of this Law:

- (a) written warnings;
- (b) compel by specific instructions;
- (c) causing to submit the reports in accord with the stipulation in respect of measures on the identified violation,
- (d) other appropriate measures. Practice

38. Competent Authorities shall report the measures imposed under section 37 to the Central Body through the Financial Intelligence Unit.

## **Chapter X**

### **Cross-Border Transportation of Currency or Bearer Negotiable Instruments**

39. If a person who enters into or departs from the territory of the State takes currency or bearer negotiable instrument, precious stone or metal upon which the value is equal to or exceeds the designated threshold prescribed by the Central Body in his possession or baggage or arranges for the transportation via mail or by any type of vehicles into or outside the territory, he shall declare officially to the Customs Department.

40. The Customs Department has the power to seize some or all currency, bearer negotiable instruments or precious metals and stones that are disclosed or falsely declared in accord with section 39 and that are suspected to be related to money laundering or offences applicable to this Law. In doing so, it may apply,

as may be necessary, the provisions contained in the Sea Customs Act to investigate relating to properties.

41. The Customs Department shall have the power to cause the persons concerned comply with the provisions contained in this Chapter under the following facts and the Laws related to Customs:

- (a) carrying out the controls on persons, their baggage, their means of transport and mail or containers; and
- (b) requesting or obtaining new information related to original ownership of such currency, negotiable instruments, precious metals and stones from the persons referred to in sub-section (a) if a false declaration or a failure to declare is discovered or if there is suspicion of money laundering, financing of terrorism or any offence contained in this Law.

42. Information obtained by the Customs Department under the provisions of this Law shall be provided to the Financial Intelligence Unit and the Foreign Exchange Management Department of the Central Bank of Myanmar.

## **Chapter XI**

### **Offences and Penalties**

43. Whoever commits money laundering shall, on conviction, be punished with imprisonment for a term which may extend to ten years or with fine or with both. If the offender is a company or an organization, a fine which may extend to five hundred million kyats shall be imposed on such company or organization. The beneficial owner shall be punished with imprisonment for a term which may extend to seven years.

44. Any responsible person from the reporting organization violates the provisions contained in sections 18 to 25, 28 and 29 or any responsible person from banks and financial institutions violates the provisions contained in sections 26 and 27 shall, on conviction, be punished with imprisonment for a term which may extend to three years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to one hundred million kyats shall be imposed on such company or organization.

45. Whoever violates the provision contained in sub-section (a) of section 30 or any responsible person from banks and financial institutions violates or attempts to commit sub-sections (b) and (c) of section 30 shall, on conviction, be punished with imprisonment for a term which may extend to seven years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

46. Any responsible person from the reporting organization, in reporting to Financial Intelligence Unit under section 32, presents false statement or conceals facts shall, on conviction, be punished with imprisonment from a minimum of three years to a maximum of seven years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

47. Whoever intentionally or negligently violates or fails to comply with the provisions contained in section 39, or makes a false declaration of money or negotiable instrument under section 40, or conceals facts which should be disclosed to a customs official, an official or any competent authority shall, on conviction, be punished with imprisonment for a term which may extend to three years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

48. Whoever fails to comply with prohibitory orders and directives relating to money and property issued to him during the investigation period under this Law shall, on conviction, be punished with imprisonment for a term not exceeding seven years and may also be liable to a fine. If the offender is a company or an organization, a fine which may extend to three hundred million kyats shall be imposed on such company or organization.

49. Any responsible person from a bank and a financial institution violates the provisions contained in section 34 shall, on conviction, be punished with imprisonment for a term which may extend to three years and may also be liable to a fine. If the offender is a company or an organization, a fine which may

extend to three hundred million kyats shall be imposed on such company or organization.

50. Any reporting organization, government department and government organization or a director, an official and staff thereof violates the provisions contained in section 33 shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine or with both.

51. Any member of the Scrutiny Board or Investigation Board commits any of the following acts or omissions in scrutiny and investigation of an offence applicable to this law shall, on conviction, be punished with imprisonment from a minimum of three years to a maximum of seven years and may also be liable to a fine:

- (a) demanding or accepting money or any property either for himself or for another person as a gratification;
- (b) substituting of an offender with any other person in order not to take action against him or hiding without taking action against him;
- (c) concealing, obliterating, converting, transferring by any means or disguising of money and property obtained from money laundering in order not to take action;
- (d) amending, altering, adding, substituting, making false entry in documents.

52. The Court shall:-

- (a) pass the confiscation order or administrative order in accord with the stipulations on exhibit and money relating to the case if punishment is imposed under any offence contained in this Law;
- (b) coordinate with relevant government organization in order to contribute 5% of fine to the fund for anti-money laundering and countering the financing of terrorism;
- (c) collect as if it is an arrear of revenue from such company or organization if the fine is not paid by the person imposed under this Law.

## **Chapter XII**

### **International Cooperation**

53. The Central Body shall coordinate with international and regional organizations and State parties of international or regional organizations relating to anti-money laundering to take appropriate measures including the following matters:

- (a) exchanging information relating to money laundering and financing of terrorism;
- (b) arranging, preparing, managing the anti-money laundering and countering the financing of terrorism and cooperating in accord with the Mutual Legal Assistance in Criminal Matters Law;
- (c) conducting training, technical cooperation and capacity building on anti-money laundering and countering the financing of terrorism;
- (d) conducting the awareness of anti-money laundering and countering the financing of terrorism;
- (e) cooperating capacity building in anti-money laundering and countering the financing of terrorism compatible with international standards;
- (f) cooperating in research and development functions of anti-money laundering and countering the financing of terrorism.

## **Chapter XIII**

### **Extradition**

54. (a) Money laundering contained in this Law shall be determined as extraditable offence and the extradition shall be executed in accord with the existing laws.
- (b) In respect of extradition under this Law, it shall be carried out subject to other conditions provided by the Law of the requested State.



55. With respect to the request for extradition of an offender who commits any money laundering offence contained in this Law within the country and mutual legal assistance in criminal matters by any State party of any international or regional organization:

- (a) money laundering offences pertinent to this Law shall not be deemed as a political offence, an offence related to it or an offence committed for political purposes;
- (b) it shall not be refused on the sole ground that the committed money laundering offence stated in the request is a political offence or a related offence to it or an offence committed for political purposes.

#### **Chapter XIV**

#### **Fund for Anti-Money Laundering and Countering the Financing of Terrorism**

56. The Central Body shall establish a fund for anti-money laundering and countering the financing of terrorism with the following receipts and properties:

- (a) contribution from the Union Fund in accord with the existing law;
- (b) 5% of fine imposed by the court;
- (c) money and properties donated from domestic and foreign well-wishers.

57. The Central Body may grant the fund for anti-money laundering and countering the financing of terrorism to use or bear the expenses for the following matters:

- (a) expenses that are required to perform the tasks of the Financial Intelligence Unit, Scrutiny Board and Investigation Board;
- (b) matters carried out by laying down the necessary plans for anti-money laundering and countering the financing of terrorism;

- (c) matters of the deserving reward to person and organizations which contribute scrutiny, investigation and reveal anti-money laundering and financing of terrorism;
- (d) expenses of awareness and education programmes and capacity building programmes relating to anti-money laundering and countering the financing of terrorism;
- (e) expenses of buying and installing the equipment for functions of anti-money laundering and countering the financing of terrorism;
- (f) matters of cooperation with international and regional organizations and foreign countries in respect of anti-money laundering and countering the financing of terrorism;
- (g) expenses of other necessary matters and other emergency functions specified by the Central Body;
- (h) matters of deserving the reward to the person who endeavors to reveal the money laundering and financing of terrorism.

## **Chapter XV**

### **Miscellaneous**

58. The relevant Ministry shall allocate a separate budget for the Financial Intelligence Unit.
59. (a) No prosecution and taking action by criminal, civil, disciplinary or administrative means on reporting organizations or their directors, officers or staff who submit reports or provide information in good faith in accord with the provisions of this Law for the breach of the provisions of banking, professional secrecy and agreement.
- (b) The provisions of this law shall prevail the provisions of financial and professional secrecy and confidentiality to be followed by the reporting organizations or their directors, officials or staff.
60. The burden of proof lies on the accused that money and property are not obtained by illegal means in respect of any offence contained in section 5.

61. The prosecuting body, in the prosecution of money and property obtained by illegal means:

- (a) shall presume that it is prima facie evidence under law if it can be prove that illegal money and property are obtained by commission of any offence contained in section 5. It shall not be required to prove that how the predicate offence applicable to this law that generates such money and property is committed;
- (b) shall not consider the amount of money and properties obtained by committing the offence contained in sub-section (a);
- (c) to the extent that knowledge, intent or purpose of offender are the elements of the predicate offences, may be inferred from objective factual circumstances in offences of money laundering and financing of terrorism.

62. In respect of money and properties obtained from money laundering cases, if any other person who is not under scrutiny and investigation is able to prove clearly that such money and properties were transferred in good faith with consideration, his right and privilege shall not be affected.

63. Whoever shall be guaranteed for obtaining the fair treatment and other rights compatible with International Human Rights Law in scrutinizing, investigating and taking action on money laundering cases under this Law.

64. Whoever accused of and in custody pursuant to money laundering offence shall have the right to communicate without delay with the nearest appropriate embassy or consulate or representative of the State of which he is a national in order to get his rights.

65. The relevant government departments and organizations shall abide by the orders issued under this Law.

66. The person who is serving or served in the Central Body, Financial Intelligence Unit, the Competent Authority, Reporting Organizations and other government departments and such organizations implementing this Law shall keep of secret any information received within his duty period until the

termination of duty, and every responsible person may use the information in accord with the provision of this Law or under the order of a court. It shall be taken action by the Official Secrets Act if this provision is violated.

67. Money or property derived from the commission of any offence applied to this Law contained in section 5:

- (a) shall be taken action only under this Law against offences relating to money and property derived from the commission of any offence contained in sub-section (n) of section 3 after this Law has come into force;
- (b) shall be taken action under the Control of Money Laundering Law against offences relating to money and property derived from the commission of any offence contained in sub section (n) of section 3 before this Law has come into force.

68. In prosecuting any offence contained in this Law, the prior sanction of the Central Body or organization authorized by the Central Body shall be obtained.

69. In implementing the provisions of this Law:

- (a) the Ministry of Home Affairs may, with the approval of the Union Government, issue the necessary rules, regulations and bye-laws;
- (b) the Ministry of Home Affairs and the Central Body may issue the necessary notifications, orders, directives and procedures;
- (c) the Central Bank of Myanmar, the Competent Authority and the Financial Intelligence Unit may, with the approval of the Central Body, issue the necessary directives, procedures and bye-laws.

70. Rules, regulations, bye-laws, orders and directives issued by the Control of Money Laundering Law (The State Peace and Development Council Law No. 6/2002) or by any other authority may continue to apply if those are not contradict with this Law.

71. The Control of Money Laundering Law (The State Peace and Development Council Law No. 6/ 2002) is hereby repealed by this Law.

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I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein  
President  
Republic of the Union of Myanmar

**The Republic of the Union of Myanmar**  
**Ministry of Home Affairs**  
**Notification No. 1201 /2015**  
**The 12<sup>th</sup> Waning Day of Wagaung, 1375 M.E.**  
**( 11 September, 2015 )**  
**Preamble**

In exercise of the power conferred by sub-section (a) of section 69 of the Anti-Money Laundering Law, the Ministry of Home Affairs issues the following Rules with the approval of the Union Government.

**Chapter (1)**  
**Title and Definition**

1. These Rules shall be called **the Anti-Money Laundering Rules**.
2. The expressions contained in these Rules shall have the same meanings contained in the Anti-Money Laundering Law. In addition, the following expressions shall have the meanings given hereunder:
  - (a) **Law** means the Anti-Money Laundering Law;
  - (b) **Offences Relating to Money Laundering** means the offences prescribed in section 5 of the Law;
  - (c) **Risk Assessment** means results that are obtained from assessment of threat, vulnerability, consequence of risks relating to money laundering and financing of terrorism;
  - (d) **Ministry** means the Ministry of Home Affairs, the Government of the Republic of the Union of Myanmar;
  - (e) **Form** means the form designated by the Rules;
  - (f) **Compliance Officer** means an official who is senior and above high management ranking assigned by the reporting organizations according to section 28(b) of the Law;
  - (g) **Law Enforcement Agency** means an organization which has responsibility to detect, investigate and scrutinize any offence in Myanmar including the Myanmar Police Force, Bureau of Special Investigation, Department of Customs, Department of

Immigration and National Registration and Financial Intelligence Unit;

- (h) **Investigation** means scrutinizing, investigating, searching, preventing, prohibiting, freezing and detaining and seizing exhibit conducted by the police officer or any person conferred the power by the Anti-Money Laundering Central Board or Financial Intelligence Unit relating money laundering offences.

## Chapter (2)

### Duties and Powers of the Central Board

3. The Central Board shall form and assign the National Risk Assessment Committee led by a member of the Central Board assigned by the Chairman of the Central Board to assess and carry out the national risk assessment for money laundering and financing of terrorism according to section 7(c) of the Law.

4. The Central Board shall form and assign the committees consist of relevant government departments, organizations and reporting agencies led by a member of the Central Board to undertake anti-money laundering and counter financing of terrorism by using risk based approach in accordance with the risk assessment.

5. The Committee formed and assigned under Rule 3 and 4 shall submit the following performance to the nearest meeting of the Central Board:

- (a) decisions passed by the Committee in order to get the approval of the Central Board;
- (b) report relating to performance of other duties and functions of the Committee.

6. The Central Board may:

- (a) designate the relevant departments, organizations including government departments and organizations, and natural person as

the reporting organizations by issuing notification according to section 3(e) of the Law;

- (b) assign the relevant departments and organizations including government departments and organizations as the competent authorities by issuing notification according to section 3(f) of the Law.

7. The Central Board:

- (a) upon application by the Scrutiny Body in accordance with Rule 16, shall , through the Financial Intelligence Unit, issue an order with form (1) to the Scrutiny Body to investigate any person, inspect into any building and work-site, examine and search the financial record, copy and detain if there are reasonable grounds to suspect money laundering and predicate offences has been or is about to be committed or that money or property is money or property that is obtained by illegal means;
- (b) if there are reasonable grounds to believe that the money and property are in possession of the relevant reporting organizations including banks and financial institutions are relating to money laundering or financing of terrorism or offences applicable to the Anti-Money Laundering Law, may issue order, in accordance with section 8(c) of the Law, to the reporting organizations to seize such money and property as exhibit, to inspect financial records and if necessary, to make copy thereof;
- (c) if the Scrutiny Body assume that the properties seized as exhibit with form (2) are appropriate to return with the bond, shall pass the order to do so and cause the bond to be entered into form (4). If the bond is breached, the properties returned by the bond may be revoked;
- (d) if there are reasonable ground to suspect that the money and property under the bond would be converted, transferred, concealed, obliterated, destroyed or damaged or likely to do so by person under investigation or persons whose items were



seized or person who having beneficial interest in the money and property, may issue a prohibitory order by form (3) to the relevant departments, organizations or individuals in accordance with section 8(d). In addition, the Central Board may direct to seal immovable properties;

- (e) if it is found out that the money laundering offence has been committed under the report of the Scrutiny Body which is submitted through the Financial Intelligence Unit, if necessary, may form the Investigation Body to investigate;
- (f) if it is found out that the money laundering offence has been committed under the report of the Scrutiny Body or the report of the Investigation Body which is submitted through the Financial Intelligence Unit, may direct the Scrutiny Body to file the case;
- (g) if it is identified under the report of the Scrutiny Body which is submitted through the Financial Intelligence Unit that any other offences under existing laws in addition to the money laundering offence has been committed, shall direct to transfer the case to the relevant law enforcement agencies to take action in accord with the law;
- (h) if it is identified that the money laundering case has not been involved according to the either report of the Scrutiny Body or Investigation Body, may close the scrutiny and investigation proceeding;
- (i) if the scrutiny and investigation proceeding is closed according to Rule11(h), shall direct to return the money and properties seized or prohibited temporarily.

8. The Central Board shall submit to the Union Government in order to reform the Anti-Money Laundering Central Board if it is found that necessary to reform and to change the members of such Board formed by the notification of the Union Government.

**Chapter (3)**  
**Formation of the Financial Intelligence Unit**  
**and Duties and Powers**

9. According to section 9 of the Law, the Central Board may form the Financial Intelligence Unit with experts from the Ministry of Home Affairs, relevant government departments and appropriate citizens.

10. The Financial Intelligence Unit shall carry out the following duties and functions:

- (a) receiving suspicious transaction reports from reporting organizations, other reports and other information;
- (b) scrutinizing, analysing and comparing together with the received reports, information and other information offences relating to money laundering and financing of terrorism, and information maintain at the Unit and received from other relevant departments and organizations;
- (c) disseminating, sharing, exchanging the result of scrutinizing, analysing and comparing and requesting required information within law enforcement agencies, if a suspicious transaction is found that it is offence relating to money laundering or financing of terrorism, or money and property obtained by committing of any offence as proceeds of crimes;
- (d) exchanging and cooperating within international and regional institutions the information about Anti-Money Laundering and Counter Financing of Terrorism matters including trends and typologies of money laundering and terrorist financing;
- (e) conducting training and workshops for the responsible personnel from Bank and Financial Institutions, government departments, other organizations and reporting agencies;
- (f) coordinating with domestic and foreign organizations in investigating cases relating to money laundering and financing of terrorism.

11. The Financial Intelligence Unit shall submit an adequate budget to the Ministry for carrying out duties, functions conferred under the Law and so

related tasks. This budget shall include fund for the establishment and maintenance of an Information Technology System and required budget for investigation measure including formation of the Scrutiny Body.

12. The Financial Intelligence Unit has the right to manage independently the fund received according to financial year in accordance with the existing financial rules and regulations.

13. The Financial Intelligence Unit shall lay down plans to establish the electronic reporting system and computerized system in order to perform receiving, storing, analyzing and disseminating the relevant information.

#### **Chapter (4)** **Duties and Powers of the Scrutiny Body**

14. The Financial Intelligence Unit shall, when forming the Scrutiny Body according to section 13 of the Law, form with at least three members of the Financial Intelligence Unit. In forming as such, appropriate persons among the relevant government departments, organizations and experts may also be comprised if necessary.

15. Regarding with scrutinizing on the money-laundering in relation to money and property obtained by committing any offence prescribed in section 5 of the Law, the Scrutiny Body:

- (a) shall open the case followed by necessary investigation;
- (b) may take oral evidence and call for papers and documents from the person who is being scrutinized, other individuals, relevant government departments, organizations or bank and financial institutions;
- (c) may call upon the person who has been scrutinized or other required person and obtain statements;
- (d) may obtain the necessary assistance relating to expertise from the relevant government departments, organizations, non-government organizations and external experts.

16. The Scrutiny Body shall submit to the Central Board through the Financial Intelligence Unit if it arises that one of the following orders regarding money and property are to be passed during the investigation period:

- (a) order to investigate, enter a building and conduct inspection, search and to examine, make copy, temporarily seize of the financial records in respect of money laundering;
- (b) prohibitory order not to convert, transfer, conceal, obliterate or disguise by any means;
- (c) order to return with a sufficient security bond, on the application made by the person under scrutinizing, person whose property has been seized or person who has beneficial interest in the exhibit to return the property under a bond.

17. The Scrutiny Body, with the permission of the Central Board, in relation to money laundering:

- (a) shall have the right to enter and inspect, search and temporarily seize as exhibit the building, land and work site of the person under scrutinizing, to examine, make copy and prohibit, if necessary, of the financial records in the possession of bank and financial institutions;
- (b) shall seize diamond, gold, silver, precious jewellery and metal, money and valuable properties shall be sealed and seized temporarily, and deposited in the Myanma Economic Bank for safe custody system. If there is a reasonable ground to believe that the said property would be converted, substituted, amended, destroyed or lost, bond form (4) with sufficient security shall be entered into and the said properties shall be re-entrusted to the person whose properties has been seized or an agent delegated by the person;

- (c) shall seize temporarily different kinds of vehicles such as motor vehicle, water craft, air craft, engine-propelled vehicle, vehicle without engine and slow-moving vehicles, relevant equipment and documents. During the scrutinizing period, bond form (4) with sufficient security shall be entered into and the said properties seized temporarily shall be re-entrusted to the person whose properties has been seized or an agent delegated by the person;
- (d) shall seize temporarily animals such as elephant, horse and cattle. During the scrutinizing period, bond form (4) with sufficient security shall be entered into and the said animals seized temporarily shall be re-entrusted to the person whose properties has been seized or an agent delegated by the person;
- (e) shall seize temporarily, if it is required to seized moveable properties such as furniture, musical instruments and electrical goods and during the scrutinizing period, bond form (4) with sufficient security shall be caused to enter into and the said properties seized temporarily shall be re-entrusted to the person whose properties has been seized or an agent delegated by the person;
- (f) shall cause to enter into bond form (4) with the person whose properties has been seized or an agent delegated by him if the permission order received to return with bond the property seized temporarily with form (2) as exhibit;
- (g) shall manage the exhibits as follows if the Central Board do not grant to return the temporarily seized properties or if a bond with sufficient security is unable to submit or after the order by which the properties returned with bond due to the breach of bond is revoked:
  - (1) money, precious jewellery and metal shall be deposited at the Myanma Economic Bank under a safe custody system;

- (2) animal such as elephant, horse and cattle shall be transferred to the relevant government departments and organizations for keeping temporarily ;
  - (3) perishable property shall be disposed in accordance with the existing laws and the money obtained shall be deposited at the relevant Myanmar Economic Bank;
  - (4) air craft and helicopter shall be entrusted to the relevant Aviation Police Force and water craft and its equipment shall be entrusted to the Maritime Police Force;
  - (5) other properties except the properties described in sub-rule (1),(2),(3)and(4) shall be entrusted to the relevant township police officer.
- (h) shall, with respect to properties that will be re-entrusted with a bond under sub-rules (b), (c), (d), (e) and (f), re-entrust with a bond to the person whose property has been seized, only when the prohibitory order in form (3) of the Central Board has been obtained;
- (i) shall prepare three copies of form (2) in entering and inspecting, searching and seizing of money and property under the duties and powers mentioned in sub-rules (a) to (f). The said form shall be signed by the person under investigation or the person whose property has been seized temporarily, search witnesses and the head of the Scrutiny Body. A copy of form (2) shall be given to the person under scrutinizing or the person whose property has been seized temporarily;
- (j) shall return the property seized temporarily to the person under scrutinizing by form (5) if the directive of the Central Board on finding that the money laundering and financing of terrorism has not been involved has been received.

18. The Scrutiny Body shall, for the case transferred by a government department, organization, law enforcement agency to scrutinize whether or

not the case is relevant to money laundering if it has already been seized as exhibit in accordance with the relevant law or submitted before the court by the organization which has taken action primarily, carry out as follows:

- (a) if the property has been seized by any law enforcement agency as exhibit during the investigation period, the exhibit relating to the money laundering shall be transferred from the agency after examining the documents related to exhibit;
- (b) if the law enforcement agency has already submitted the exhibit to the court, evidence relating to the exhibit which has been submitted to which court for which offence shall be obtained and described in its report along with the evidence;
- (c) in performing in accordance with sub-section (b), the Scrutiny Body shall wait for the final judgement for original case of the relevant court and continue as follows:
  - (1) if the relevant court pass confiscation order for the original case, copy of the judgement shall be submitted;
  - (2) if no action has been taken by the Court by the original case, shall submit to the Central Board through the Financial Intelligence Unit in order to prosecute the exhibit by the money laundering.

19. The Scrutiny Body shall submit the scrutinizing report to the Central Board through the Financial Intelligence Unit together with the case. In the said report, the following facts with respect to the money laundering offence shall be included as may be necessary:

- (a) type of offence committed and summary of the case;
- (b) name, father's name, occupation and address of persons involved in the commission of the offence;
- (c) date of ownership or enjoyment of benefit in respect of money and property located locally or abroad by the person under scrutinizing;

- (d) manner and the date on which deposit, withdrawal or transfer was made;
- (e) type of property, the means by which the said property was owned and date of ownership or transfer;
- (f) estimate current value of properties, location thereof and if the property does not exist at the time of scrutinizing, the reason why that property does not exist;
- (g) type of property which is under the control or not under the control of the person under scrutinizing, type of property transferred to other person's name under pretence, type of property transferred to other person, type of property mingled with property owned by another person, which is easy or not easy to separate and current value of each item of property;
- (h) income and business of the person under scrutinizing;
- (i) submission made by the person who has beneficial interest in the exhibit;
- (j) summary of one's activities under the orders and directives issued by the Central Control Board;
- (k) list of evidential documents and witnesses;
- (l) findings of the investigation;
- (m) remarks.

20. Other relevant fact including the followings shall be described in Rule 19(m):

- (a) whether the case should be filed or not;
- (b) list of offenders who should be taken action;
- (c) list of evidence money and property that should be seized by the case;
- (d) other facts to be aware including list of evidence money and properties that should be returned;
- (e) matters that should be taken action under other existing law.

21. The Scrutiny Body shall have to submit scrutinizing report to the Central Board through the Financial Intelligence Unit within (60) days from



the date of the body has been formed and assigned. If the scrutinizing work do not complete in prescribed period, the body shall submit interim-report to the Financial Intelligence Unit to extend the scrutinizing period.

22. The Head of the Scrutiny Body or a person delegated by the head shall report the case at the relevant police station and prosecute after the directive of the Central Board to take action has been received through the Financial Intelligence Unit.

## **Chapter (5)**

### **Duties and Powers of the Investigation Body**

23. The Investigation Body:

- (a) shall open the case followed by necessary investigation when assigned duty by the Central Board;
- (b) shall lay down the inquiry plan after examined the Scrutiny Body reports;
- (c) may call for investigation an individual or an organization or a group of people to investigate;
- (d) may, if necessary, examine again witnesses who have been examined and collected further references and documents;
- (e) shall, if it is found that the certain evidence is required to be examined from the report of findings of the Scrutiny Body, from the statement of the person under investigation, person whose property has been seized or person having beneficial interest in the exhibit shall direct the Scrutiny Board to make further investigation and submit the findings;
- (f) shall, after scrutiny of the report of findings of the Scrutiny Body and the statements made by the person under investigation, a person whose property has been seized, a person having beneficial interest in the exhibit and the statements of witnesses of both sides, and exhibit documents submit to the Central Board

together with remark as to whether or not the money laundering case should be filed the information report.

24. The Investigation Body shall have to submit the investigation report within 30 days from the date of the formation and assigned duty to the Central Board. If the investigation works do not complete in prescribed period, may propose the Central Board by submitting interim-report to extend the time.

## **Chapter (6)**

### **Inspecting, Making Copies and Seizing as Exhibits of Financial Records of Reporting Organizations**

25. The Scrutiny Body shall submit the following facts to the Central Board through the Financial Intelligence Unit to get the permission to announce the injunctions concerning with not to transfer the money and properties that are in relation with money laundering which are kept in reporting organizations and the permission to inspect the records and copy if necessary and keep as exhibit:

- (a) summary of the committed crime revealed by the investigation;
- (b) finding that proves that the crime has been committed;
- (c) tasks to be carried out and time duration needed;
- (d) name and address of the relevant bank and financial institution related to the task to be carried out;
- (e) name and rank of the officer from the department, organization that would carry out.

26. The Central Board:

- (a) may pass any of the following orders during the investigation period after scrutinizing the submission of the Scrutiny Body according to Rule 25:
  - (i) order to confer right of investigation, inspection, search, examination of financial records, copy and seizure relating to money laundering;
  - (ii) order to prohibit not to change, transfer, conceal, obliterate, convert by any means;
  - (iii) order to return with adequate bond according to the application of scrutinized person to be returned with bond, person whose property is seized or beneficial person.
- (b) shall, any order shown in sub-rule (a), be passed towards the authorities from relevant bank and financial institutions and the copy of the order shall also be passed towards the governor of central bank and head of the relevant bank and financial institutions.

27. In accordance with the order passed by the Central Board under Rule 26 (a), the Scrutiny Body shall:

- (a) inspect the financial records, copy therefor and seize the money and properties as exhibit that were being taken from the person who has been investigated;
- (b) seize evidence relating to money and properties being transferred and prohibit;
- (c) entrust the jewelries, currency and valuable properties which are seized as exhibit will be kept at the bank that were specified by the Financial Intelligence Unit for the sake of safety.

## Chapter (7)

### Measures to be Taken In Respect of Exhibits

28. The Scrutiny Body shall, in respect of exhibits, carry out as follows:

- (a) shall affix the said order or directive in a conspicuous place at the site where the property in respect of which a prohibitory order or a directive to seal was issued is situated and also at the relevant Offices of the Township, Ward and Village Tract Administrator;
- (b) may, with respect to the immovable property if the person under investigation, the person whose property has been seized or the person having beneficial interest in the exhibit applies for return of the property under a bond submitting valid evidence during the investigation period cause a bond to be entered into in form(4) with sufficient security by order of the Central Board and return the immovable property;
- (c) shall, if the immovable property is not returned under a bond, remove the residents, seize, lock and seal the property;
- (d) shall, if the bond with respect to the such property is violated, remove the residents from there, lock and seal the property;
- (e) shall assign duty to the relevant Township Police Force Commander to keep the sealed immovable property in safe custody.

## **Chapter (8)**

### **Preventive Measures and Duty to Report**

29. The reporting organizations shall report the Central Board in developing and implementing the internal policies, procedures, systems, and controls to combat anti-money laundering and counter financing of terrorism pursuant to section 28 of the Law. The Central Board shall impose the guidance as may be necessary. The reporting organizations shall comply with the guidelines of the Central Board.

30. The reporting organizations shall scrutinize by using the following informations and documents in performing the customer due diligence regarding to the natural person, companies, entities or legal arrangements:

- (a) if the customer is a natural person, the informations to be obtained and scutinized are:
- (1) Name in full including other name;
  - (2) National Registration Card, Citizen Scrutiny Card, Passport;
  - (3) Permanent address and contact address;
  - (4) Date of birth;
  - (5) Nationality;
  - (6) Occupation;
  - (7) Phone number (if any);
  - (8) Photograph;
  - (9) Two introducer names and accounts (existing current account).
- (b) partnerships, partnerships restricted duty to pay and company including trusts and acting on legislation program:
- (1) Name of Company or enterprise;
  - (2) Address of Head Office;
  - (3) Full address (including Phone & Fax No.);
  - (4) Company Registration Certificate, article of association & memorandum of association;
  - (5) Agreement of Partnership;
  - (6) Trust Agreement;
  - (7) Name and address of Members of the Board of Director (phone number, if any);
  - (8) Registration documents of Directors, Shareholders, Partnerships;
  - (9) Registration documents of liquidator, trustee, defender and benefit owner in respect of trust business;
  - (10) Decision of the Board authorizing for opening account and regulating;
  - (11) Conferring authority of board of directors to chief executive officer or other officers for financial transaction;

- (12) Identification documents to confirm a person authorized as agent by the company/ enterprise in dealing with bank/ financial institution.
- (c) if the customer is Non Government Organization (NGO), the information should be obtained and scutinized are:
- (1) Name of NGO;
  - (2) Address;
  - (3) Registration Number;
  - (4) Certified document of NGO;
  - (5) Name and addresses of the Executive Committee;
  - (6) Phone number;
  - (7) Account regulatory decision of the Executive Committee;
  - (8) Registration documents of directors of NGO and high level officers;
  - (9) Authority of financial transaction account to regulate;
  - (10) Representative for NGO Bank/ Financial Institution transaction and for have relationship registration to confirm documents of a person authorized to deal with Bank/ Financial Institutions on behalf of NGO.
31. In performing according to Rule 30:
- (a) if it is a joint account, the Bank and Financial Institution shall attain the aforesaid information from all persons who are related to that account;
  - (b) reporting agencies shall compare and indentify whether or not information sent from company and enterprise are correct with the Investment and Company Directorate, and confirm;
  - (c) it shall obtain the documents that are comparable for the foreign companies or economic organization registered in foreign. The Bank and Financial Institutions shall analyse the documents delivered by the company or economic organization including causing to submit certified certificate fo the foreign office and certificate approved by the Myanmar Embassy.

32. The reporting organizations shall, when analysing and approving the customer due diligence to the customer and beneficial owner with respect to insurance or other insurance related to investment, exercise the following means:

- (a) taking the relevant full information of the natural or legal person who is the beneficial owner of the legal arrangement;
- (b) obtaining the name of the identified beneficiary owner by the characteristics or the class (e.g. spouse or children at the time of insurance) or other means (e.g. will) and the sufficient information;
- (c) identification and verification of the beneficiary owner at the time of payment.

33. When a reporting organization is difficult to perform with the requirement of Rule 31, it should be considered as a suspicious transaction, submit to the Financial Intelligence Unit.

34. The reporting organizations shall obtain the legible file copies of the relevant analysis and approval documents for the natural and legal person.

35. The reporting organizations shall fully carry out the procedures to identify the customers according to Rule 39 and 40, except the following conditions:

- (a) as soon as carrying out practically, when the identification process has confirmed;
- (b) not to disturb to the regular economic relationship of reporting organization when it is to perform;
- (c) when enabling to manage effectively the risk of money laundering or counter financing of terrorism.

36. If the reporting organizations give their services to a customer before it has been done customer due diligence measure, and shall define and implement the minimum requirement such as limiting quantity, types and amount of transaction for such customer.

37. The followings shall be included when the reporting organizations in enhancing customer due diligence for higher risk customers:

- (a) examining the background and purpose of complex, unusual large amount of transactions, and all unusual patterns of transactions which have no apparent economic or lawful purpose;
- (b) increasing the monitoring of the business relationship, in order to determine whether or not the transactions prescribed in sub-section (a) or activities appear usual or suspicious;
- (c) obtaining the additional information of the customer (e.g occupation, volume of assets, obtained information of the customer), and updating the identification data of customer and beneficial owner;
- (d) obtaining the additional information of the business relationship relating to the transactions prescribed in sub-rule (a);
- (e) obtaining information on the source of money or assets of the customer;
- (f) obtaining the permission of senior management to commence or continue the business relationship;
- (g) enhancing the monitoring of the business relationship, by increasing the number and times of inspection to be complied, and selecting patterns of transactions that need further examination.

38. The reporting organizations shall apply the enhanced customer due diligence measures to higher risk customers at each stage of the customer due diligence process and on an on-going basis.

39. The reporting organizations shall enhance customer due diligence measures, in business relationships with customers not present in person, for identification including the followings facts:

- (a) obtaining the official documents in accord with the relevant laws and regulations;



- (b) obtaining the further necessary documents and enhancing the independent verification measure or causing a customer who is not present to be present in person.

40. When the reporting organizations find that the actual beneficiary in depositing a life insurance is an exposed person or higher risk person, it shall perform the customer due diligence measures specified in this Rule, and:

- (a) inform the senior manager before paying money;
- (b) enhance customer due diligence on insurer;
- (c) consider the drawing money as suspicious transaction and report to the Financial Intelligence Unit.

41. The reporting organizations shall, if determines that the customer is acting on behalf of someone or beneficial owner, identify the evidence of the beneficial owner by using information obtained through the relevant information or data and reliable sources are satisfied with the facts prescribed [in Rules 30 and 31](#).

42. The reporting organizations shall take adequate action in order to understand the ownership and control structure of the following customer who are entitled to manage transfer of money and properties on behalf of other company, organization or other legal person:

- (a) with respect to legal entities, in identifying on each of the following natural person that:
  - (i) owns or controls directly or indirectly more than 25 percent of the ownership of the legal entity;
  - (ii) is responsible for the management of the company;
- (b) with respect to legal arrangements, identification are made of the liquidator, trustee, protector, beneficiary or of persons in similar positions.

43. The reporting organizations shall lay down procedures such computerized automatic system for monitoring on an ongoing basis customer transactions and the relationship with the customer as provided by section 20 and 21 of the Law.

44. The reporting organizations shall inspect whether or not the customer information already known, commercial activities, the source of funds if necessary are in conformity with the customer transactions in continuous

inspecting. In addition, the predetermined limits of the amount and volume of transactions and type of transactions shall be included.

45. The initial transaction bank shall, money transaction information by wire transfer or electronic means, arrange available within three working days from the date of receipt of the request either by the receiving bank and financial institution or the Financial Intelligence Unit.

46. In cross-border by wire transfer or by electronic means other than domestic transfer if the technical limitations prevent for the information related to the originator or beneficial owner intermediary bank shall keep at least five years from revocation economic dealing or conclusion of often transaction all the information received from the originator bank or other intermediary bank.

47. The Banks and Financial Institutions shall have effective risk-based preventive procedures for determining the followings;

- (a) when to execute, refuse or suspend or reporting to the Financial Intelligence Unit a transfer wire by lacking required information of the originator or beneficiary;
- (b) the appropriate follow-up action which may include restricting or terminating business relationships.

48. For transfers by wire or by electronic means, a receiving bank shall verify the identity of the beneficiary if the identity has not been previously verified, and keep the said information in accordance with the record keeping provisions of the Rule.

49. In addition to the requirements of Rule 48, in relation to money transfer by wire or electronic means and either originated bank or received bank shall report to the Financial Intelligence Unit the following transactions:

- (a) cross-border money transfer by wire or electronic means of any foreign currency in excess of threshold amount;
- (b) domestic money transfer by wire or electronic means of domestic currency in excess of threshold amount;
- (c) transfer where the originator's information is incomplete or unavailable.

50. The reporting organization shall, where has reasonable grounds to suspect that the transaction or attempt to transaction is money or property

obtained by illegal means or is related to money laundering or counter financing of terrorism, submit a report to the Financial Intelligence Unit in the prescribed form (6) specified by section 10(a) of the Law for respective sectors immediately.

51. In accord with section 32 of the Law, the reporting organizations shall submit a report immediately to the Financial Intelligence Unit in the relevant form contained in form (7) specified by section 10(a) of the Law for respective sectors the transactions that are in excess of threshold amount prescribed to report by the Central Board. The reporting organization situated in an urban area shall report within 24 hours and within three days for a remote area.

52. The reporting organizations shall immediately report anonymous accounts or accounts in obviously fictitious names to the Financial Intelligence Unit.

53. The reporting organizations shall, in appointing the compliance officer, appoint who has appropriate experience and qualifications in relation to the anti-money laundering and counter financing of terrorism under section 28(b) of the Law and, confer the authorities in order to implement independently and report to senior manager.

54. The reporting organizations shall give the personal datas including the name, qualifications, address, contact phone number and e-mail address of the compliance officer to the Financial Intelligence Unit and competent regulatory authorities. The reporting organizations shall immediately inform to the Financial Intelligence Unit and competent regulatory authorities if there is any changes of the compliance officer.

55. The board of directors or other similar management bodies of the reporting organizations shall review from time to time the requirement to be complied by their organizations in accord with the Law and the observance of the compliance officer.

56. The compliance officer shall submit regular reports to the board of director or competent regulatory authority including the following facts:

- (a) identified suspicious transactions and participation thereto;

- (b) performance of staff of compliance group and results of inspection of account independently in the system of money laundering and counter financing of terrorism in order to policies, procedures, system and controls of the anti-money laundering and counter financing of terrorism of their reporting organizations be strong;
- (c) results of on site inspection of the Financial Intelligence Unit and competent regulatory authority;
- (d) performances to mitigate disadvantage in implementing by their reporting organizations.

57. The reporting organizations shall appoint full competence experts and arrange independent inspection process whether or not to inspect the officers and staff serve their duties and functions in accord with the anti-money laundering and counter financing of terrorism departmental policies, procedures, systems and controls.

58. The reporting organizations shall, with the approval of the Board of Directors and other similar management body of the reporting organization, prescribe employee screening procedures to ensure appropriate standards when hiring employees. Employee screening procedures shall be included the followings:

- (a) having high level of necessary competency of employee to perform their duties;
- (b) having appropriate ability and integrity of employees to conduct the economic business activities of the reporting organization;
- (c) taking into account potential conflicts of interests including the financial background of the employee;
- (d) prescribing requirements of fit and proper conduct;
- (e) not employing by the reporting organization persons charged or convicted of offences involving fraud, dishonesty or other similar offences.

## Chapter (9)

### Supervision

59. The competent regulatory authorities shall conduct the money laundering and counter financing of terrorism risk assessment at least once in (3) years cooperating with the reporting organizations to which it is responsible and shall report its finding to the Central Board. A copy of the report shall be submitted to the Financial Intelligence Unit.

60. The competent regulatory authorities shall assess adequately on identified risk from carrying out risk assessment by the reporting organizations to which it is supervised, administer to mitigate risks, supervise the reporting organizations to which it is responsible. It shall prescribe the requirements to add further on facts to be complied by the reporting organizations.

61. The competent regulatory authorities may inform and inspect the day and data to the relevant work-site in respect of compliance of the reporting organizations to which it is supervised and for enabling to carry out off-site supervision and on-site inspections and may call for work activities and statistics from such organizations with or without stipulated form with time frame.

62. If the competent regulatory authorities impose any supervision or counter measure against the reporting organizations according to section 37 of the Law, such measure shall be reported to the Central Board through the Financial Intelligence Unit within 7 days from the date of imposing.

63. The competent regulatory authorities may request required technical assistance from the Central Board or Financial Intelligence Unit in order to perform absolutely its functions and duties.

## **Chapter (10)**

### **Cross -Border Transportation of Money or Bearer Negotiable Instruments**

64. When the designation of the declaration form according to section 39 of the Law, the Customs Department shall negotiate with the Financial Intelligence Unit.

65. The Customs Department shall send a report with form (7) of the information to the Financial Intelligence Unit and the Central Bank of Myanmar, the Foreign Exchange Management Department in accordance with section 42 of the Law without delay.

## **Chapter (11)**

### **International Cooperation**

66. The Central Board may, other than the provision contained in section 53 of the Law, perform the following functions:

- (a) signing MoU, Agreements, Duties and Terms of Reference;
- (b) obtaining technical assistance of legal professionals, electronic professional, finance experts and other experts in cooperating research and development works relating to anti-money laundering and counter financing of terrorism.

## **Chapter (12)**

### **Funds for Anti-money Laundering and Counter Financing of Terrorism**

67. The Central Board shall consider the specific rules and regulation contained in section 56 of the Law when using the fund for the anti-money laundering and counter financing of terrorism.

68. In respect of the said fund for the anti-money laundering and counter financing of terrorism, the audit report shall be issued to public yearly after

being audited by the internal audit or if necessary, by the Office of the Auditor General of the Union.

69. The funds for money laundering and terrorist financing may be expended in the following matters:

- (a) workshops, educating programs, trainings, meetings, distributing law and pamphlet, distributing printed annual report related to upgrading education on money laundering and financing of terrorism organized by the Financial Intelligence Unit;
- (b) travelling expenses for attending the international meetings, workshops and trainings;
- (c) expenses regarding maintenance of exhibits temporarily seized during investigation period.

70. The Financial Intelligence Unit may expend the expenses for the matters contained in section 57 of the Law and Rule 75 with the permission of the committee formed by the Central Board. The said expenditure shall be performed according to the financial rules and regulations for being audited.

71. An account shall be opened in State-owned bank to maintain funds for the money laundering and counter financing terrorism and to facilitate domestic /foreign donors in donating by mean of account transfer.

## Chapter (13)

### Miscellaneous

72. The law enforcement agencies including the Scrutiny Body and Investigation Body shall comply with the provisions contained in the Criminal Procedure Code, if not provided expressly in the rules in issuing search warrant, searching, arresting, seizing for exhibit, prosecuting related to money laundering.

73. The person under investigation shall cause to sign the every page of statement after it has been read and the members of the Investigation Body and the Scrutiny Body shall also sign.

74. The relevant law enforcement agencies, reporting organizations and competent regulatory authorities shall cooperate and support to conduct the investigation of the Scrutiny Body and Investigation Body.

75. The responsible persons to conduct investigation shall have the right to use the powers of Myanmar Police Force and Bureau of Special Investigation.

76. The Central Board shall make arrangement to keep the name of informer confidential and give required protection under the law in respect of predicate offences of money laundering. In addition, based on the extent of the crime, may carry out as may be necessary for enabling to reward the following persons:

- (a) an informer regarding the commission of any offence under the Law;
- (b) secret hardcore informant;
- (c) individuals and organization that support in scrutinizing, investigating and revealing the money laundering and financing of terrorism issues;
- (d) personnel who enthusiastically support in money laundering and financing of terrorism.

77. The relevant government organizations shall immediately inform the Financial Intelligence Unit if the money laundering or financing of terrorism is believed to be committed through the offences being inquired or tried.

78. The Central Bank of Myanmar shall, after issuing the directive or procedure to be complied by the banks and financial institutions for transaction by wire transfer or electronic means in accordance with section 27(d)(iii) and section 27(g) of the Law, send a copy to the Central Board and the Financial Intelligence Unit.

79. The organizations that issues orders and directives in accordance with section 69(c) continuously review the procedure to be complied in accordance with the law by the organization under supervision and issue from time to time, and send a copy to the Financial Intelligence Unit.



80. The Central Board may form staff office which consists of experts from the Ministry of Home Affairs and relevant government departments, and external experts in order to support the functions and duties of the Board.

81. The Central Board may continue to carry out, as may be necessary, measures according to the the analysis report of the Financial Intelligence Unit when appearing that the performance under sections 17 (a) and (b) to be carried out by the Investigation Body has been obtained.

(Sd) \*\*\*\*\*

Lieutenant General Ko Ko  
Union Minister  
Ministry of Home Affairs

Letter No:pahtaya / 2 / 1-1 (1201)/ 2015

Date : 11 September,2015

Circulation to:

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**Form (1)**

**The Government of the Union of Myanmar  
Ministry of Home Affairs  
The Central Board of Anti-Money Laundering  
Order granting permission to investigate, enter and  
make inspection, search, copy and seize**

[ Rule7 (a) ]

This Order is hereby issued to the Investigation Body headed by (name of the leader) designation of ..... Department on receiving sufficient information that money laundering offence has been committed for enabling investigation, entering and inspection, search and seizure relating to money and property obtained by illegal means.

1. Person to be investigated

( a ) Name .....

( b ) Citizenship Scrutiny Card No; National Registration Certificate No; Foreigner Registration Certificate No; Nationality; Passport No; Visa No;.....

.....

( c ) Father's ..... name

.....

( d ) Address

.....

2. Brief summary of the Money Laundering Offence .....

.....

.....

.....

.....

.....

.....

3. Immovable properties and movable properties relating to Money Laundering Offence shall be seized with Temporary Seizure Form(2) in the presence of 2 witnesses.

4. If execution cannot be made in accordance with this Order, the reason for not being able to do so shall be reported to the Central Board of Anti-Money Laundering .

5. If execution can be made, after conducting investigation, the report of findings of investigation shall be reported promptly to the Central Board of Anti-Money Laundering.

Office seal

Chairman  
The Central Board of Anti- Money Laundering

Dated -----

Form (2)

**The Government of the Union of Myanmar**  
**Ministry of Home Affairs**  
**The Central Board of Anti-Money Laundering**  
**Temporarily Seizure of Money and Property Form**  
**[ Rule 14 (c) ]**

1. Date and time of seizure of money and property -----  
---
2. Location where property was seized -----  
----
3. Person under investigated -----  
( a ) Name-----  
-----  
( b ) Citizenship Scrutiny Card No. / National Registration Certificate No./  
Foreigner Registration Certificate No. / Passport No. / Visa No. -----  
-----  
( c ) Address-----  
-----
4. Person whose money and property have been seized  
( a ) Name-----  
-  
( b ) Citizenship Scrutiny Card No./ National Registration Certificate No./  
Foreigner Registration Certificate No./ Passport No./ Visa No. -----  
-  
( c ) Address -----  
----
5. Money and Property seized temporarily.

Serial No	Type of Money and Property	Value	Location	Facts and detail	Remark

Signature -----

Name -----

Person under investigation;  
Person whose property has  
been returned

Signature -----

Name -----

Leader of Investigation Body  
Person returning the money  
and property

6. We hereby put our signatures as witnesses Certifying that it is true that properties contained in this Temporarily Seizure Form were seized in our presence.

Witness (1)

Witness (2)

Signature -----

Name -----

Citizenship Scrutiny Card No./  
National Registration Certificate No.

-----

Address -----

Signature -----

Name -----

Citizenship Scrutiny Card No./  
National Registration Certificate No.

-----

Address -----

**Note :**

- ( 1 ) In mentioning the number of items of property it shall be expressed in words as well as in figures.
- ( 2 ) In mentioning the number of items of property, if there is no enough space, separate sheets of paper shall be used to mention thereof, and the person under investigation, leader of the Investigation Body and witnesses shall put their signatures on every page.
- ( 3 ) The leader of the Investigation Body shall read and explain the facts included in Temporarily Seizure Form (2) to the person under investigation.

Form (3)

**The Government of the Union of Myanmar**  
**Ministry of Home Affairs**  
**The Central Board of Anti-Money Laundering**  
**Prohibitory Order**  
**[ Rule 7 (d) ]**

In respect of money laundering offence during investigation period, this prohibitory order is hereby issued to the following relevant department, organization and person not to convert, transfer, conceal disguise, and obliterate the money and properties obtained by illegal means.

1. Name and Address of person and organization under investigation  
.....  
.....

2. Name and Address of person and organization whose property has been seized  
.....  
.....  
.....

3. Name and Address of person and organization to whom prohibitory order has been issued .....  
.....  
.....

4. Prohibitory order be issued for the following:  
( a )The amount of money .....  
( b )The value of property .....  
( c )The type of property and location .....

5. Commencing date of prohibition -----  
---

-----  
-----  
-----

Chairman  
Central Board of Anti-Money  
Laundering

Dated: -----

Form (4)

**The Government of the Union of Myanmar**  
**Ministry of Home Affairs**  
**The Central Board of Anti-Money Laundering**  
**Bond**

**[ Rule 7 (c) ]**

1. On ..... (day) .....(month) .....  
(year), I U/Daw (name) ....., (age) .....years, holder of  
Citizenship Scrutiny Card No. ....., residing at ..... (No.)  
....., (street) ..... (ward/village), .....  
(township) hereby put my signature below to enter into this Bond and agree to refund  
compensation as mentioned herein if this Bond be violated.

2. The Investigation Body has temporarily seized the following properties at  
..... (No.)..... (street), .....(ward/village)  
..... (Township) owned by me and which relate to money laundering  
offence.



No	Type of Property	Value	Location	Fact in detail	Remark

3. I hereby promise that with respect to the properties contained in paragraph 2 seized temporarily I will not amend the original form of, change, sell, mortgage, gift, release, transfer by a certain means, conceal, obliterate, disguise the said properties and will not amend or change the original form with intention to destroy or cause destruction during the period in which they are re-entrusted to me.

4. I hereby promise that the properties seized temporarily contained in paragraph 2 will be kept at No. ...., ..... (street), ..... (ward/village), ..... (township) only, and without sanction of the Central Board of Anti-Money Laundering, will not be moved to another place.

5. I further promise that necessary maintenance and protection will be made so as not to cause destruction and loss to the said property.

6. I understand and know that if any of the promises mentioned above are violated by me or violated by any person with to my abetment, the relevant properties will be confiscated under Rule 11(a) and also will have action taken against me.

Signature  
Person under  
investigation/  
Person whose property has been  
seized

If any of the promises contained in this bond are violated by the person under investigation or person whose property has been seized, and no prescribed value be paid, we, two sureties hereby guarantee to pay the value that is owed fully individually or jointly.

Surety (1)  
Signature .....  
Name .....  
Citizenship Scrutiny Card No:  
National Registration Certificate No;  
.....  
Address .....

Surety (2)  
Signature .....  
Name .....  
Citizenship Scrutiny Card No.  
National Registration Certificate No;  
.....  
Address.....

I hereby put my signature confirming that this bond is made in my presence.

Signature .....

Name .....

Leader of Investigation Body

**Note:**

- ( 1 ) In respect of the temporarily seized properties, this Bond Form (4) shall be made only after the Central Board of Anti-Money Laundering has issued the prohibitory order Form (3).
- ( 2 ) The person under investigation, the person whose property has been seized, the leader of Investigation Body and witnesses shall sign on every paper used as separate sheets as there is not enough space for mentioning the property seized temporarily.
- ( 3 ) The leader of Investigation Body shall read and explain the facts included in the Temporary Seizure form (2) to the person under investigation or person whose property has been seized.

Form (5)

**The Government of the Union of Myanmar**

**Ministry of Home Affairs**

**The Central Control Board on Money Laundering**

**Form for Returning of Money and Property**

1. Brief summary of the order passed by Central Board and Date .....

.....  
.....

2. Date and time of returning of money and property .....

.....

3. Location of returning money and property .....

4. The person under investigation.....

..... ( a ) Name .....

.....

( b ) Citizenship Scrutiny Card No., National Registration Card No.,  
Foreigner Registration Card No., Passport No., Visa No. ....

-----

.....

( c ) Address .....

-----

.....  
5. Person to whom property has been returned.....

.....

....

( a ) Name .....

( b ) Citizenship Scrutiny Card No., National Registration Card No.,  
Foreigner Registration Cord No., Passport No., Visa No.

.....

-----

-----

( c ) Address

.....

6. Money and properties returned :

No	Item of money and property	Value	Location	In Detail	Remark

Signature .....

Name .....

Signature .....

Name .....

The person being investigated/  
person whose property has been  
returned

Leader of Investigation Body  
person who has returning the money and  
property

7. We hereby put our signatures as witnesses certifying that it is true that properties contained in Form for Returning Money and property have been returned in our presence.

Witness (1)	Witness (2)
Signature .....	Signature .....
Name .....	Name .....
Citizenship Scrutiny Card No./	Citizenship Scrutiny Card No./
National Registration Certificate No.....	National Registration Certificate No..
---	
Address .....	Address .....

**Note:**

- ( 1 ) In mentioning the number of items of property it shall be expressed in words as well as in figures.
- ( 2 ) In mentioning the number of items of property, if there is no enough space, separate papers shall be used to mention thereof, and the person under investigation, leader of the Investigation Body and witnesses shall put their signatures on every page.
- ( 3 ) The leader of the Investigation Body shall read and explain the facts included in Returning of property Form (5) to the person under investigation or the person whose property has been seized.

Form (6)

### Suspicious Transaction Report Form(For Banks)

#### (Rule 50)

According to the Control of Money Laundering Law, the Reporting Agencies are to report the suspicious transaction in detail by filling in this prescribed form and shall submit it to the FIU.

#### Part I Detail of Report

1. Reporting Date -----/-----/-----
2. Type of Reporting Entity  
 Bank  Security Exchange Center  
 Insurance Enterprise
3. Name of Reporting Entity -----  
-----
4. Address of Reporting Entity -----  
-----  
-----
5. Phone No. of reporting Entity -----  
-----
6. Fax No. of Reporting Entity -----  
-----
7. Destination of Compliance Officer -----  
-----
8. Destination of Compliance Officer -----  
-----

9. Signature of Compliance Officer -----  
-----

**Part II. Activities in Detail**

10. Date of transaction -----/-----/-----

11. Time of transaction -----/-----/-----

12. Type of transaction

Deposit

Withdrawals

SWIFT/Telegram/Fax including all  Local   
Aboard

e-transfer (deposits)

SWIFT/Telegram/Fax including all  Local   
Aboard

e-transfer (withdrawals)

Other -----  
-----

13. Types of Payment

Cash

Negotiable Instruments (Cheques/ Bank Transfers/ Payment Orders/ etc.)

Payment by electronic mean (Credit Cards/ Debit Cards/ etc.)

14. Type of Currency -----

-----15. Cash amount -----

-----16. Intention of Transaction -----  
-----  
-----

-----17. Name of person conducting Transaction -----

-----18. Type of Identification Cards

National Registration Card

Passport

Company Registration

Other -----  
-----

19. Identity Card Number -----  
-----

20. Type of Customer

Natural Person

Legal Person

21. Gender  Male  Female
22. Date of Birth (For Natural Person) -----/-----/-----  
Date of Registration (For Legal Person) -----/-----/-----
23. Citizenship ----- Country of Incorporation -----
24. Address -----  
-----  
-----
25. Phone No. -----
26. Occupation (For Natural Person) -----  
Type of Business (For Legal Person) -----

**Part III Details of Bank Account**

27. Name of Account Holder -----
28. Account Number -----
29. Account Opening Date -----
30. Banks and Affiliate Banks where accounts are opened -----/-----/-----
31. Other Banks and Affiliate Banks that are concerned in the cash transfer -----
32. Account No. opened at the above Banks/affiliate Bank -----
33. Types of Account  
 Saving Account  
 Current Account  
 Other -----

**Part IV Causes of suspicion in detail**

34. Type of Suspicion  
and not  Structuring  Cash amount greatly exceeding

- Using of False ID business and
- Customers related to Narcotic Drugs/ML
- Transaction not in conformity with customer information
- Relevant to the business income
- Activities not relevant to the complicated
- Customer with Criminal Records
- Others (Detail are to be filled in

35. Details to be filled in

-----  
 -----  
 -----  
 -----  
 -----.

36. Actions taken

-----  
 -----  
 -----  
 -----  
 -----

Ref; pahtaya / 2 / 1-1 (1201)/ 2015

Date; 11<sup>th</sup> September, 2015

**Dispensation**

President Office

Cabinet



**The Counter Terrorism Law**  
**(The Pyidaungsu Hluttaw Law No.23, 2014)**  
**7th Waxing of Nayon, 1376 M.E.**  
**(4 June, 2014)**

The Pyidaungsu Hluttaw hereby enacts this Law.

**Chapter I**

**Title, Jurisdiction and Definition**

1. This Law shall be called **the Counter Terrorism Law**.
2. This Law shall have jurisdiction upon the persons who commit, attempt to commit, abet or, instigate or participate as accomplices the following acts of terrorism:
  - (a) an act of terrorism committed by any person within the territory of the State;
  - (b) an act of terrorism committed beyond the limit of the country by a Myanmar citizen or a permanent resident foreigner in the State or against any of them;
  - (c) acts which cause damage and loss to the public security or life and property of the public or important infrastructure facilities for the public or private or the State-owned facilities, conveyance, machinery and equipment;
  - (d) financing amounted to abetment of any terrorist or any terrorist group who commits or is likely to commit an act of terrorism;
  - (e) an act of terrorism committed against the State-owned facility, conveyance, machinery and equipment or diplomatic offices including embassy and consulate of the State existed abroad;
  - (f) an act of terrorism committed on a vessel, an aircraft and any other vehicle which has been registered in the State under any existing law;
  - (g) an act of terrorism committed on a vessel or an aircraft or any other vehicle which is operated or leased from domestic or abroad with or without crew by a Myanmar citizen or a permanent resident foreigner in the Union of Myanmar or any organization or association owned by them;
  - (h) an act of terrorism committed by the alleged offender who is present in the territory of the State and when a request for extradition had not been granted to the respective foreign State;
  - (i) acts of terrorism committed to the State or other countries based within the State;

- (j) acts of terrorism committed on land, sea, air space, territory and continental shelf of the State;
- (k) an act of terrorism committed by or against vessels navigating from any place of the State to any other place existed within the State through the outer territorial sea of the State or vessels navigating according to their schedule or vessels navigating beyond the territory of the State in the adjoining borderline of the neighbouring countries which are adjacent to the State.

3. The expressions contained in this Law shall have the meanings given hereunder:

- (a) **State** means the Republic of the Union of Myanmar.
- (b) **Act of terrorism** means an act or omission to act any of the following offences with the intent to commit an act of terrorism:
  - (i) an unlawful offence with the intent against civil aviation and airport provided in Chapter IV;
  - (ii) an act against internationally protected persons including representatives provided in Chapter V;
  - (iii) an act against the taking of hostages provided in Chapter VI;
  - (iv) an offence against nuclear materials, radioactive materials and nuclear facilities provided in Chapter VII;
  - (v) an unlawful offence with the intent against the safety of maritime navigation provided in Chapter VIII;
  - (vi) an unlawful offence with the intent against the safety of fixed platforms in the continental shelf provided in Chapter IX;
  - (vii) an offence against unmarked explosives provided in Chapter X;
  - (viii) an offence against terrorist bombing provided in Chapter XI;
  - (ix) an offence against financing and providing material of terrorism provided in Chapter XII;
  - (x) acts which cause serious damage and loss to the public security or life and property of the public or the important infrastructure facilities for the public or individual or State-owned facilities, conveyance, machinery and equipment;
  - (xi) act of terrorism committed against the State or government owned facilities, conveyance, machinery and equipment or diplomatic offices including embassy and consulate of the State existed abroad;
  - (xii) acts to produce ,transfer, maintain, provide or offer to provide the weapon and ammunitions, biological, chemical and nuclear weapons or explosive weapons, nuclear material to a terrorist or member of any terrorist group;

- (xiii) acts which cause death or serious injury to a civilian or any other person not participating at hostilities in the situation of armed conflict with the intent to cause fear in the public, to force Government or any internal and international organization to do unlawful act or to refrain from doing lawful act, and other acts;
  - (xiv) acts of terrorism which cause serious damage to the health or safety of the public or the environment with the intent to terrorize;
  - (xv) acts of exhortation, persuasion, propaganda, recruitment of any person to participate in any terrorist group or activities of terrorism;
  - (xvi) acts to organize a terrorist group, to participate in any terrorist group knowingly and to operate by assigning;
  - (xvii) acts of concealing or harbouring knowingly or granting to hide or granting to stay temporarily or hiding not to be taken action or to be escaped a terrorist or member of any terrorist group;
  - (xviii) acts of giving permission to use, to assemble in, to hold meeting in any building and place, to train on an act of terrorism or to arrange transportation to a terrorist or member of any terrorist group;
- (c) **Fixed platform** means an artificial island installed and structured permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes in continental shelf of the State.
- (d) **Assets owned by a Terrorist Group** means profits obtained from the commission of an act of terrorism, money and assets which are used or being used or presumed to be used in the commission of an act of terrorism, money and assets which are used or being used or presumed to be used by a terrorist or a terrorist group, money and assets which are possessed or controlled by a terrorist or a terrorist group or any other person on behalf of such group, money and assets which are collected with the intent to provide a terrorist group or to provide fund to an act of terrorism and money and profits derived from such money and assets.
- (e) **Aircraft in service** means the period of service from the beginning of the preflight preparation by the crew until twenty four hours after landing. In this expression, the period of service being given throughout the flight is also included.

- (f) **Infrastructure facility** means facilities such as water, sewage, energy, fuel, road, railway, water way, bridge, airport or transportation and communication used or occupied or provided or distributed publicly or privately for the interest of the public.
- (g) **State -owned facilities, conveyance, machinery and equipment** means facilities resided temporarily or permanently or conveyance, machinery and equipment being used for representatives of the State, members of Government, members of the legislature or the judiciary, officials and staff of the State or official and staff of government organizations or intergovernmental organizations in connection with their official duties.
- (h) **Internationally Protected Person** means any of the following persons in the State from any foreign country arrived at any time:
- (i) the Head of State under the Constitution of the respective State, member of the body performing the functions of a Head of State, the Head of Government or a Minister for Foreign Affairs and diplomats;
  - (ii) family members accompanying the person contained in clause (i);
  - (iii) a representative or any official of a State or an official or other representative of any international organization of an intergovernmental character including diplomatic representatives who are entitled pursuant to international law to special protection.
- (i) **Biological, Chemical and Nuclear Weapon** means a biological weapon, chemical weapon and nuclear weapon;
- (j) **Biological Weapon** means any of the following equipments:
- (i) microbiological or other biological agents and toxins whatever their origin or types and in quantities of their method of production which have no justification for prophylactic, protective or other peaceful purposes; or
  - (ii) weapons, equipment or agents designed to use such microbiological or other biological agents or toxins for hostile purposes or armed conflict.
- (k) **Chemical Weapon** means the following toxic chemicals and munitions whether being together or separate, the said chemical weapons:
- (i) toxic chemicals which are not intended to use for industrial, agricultural, research, medical or other peaceful purposes or direct protection against toxic chemicals and chemical weapons or military-affairs in which toxic chemicals be used or suppression of internal riot;

- (ii) munitions and devices specifically designed to cause death or harm by the toxic chemicals specified in clause (i);
  - (iii) other equipment specifically designed for a direct use of the munitions and devices specified in clause (ii).
- (l) **Nuclear Weapon** means a weapon containing nuclear materials defined in article 1 (a) and (b) of Chapter I of the convention on the Physical Protection of Nuclear Materials, 1980 compiled by the International Atomic Energy Agency.
- (m) **Device** means any nuclear explosive device or any radioactive material dispersal or radiation-emitting device which may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or to the environment.
- (n) **Nuclear material** means plutonium, except that with isotopic concentration exceeding 80 per cent in plutonium -238, uranium -233, uranium enriched in the isotope -235 or 233, uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue, any material containing one or more of the foregoing.
- (o) **Radioactive material** means nuclear material and radioactive substances which contain nuclei which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha, beta, neutron particles and gamma rays) and materials which may owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment.
- (p) **Nuclear Facility** includes the followings:
- (i) nuclear reactors including reactors installed on vessels, vehicles, aircraft or space objects for use as an energy source in order to propel such vessels, vehicles, aircraft or space objects or for any other purpose;
  - (ii) any plant, workshop, storehouse or machinery being used for the production, storage, processing or transport of radioactive material;
  - (iii) buildings in which nuclear material is produced, processed, used, handled, stored or disposed or a building attached with machineries. A building which may emit significant amount of radiation or radioactive material if such building is destroyed or interfered.
- (q) **International Nuclear Transport** means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment

originates beginning with the departure from any facility of the shipper of that State and ending with the arrival at any facility of the receiver within the State of ultimate destination.

- (r) **Explosive device** means any of the following devices:
- (i) an explosive or incendiary weapon or device that is designed or has the capability to cause death or serious injury to any person or substantial material damage;
  - (ii) a weapon or device that is designed or has the capability to cause death or serious injury to any person or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive materials;
- (s) **Plastic Explosive** means plastic substance in flexible or elastic sheet form. In this expression, any other substance specified by the rules issued under this law as plastic explosive in accord with the Convention on the Marking of Plastic Explosives for the Purpose of Detection is also included.
- (t) **Ship** means a vessel of any type whatsoever not permanently attached to the sea-bed including dynamically supported craft, submersibles or any other floating craft. In this expression mobile offshore drilling units and high-speed hovercraft are also included.
- (u) **Terrorist** means any person who commits or attempts to commit unlawfully any act of terrorism by any means directly or indirectly, or participates as an accomplice in an act of terrorism or directs or organizes others to commit an act of terrorism or intentionally contributes to commit an act of terrorism.
- (v) **Terrorist group** means a group of two or more persons formed taking a period of time to commit an act of terrorism. In this expression, a group of terrorist declared under the resolution of United Nations Security Council or by the Central Body with the approval of the Union Government is also included.
- (w) **Instigation** means an act of noticeable or unnoticeable, direct or indirect distribution, advocating or otherwise making a message or information with the intent to instigate the commission of any act of terrorism.
- (x) **Imprisonment for life** means imprisonment passed on a convicted person to serve in the prison till death.
- (y) **Place of public use** means any parts of a building, land, road, railway, waterway or other location that are accessible or open to the public whether periodically, or continuously, for commercial, business, educational, health, religious, cultural, governmental, entertainment and recreational affairs.
- (z) **Fund** includes the followings:

- (i) money and properties, assets of every kind and business resources obtained by any means whether tangible or intangible, movable or immovable;
  - (ii) legal documents or instruments that are the evidence for the money and title to property or profit gained by any electronic or digital means, including bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letter of credit.
- (aa) **Central Committee** means the Central Committee for Counter Terrorism formed by the Union Government under this Law.
- (bb) **Members of the force** means investigation bodies, prevention and suppression forces, financial intelligence unit force and members of special forces which are formed and specified the duties under this Law for investigation, seizure of exhibits, control and taking action upon acts of terrorism, offences of financing of terrorism, terrorist groups and terrorists.

## Chapter II

### Objective

4. The objectives of this Law are as follows:

- (a) to prevent an act of terrorism against the life and property of human beings and infrastructure facilities and environment;
- (b) to protect an act of terrorism by using various means in executive, economic and social sectors of the State;
- (c) to prevent and take action by revealing the terrorist groups, terrorists, their activities, instigation and causes of terrorism, and offences of financing of terrorism;
- (d) to enable to implement pursuant to the United Nations International Conventions, resolutions of the United Nations Security Council, ASEAN Conventions for counter terrorism in carrying out the prevention and suppression of terrorism;
- (e) to maintain world and local peace by cooperating with the State parties of the United Nations, international and regional organizations.

## Chapter III

### Formation of the Central Committee and Duties and Powers thereof

5. The Union Government:

- (a) shall form the Central Committee for Counter Terrorism consisting of the Union Minister for the Ministry of Home Affairs as Chairman, Ministers from the relevant Ministries, and the responsible persons from the Government departments and organizations as members;
  - (b) may re-form the Central Committee as may be necessary.
6. The duties and powers of the Central Committee are as follows:
- (a) laying down policies, guidance and plans related to counter terrorism;
  - (b) forming necessary working committees and bodies, and determining functions and duties, guiding and supervising;
  - (c) negotiating, guiding and supervising the cooperation of working committees, bodies, the relevant Union Ministries, Government departments and organizations;
  - (d) adopting necessary measures, for prevention, removal and destruction of weapons of mass destruction which include biological, chemical and nuclear weapons and radioactive materials which encroach international peace, security and stability;
  - (e) declaring any organization, association or group as a terrorist group and any person as a terrorist, and revocation of such declaration with the approval of the Union Government or under the declaration of the United Nations Security Council;
  - (f) adopting necessary measures for not enabling to land or take off the aircrafts owned or hired or controlled by a terrorist group or a terrorist within the territory of the State;
  - (g) coordinating with international and local organizations and State parties of international convention for counter terrorism in accord with the provisions contained in chapter XV of this Law for the suppression and elimination of acts of terrorism;
  - (h) issuing and refusing the authorization to extradite terrorists mutually with the State parties of international organization, member States of the regional organization in accord with the provisions contained in chapter XVI of this Law;
  - (i) managing and spending the fund for suppression and elimination of act of terrorism established in accord with the provisions contained in chapter XVIII of this Law;
  - (j) rewarding members of forces, officials, staff and members of the public who participate in the suppression of acts of terrorism and do so effectively;



- (k) adopting necessary measures for effective protection of the safety of informer who informs in advance the attempt of terrorist or terrorist group and the safety of informer and witness in taking action or in prosecution;
- (l) issuing the order to freeze the assets and funds owned by such terrorist or terrorist group when it is declared as a terrorist or a terrorist group under sub-section (e);
- (m) issuing the prohibition not to be carried out by anyone on financial service and transfer in respect of the assets and fund owned by the terrorist group contained in sub-section (l);
- (n) cancelling the order to freeze the assets and funds contained in sub-section (l) when it is revoked from being declared as a terrorist or a terrorist group by the United Nations Security Council and the Central Committee;
- (o) safeguarding not to affect the interest of person who carries out in good faith;
- (p) guiding and supervising the implementation of the department or force which lays down and implements the functional policy and procedures from sub-sections (l) to (o);
- (q) laying down necessary guidance and procedures for not enabling to make formation of taking appearance or use as the way of financing or changing the way or conceal the non-government organizations or non-profit-making organizations with the intent to commit terrorism or to finance terrorism;
- (r) guiding and supervising the awareness and capacity building of the relevant working committees, prevention and suppression organizations, government departments, organizations and the public for enabling to reveal and to take action against an act of terrorism;
- (s) reporting to the Union Government, from time to time, the performance of the Central Committee in respect of suppression and elimination of an act of terrorism, and performing other duties assigned by the Union Government.

## Chapter IV

### Suppression and Elimination of Unlawful Acts against the Safety of Civil Aviation and Airport

7. Whoever commits unlawfully and intentionally any of the following acts on board an aircraft in service, amounts to an offence against the safety of Civil Aviation and Airport:
- (a) the commission of violation of any penal code by any person on board an aircraft;
  - (b) an act of violence against a person on board an aircraft in service to endanger the aircraft;

- (c) an act of violence against the safety of the civil aviation;
  - (d) endangering to the passengers, crew or property on board;
  - (e) endangering to proper order and discipline on board;
  - (f) interference, seizure or unlawful control of flight of an aircraft in service by a person on board by forcing or threatening to endanger the aircraft commander;
  - (g) attempt, abetment or instigation to commit any act or participation as an accomplice in such commission contained in sub-sections (a) to (f).
8. Whoever acts unlawfully and intentionally any of the followings, amounts to an offence of unlawful seizures of an aircraft:
- (a) seizure of an aircraft or control the flight of an aircraft in service by force or threat or by coercion or by any other means of intimidation or by any other high technology;
  - (b) using an aircraft in service to cause death or grievous hurt to any person or substantial damage to property or to the environment;
  - (c) intimidation to commit any unlawful and intentional act against an airport serving civil aviation, or causing any person to accept such possible intimidation under circumstances;
  - (d) causing death and serious injury to any person or destroying an aircraft by biological, chemical and nuclear weapon, explosives, radioactive or similar device or substance to cause or likely to cause serious damage to infrastructure facilities or State-owned facilities, conveyance, machinery and equipment, using those on that aircraft or dispose of or discard such device or substance from an aircraft in service;
  - (e) transporting, causing to be transported or facilitating the transport of biological, chemical and nuclear weapon, explosives, radioactive materials contained in sub-section (d) and sources to produce them and softwares related to technology or similar device or substance or material used in designing, producing or giving of biological, chemical and nuclear weapon by aircraft;
  - (f) attempt, abetment, instigation to commit any act or participation as an accomplice in such act contained in sub-sections (a) to (e).
9. Whoever commits unlawfully and intentionally any of the following acts in aircraft in service, amounts to an offence against the safety of civil aviation:
- (a) an act of violence against any person on board an aircraft in service to endanger the safety of the aircraft;

- (b) destroying, jeopardizing an aircraft in service or placing or causing to place on an aircraft any device or substance which is likely to destroy the aircraft to damage or to be incapable of the flight the aircraft or to endanger the aircraft in service;
  - (c) destroying or damaging air navigation facility systems and communication equipments or interfering its directing operation to endanger the safety of an aircraft in flight;
  - (d) communicating knowingly false information to endanger the safety of flight;
  - (e) attempt, abetment, instigation to commit any act or participation as an accomplice in such offence contained in sub-sections (a) to (d).
10. Whoever commits unlawfully and intentionally any of the following acts, amounts to an unlawful act of violence against airport serving civil aviation:
- (a) an act of violence which causes or is likely to cause serious injury or death to any person who is serving civil aviation;
  - (b) destruction of air navigation facility system and communication equipment of an airport serving civil aviation or aircraft not in service located thereon, or disruption of the services of the airport to endanger or likely to endanger the safety of that airport;
  - (c) threat or by force against any person who is providing service to do an unlawful act or to refrain from doing a lawful act in order to endanger an aircraft in flight or airport serving civil aviation;
  - (d) attempt, abetment, instigation to commit any act or participation as an accomplice in such act contained in sub-sections (a) to (c).
11. A commander of an aircraft departed abroad from or landed to any airport of the State, when he has reasonable grounds to believe that a person has committed, or is about to commit an unlawful act on board, and it is necessary to take immediate action to protect the safety of the aircraft, or of persons and property therein or to maintain discipline on board:
- (a) may impose other appropriate measures including restraint on such person to deliver him to the authority of the Police Force or Immigration Department or to disembark him from the aircraft and to require or authorize the assistance of crew members and passengers for such restraint;
  - (b) shall notify situations on board, as soon as practicable, to the authority of civil aviation before landing the unlawful seizure of the aircraft to the airport in the territory of the State or another State.

12. (a) The authority of civil aviation of the State shall, when receiving the notice under sub-section (b) of section 11, allow the commander of aircraft registered in the State or another State to disembark such offender who commits an act unlawfully and intentionally.
- (b) The aircraft commander may, after landing the aircraft to an airport of the State or another State, deliver the offender who is believed to commit any offence intentionally and unlawfully contained in this chapter as soon as practicable, together with the evidence to the authority of the Police Force or Immigration Department.
- (c) The authority of the Police Force or Immigration Department may, after receiving the offender who has committed an act unlawfully and intentionally delivered under sub-section (b), extradite to the respective State in accord with the provisions contained in chapter XVI of this Law.
- (d) No suit or criminal proceedings shall lie against the persons in respect of undertakings as may be necessary of the persons who undertake on duty an aircraft in service in accord with the provisions of sub-sections (a), (b) and (c).
13. When the notice which has reasonable grounds to believe that a person has committed, or is about to commit an offence on board an aircraft in service unlawfully and intentionally, the Central Committee or Working Committee and the relevant Government Department or Organization delegated by the Central Committee shall arrange the following matters as may be necessary:
- (a) enabling to restore control and fly of the aircraft safely in accord with law by the commander;
- (b) accepting and allowing the request for landing on any airport of the State and the disembarkation and delivery of the offender who has committed an act unlawfully and intentionally by the aircraft commander;
- (c) assigning members of the suppression force for the seizure of the offender who unlawfully and intentionally occupied the aircraft;
- (d) enabling crews and passengers to continue their journey.
14. The provisions relating to aircraft contained in this chapter shall not apply to the aircraft used in the works of military, war affairs, customs and police force.

## Chapter V

### Prevention of Crimes against Internationally Protected Persons

15. Whoever commits with the intent of any of the following acts, amounts to an offence against internationally protected persons:
- (a) a murder, kidnapping or other commission upon the person or injuring liberty of an internationally protected person;
  - (b) a severe attack upon the official premises, the private accommodation or means of transport of internationally protected person aiming to endanger in person or liberty;
  - (c) threat to commit any offence contained in sub sections (a) and (b) ;
  - (d) attempt, abetment, instigation to commit any offence or participation as an accomplice in such offence contained in sub-sections (a) to (c).
16. The relevant Working Committee shall adopt measures for prevention, suppression and taking action of crimes against internationally protected persons, cause the members of force to perform and supervise.

## **Chapter VI**

### **Prevention of the Taking of Hostages**

17. Whoever:
- (a) seizes or detains any person, and requests any other person or State or international inter-governmental organization or association formed under law or any group of persons to do unlawful act or refrain from doing lawful act and threatens with condition to kill, to injure or to continue to detain the hostage if the request is refused and to release the hostage if it is accepted, amounts to an offence of taking of hostage.
  - (b) attempt, abetment, instigation to commit any offence or participation as an accomplice in such offence contained in sub-section (a), amounts to such offence.
18. The relevant Working Committee shall adopt measures for prevention, suppression and taking action of the taking of hostage, cause to perform and supervise the members of the force.

## **Chapter VII**

### **Prevention and Suppression of Offences relating to Nuclear Material, Radioactive Material, Nuclear Facility and of Biological, Chemical and Nuclear Weapons**

19. Whoever intentionally commits any of the following acts, amounts to an offence of nuclear material, radioactive material, biological, chemical and nuclear weapon:

- (a) receipt, possession, use, making, transfer, alteration, disposal, dispersal or spread of nuclear material, radioactive material, biological, chemical and nuclear weapons in any way to do an unlawful act or to refrain from doing a lawful act to any person, organization, international organization or the State or to cause or likely to cause death or serious injury to any person or substantial damage to property or environment;
  - (b) a theft, robbery, misappropriation and forgery of nuclear material, radioactive material, biological, chemical and nuclear weapons;
  - (c) transporting, sending, or moving of nuclear material, radioactive material, nuclear facility contained in clause (1) of sub-section (p) of section 3, biological, chemical and nuclear weapons into or out of the State without lawful authority;
  - (d) a threat to commit any offence contained in sub-section (a) and (b) to any person, organization, international organization or the State in order to do an unlawful act or to refrain from doing a lawful act;
  - (e) a demand for nuclear material, radioactive material, nuclear facility, biological, chemical and nuclear weapons by threat or use of force or by any other form of intimidation;
  - (f) attempt, abetment, instigation to commit any offence or participation as an accomplice in committing such offence contained in sub-sections (a) to (e).
20. Whoever intentionally commits any act of the following acts, amounts to an offence of nuclear facility:
- (a) direction which causes damage to nuclear facilities or operation of such facilities in a manner which releases or risks the release of radioactive materials with the intent to cause or likely to cause death or serious injury to any person or substantial damage to the property or environment without undertaking nuclear facility in the territory of the State in accord with the existing law;
  - (b) a threat to commit any of the offence contained in sub-section (a);
  - (c) a demand for nuclear facilities by threat or use of force or by any other form of intimidation;
  - (d) attempt, abetment or instigation to commit any offence or participation as an accomplice in committing such offence contained in sub-sections (a) to (c).
21. The relevant Working Committee shall specify the level of protection consistent with the international convention and adopt necessary measures and control in accord with such protection measures in importing, exporting, transporting, storing and producing nuclear materials and technology.

22. If the relevant Working Committee, during international nuclear transport, does not receive assurances to provide protection measures of type and level specified under section 21 from the carrier or the person who takes responsible to carry nuclear materials, radioactive materials and nuclear facilities contained in clause (i) sub-section (p) of section 3 shall:
- (a) not be exported or authorized to export;
  - (b) not be imported or authorized to import;
  - (c) not be allowed the transport in the territory of the State by land, waterway or air or to transit through an airport and seaport of the State.
23. Whoever intentionally commits any of the following acts, amounts to an offence of import, export, transport and transfer of nuclear material, radioactive material and nuclear facilities contained in clause (1), sub-section (p) of section 3:
- (a) import, export, transport by land or waterway or air and transport through or transit the State of nuclear material, radioactive material and nuclear facility contained in clause (1) sub-section (p) of section 3 inconsistent with protection measures specified under section 21;
  - (b) transfer of nuclear material, radioactive material and nuclear facilities or nuclear technology not for the protection of radiation risk and peaceful purposes in accord with the international convention.
24. Whoever unlawfully and intentionally commits any of the following acts, amounts to an offence of nuclear terrorism:
- (a) with the intent to cause or likely to cause death or serious injury to any person or substantial damage to the property or environment:
    - (1) a commission in any way by using the nuclear material, radioactive material or device, or the use, possession or making of any such material;
    - (2) emission of radioactive material or spread of radiation in any way by using or destroying the nuclear material, radioactive material or a device and nuclear facility.
  - (b) use of nuclear material, radioactive material or device and nuclear facility by compelling any person or international organization or the State to do an unlawful act or to refrain from doing a lawful act;
  - (c) attempt, abetment, instigation to any offence or participation as an accomplice in committing such offence contained in sub-sections (a) and (b).

25. (a) The relevant Working Committee shall coordinate with foreign countries directly or through the International Atomic Energy Agency, as may be necessary, for the following matters in the course of international nuclear transport:
- (i) providing protection measures and systems to and protection of nuclear material, radioactive material and nuclear facilities;
  - (ii) providing protection measures not to cause the offence of nuclear material and to be free from destructions of nuclear facilities;
  - (iii) managing to mitigate radiation to the minimum feasible extent when the destruction of nuclear facilities occurs;
  - (iv) recovery of any nuclear material when such material is lost or stolen.
- (b) The implementation of the provisions of this law or information received from communication with foreign countries, international organizations and regional organizations or activities of cooperation shall be confidential.
26. Provisions contained in this chapter shall:
- (a) apply to the international transport, domestic transport, storage and use of nuclear materials and nuclear facilities contained in clause (i) of, sub-section (p) of section 3 for peaceful purposes;
  - (b) not be constructed that by force or threat to use nuclear material, radioactive material or nuclear facility for peaceful purposes is allowed in accord with law;
  - (c) not affect the transfer of nuclear material, radioactive material, nuclear facility and nuclear technology in order to enhance the protection pursuant to the international convention for peaceful purposes;
  - (d) apply to the transport of nuclear material, radioactive material and nuclear facilities contained in clause (i) of sub-section (p) of section 3 by land, by waterway or by air from any place to or through seaport, airport, border gate or any other place within the territory through international water or airspace;
  - (e) not affect the rights and responsibilities of each State and individual contained in international law in particular the purposes and principles of the Charter of the United Nations and International Humanitarian Law;
  - (f) not apply to the activities in armed forces in armed conflicts in accord with the International Humanitarian Law during an armed conflicts and the activities undertaken by military in accord with the rules of International Law;



- (g) not apply to the use, hold or maintenance of nuclear material or devices contained in nuclear facility for military purpose.

## Chapter VIII

### The Suppression of Unlawful Acts against the Safety of Maritime Navigation

27. Whoever unlawfully and intentionally commits any of the following acts or omissions, amounts to an offence against the safety of maritime navigation:
- (a) the seizure or control over a ship by force or threat or any other form of intimidation;
  - (b) an act of violence against a person on board a ship by the act which is likely to endanger the safe navigation of that ship;
  - (c) destroying a ship or destroying or causing damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;
  - (d) placing or causing to be placed a device or substance which destroys or is likely to destroy on a ship to destroy the ship or likely to endanger the safe navigation of that ship or to cause damage to that ship or its cargo;
  - (e) destroying or causing serious damage to maritime navigational facility system, communication apparatus and services or an act which is likely to endanger the safe navigation of a ship by the serious interference in such facility systems and services;
  - (f) communication with false information knowingly to endanger the safe navigation of a ship;
  - (g) using or disposing in any mean the ship or the explosive device, radioactive material, biological, chemical and nuclear weapon or oil, natural gas, other hazardous substance or noxious substance on a ship or from a ship in order to cause death or serious injury to any person or to cause damage;
  - (h) knowingly transport on board a ship of explosive device, radioactive material, biological, chemical and nuclear weapons contained in sub-section (g) and similar materials, other source material, special fissionable material or materials especially designed or prepared for the processing;
  - (i) the use of a ship to cause death or serious injury to a person in any mean or to cause serious damage to infrastructure facilities;
  - (j) transporting a terrorist on board a ship knowing that the person has committed any act of terrorism;
  - (k) a threat in any mean to commit any offence contained in sub-sections (a) to (j);

- (l) causing death or injury to any person in committing or attempting to commit any offence contained in sub-sections (a) to (k);
- (m) attempt, abetment, instigation to commit any offence or participation as an accomplice in committing such offence contained in sub-sections (a) to (l).
28. (a) The relevant Working Committee shall direct the relevant ship owner, port authority and ship industries, masters of ships and port representatives to adopt necessary measures by specifying the level of protection to alert for protection, requesting assistance, suppression and elimination of threats and attack which is likely to endanger ships, ports and facilities provided to facilitate for docking and to exchange information.
- (b) Ship industries shall emphasize to comply with the relevant requirements contained in this chapter and the guidance contained in International Ship and Port Facility Security Code.
- (c) A master of a ship shall, before docking a port in the territory of the State or whilst in a port of any state party of the International Convention for the Safety of Life at Sea, 1974, comply with the requirements specified for the respective level of protection.
29. (a) The master of a ship may take necessary prevention and suppression to be free from threats and attack which endanger the ships.
- (b) The ship industry, charterer or any other person has no right to constrain the power to exercise any decision made by the master of a ship with his experience and practical skill in terrorist navigation including refusal to load cargo, container or other closed cargo to transport if it is necessary to maintain the safety and security of the ship.
30. (a) The master of a ship may deliver a person who he has reasonable grounds to believe has committed any act of terrorism contained in this chapter to the authority of the Police Force or Immigration Department of the receiving State together with evidence after informing in advance to and getting the approval from the navigation authority of its registered State or the receiving State.
- (b) The authority of the Police Force or Immigration Department receiving the terrorist delivered under sub-section (a) may extradite such terrorist to the respective State in accord with the provisions contained in chapter XVI of this Law.
31. The provisions contained in this chapter relating to unlawful acts against the safety of maritime navigation shall:
- (a) be applied to the ships mentioned in sub section (k) of section 2;

(b) be applied to the offender or the alleged offender contained in section 27 found in the territorial sea of the State.

32. The provisions contained in this chapter shall not be applied to the following ships:

- (a) a warship;
- (b) a ship owned or operated by a State when being used as a naval auxiliary or for customs or police force purposes;
- (c) a ship which has been withdrawn from navigation or laid up;
- (d) ships owned or operated by the Government and other government ships operated for non-commercial purposes.

## Chapter IX

### Suppression of Unlawful Acts against the Safety of Fixed Platforms

33. Whoever unlawfully and intentionally commits the following acts, amounts to an offence against the safety of fixed platforms:

- (a) seizure or control over a fixed platform by force or threat or any other form of intimidation;
- (b) act of violence against a person on board a fixed platform to endanger its safety;
- (c) destroying or causing damage to a fixed platform to endanger its safety;
- (d) placing or causing to be placed a destructive device or substance by any means on a fixed platform to destroy it or to endanger its safety;
- (e) using or disposing by any means a fixed platform or explosive device, radioactive material, biological, chemical and nuclear weapon; or oil, natural gas, other hazardous device or substance, noxious device or substance on or from the fixed platform to cause death or serious injury to any person or to cause damage;
- (f) threatening the public, causing injury or death to any person, with or without condition, to commit any offence contained in sub-sections (a) to (e);
- (g) attempt, abetment, instigation to commit any offence or participation as an accomplice in committing such offence contained in sub-sections (a) to (f).

34. The relevant Working Committee shall adopt measures for prevention, suppression and taking action of any offence contained in section 33 by any person against or from the fixed platform in the territorial sea

of the State or in the continental shelf of the State, cause to perform or supervise the members of the force.

## Chapter X

### Marking of Plastic Explosives for the Purpose of Detection and Suppression of the Offence against Unmarked Plastic Explosives

35. Whoever:

(a) fails to comply with the convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991 and produces, distributes, imports, exports or transports through or docks the unmarked explosives in or out of the territory of the State without permission of the authority, amounts to an offence against plastic explosives;

(b) attempts, abets, instigates to commit any offence or participates as an accomplice in committing such offence contained in sub-section (a), amounts to commission of such offence.

36. The provisions contained in section 35 shall not apply to the activities on unmarked explosives by the military or police force according to their duty under the supervision of respective administrator with the approval of responsible person authorized by the State.

37. The relevant Working Committee shall adopt necessary measures for prevention, suppression and taking action of offences against plastic explosives and cause the members of the force to perform and supervise.

38. The relevant Working Committee and authorities of defence service and responsible person of police force shall:

(a) adopt necessary measures for the destruction of unmarked explosives which have been brought into or manufactured in the State or already existed in arsenal of defence service or police force. Moreover, the possession and transportation of such unmarked explosives shall be restricted and controlled effectively;

(b) as soon as possible, destroy the explosives which are inapplicable to the provisions contained in this Chapter.

## Chapter XI

### Suppression of Offences of Terrorist Bombing

39. Whoever unlawfully commits any of the following acts with the intent to cause death or serious injury, or to cause extensive destruction or to cause major economic loss, amounts to an offence of terrorist bombing:
- (a) delivery, placing, disposing or detonation of an explosive material in a place of public use, in any State-owned facility, conveyance, machinery and equipment, any public transport system or in any infrastructure facility or destruction thereof;
  - (b) attempt, abetment, instigation to commit an offence or participation as an accomplice in such offence contained in sub-section (a).
  - (c) production, distribution, sale, gift or possession of explosive material, bomb or arms to commit terrorist bombing or to abet in the commission of terrorist bombing.
40. The relevant Working Committee shall adopt necessary measures for prevention, suppression and taking action of offences of terrorist bombing, cause to perform and supervise the members of the force.

## **Chapter XII**

### **Suppression of Offences of Financing of Terrorism**

41. Whoever, in committing or to commit an act of terrorism, acts any of the followings to support or to facilitate such offence, amounts to an offence of financing to terrorism;
- (a) collecting or receiving or supporting or sending or transferring unlawfully the funds by any means with the intention that they should be used or in the knowledge that they are to be used, in full or in part, directly or indirectly which is gained lawfully or unlawfully or both, by any terrorist or any terrorist group.
  - (b) using or possessing unlawfully of money, assets or service by any means with the intention that they should be used or in the knowledge that they are to be used, in full or in part, directly or indirectly, by any terrorist or terrorist group.
  - (c) concealing, moving abroad or transferring to other's name the asset knowingly or with reasons to know that it is stored or maintained or controlled by a terrorist group or a terrorist or any other person on behalf of them.
  - (d) attempt, abetment, instigation, organizing, providing, directing others to commit any offence or participation as an accomplice in committing any such offence contained in sub-sections (a), (b) and (c).

42. Whoever acts, knowingly or with reasons to know, any of the followings, amounts to an offence of financing of terrorism:
- (a) transaction or transfer in any means, directly or indirectly, of an asset owned by any terrorist group or any terrorist;
  - (b) involving in or facilitating, directly or indirectly, any transaction of an asset owned by a terrorist group or a terrorist;
  - (c) providing financial service or other related services involving an asset of a terrorist group or a terrorist, for the benefit of or under the direction of a terrorist group;
  - (d) possessing or keeping knowingly an asset which is owned by a terrorist group or a terrorist under his control;
  - (e) failing to reveal the information without proper reasons to the Central Committee and relevant working committee, or any member of force in respect of transaction and transfer in any other means of an asset owned by a terrorist group and a terrorist;
  - (f) failing to report the existence of a terrorist and, money and assets owned by a terrorist group, communication or it is believed to be communicated with them;
43. (a) Whoever transacts or transfers by any means or attempts to transfer an asset owned by a terrorist group or a terrorist or fails to reveal the information in respect of such act without proper reason to the Central Committee and relevant working committee or any member of the force, amounts to an offence of financing of terrorism.
- (b) No suit or criminal proceeding shall lie against any person who reveals the information in good faith relating to an asset owned by a terrorist group or a terrorist under sub-section (a).
44. Notwithstanding any act of terrorism does not occur or is not attempted to commit or collected fund is not actually used in committing an act of terrorism or collected or provided fund is not connected with any act of terrorism in respect of any offence contained in this chapter, it shall be deemed an offence is committed. In this sense, the intention to commit or the commission of an act of terrorism in any State or territory, or the existence of a terrorist group or a terrorist together with or separately from any offender who commits any offence contained in this chapter within a State or a territory, or in different States or territories shall not be considered.
45. The relevant Working Committee shall adopt necessary measures for prevention, suppression and taking action of offences of financing of terrorism, cause to perform and supervise the members of the force.

## Chapter XIII

### Investigation and Taking Action

46. The Central Committee may issue any of the following orders, or delegate the power to issue any such order to the relevant Working Committee:
- (a) prohibition order and sealed order in order not to convert, transfer, obliterate and conceal assets seized as exhibit in respect of any offence of financing of terrorism and revocation thereof;
  - (b) order issued to the responsible persons of the respective bank and financial institutions, if money, assets and benefits ordered to seize as exhibits are deposited at any bank and financial institutions, to allow searching those exhibits, inspecting and copying of the relevant records and, if necessary, allow to seize as exhibits.
47. The relevant Working Committee:
- (a) shall guide and supervise investigation bodies or prevention and suppression forces to take necessary investigation, inspection and measures not for reaching the funds and assets of non-government organizations or non profit organizations to terrorist groups and terrorists, not to be organized by terrorists and terrorist groups by assuming as such organizations, not to be used as the channel of financing of terrorist and terrorist groups.
  - (b) shall form the necessary inspection bodies and assign them or the members of prevention and suppression forces or of financial intelligent force for controlling money and assets of a terrorist, money, assets and funds of a terrorist group, investigating the offences of financing of terrorism and acts of terrorism, seizing and controlling the exhibits and litigating.
  - (c) shall coordinate with relevant government departments and organizations for controlling not to organize and carry out bank and financial institutions and business organizations by using the organizations providing to commit an act of terrorism or money and assets obtained from the commission of any act of terrorism.
  - (d) shall instruct, as may be necessary, the members of the force to prosecute the offenders of financing of terrorism or the exhibit money and assets to the relevant court for trial.
  - (e) may issue order to cut, restrict, intercept the electronic communication of terrorists groups and terrorists with the approval of the Central Committee if it is necessary to prevent acts of terrorism which cause danger to the State and the public suddenly.

48. The members of the force assigned under this law, in performing their duties, may exercise the provisions contained in the Code of Criminal Procedures, if it is not contrary to the rules, procedures issued under this Law.

## Chapter XIV

### Offences and Penalties

49. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of 10 years to a maximum of imprisonment for life or death sentence:
- (a) acts contained in clauses (xi) and (xii) of sub-section (b) of section 3;
  - (b) an offence committed on board an aircraft in service, contained in section 7;
  - (c) an unlawful seizure of an aircraft contained in section 8;
  - (d) an unlawful act with the intent against the safety of civil aviation contained in section 9;
  - (e) an unlawful act of violence at an airport serving international civil aviation contained in section 10.
50. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of 10 years to a maximum of imprisonment for life and shall also be liable to fine:
- (a) acts contained in clauses (x), (xiii) and (xiv) of sub-section (b) of section 3;
  - (b) taking of hostage contained in section 17;
  - (c) an offence of nuclear material, other radioactive material, biological, chemical and nuclear weapon contained in section 19;
  - (d) an offence of nuclear facility contained in section 20;
  - (e) an offence of import, export, transport and transfer of nuclear material, radioactive material contained in section 23 and nuclear facilities contained in clause (i) of sub-section (p) of section 3;
  - (f) an offence of nuclear terrorism;
  - (g) an unlawful act with the intent against the safety of maritime navigation contained in section 27;
  - (h) an unlawful act with the intent against the safety of fixed platform contained in section 33;
  - (i) an offence of terrorist bombing contained in sub-sections (a) and (b) of section 39;
  - (j) an offence of financing of terrorism contained in sections 41 and sub-section (a) to (d) of section 42.
51. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of 5 years to a maximum of 10 years and shall also be liable to a fine:
- (a) an offence against internationally protected persons contained in section 15;



- (b) an offence against plastic explosive contained in section 35.
  - (c) production, distribution, sale, gift or possession of explosive material, bomb or arm to commit terrorist bombing or to abet in the commission of terrorist bombing contained in sub-section (c) of section 39.
52. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of 3 years to a maximum of 7 years and shall also be liable to fine:
- (a) an act contained in clauses (xvi) to (xviii) of sub-section (b) of section 3;
  - (b) an offence of financing of terrorism contained in sub-sections (e) and (f) of section 42;
  - (c) failure to reveal the information contained in sub-section (a) of section 43 without proper reasons.
53. Whoever violates any prohibition of rules issued under this law shall, on conviction, be punished with imprisonment for a term from a minimum of one year to a maximum of 3 years and shall also be liable to a fine:
54. Whoever, in committing any offence under sections 49, 50 and 51, causes death or serious injury to any person or persons shall be punished with imprisonment for a term from a minimum of 10 years to a maximum of imprisonment for life or death sentence.
55. Whoever convicted any offence of terrorism shall, if he having been convicted of any offence of terrorism before, be punished with the maximum punishment provided for such subsequent offence.
56. The court shall pass an order of confiscation or disposal in accord with the stipulations on money and assets seized as exhibit, if it is punished with an offence of financing of terrorism.

## **Chapter XV**

### **International Cooperation**

57. The Central Committee and the relevant Working Committees shall cooperate and coordinate with international organizations and regional organizations or State Parties of International Convention on Counter Terrorism for adopting appropriate measures including the following matters:
- (a) exchange of information on an act of terrorism;
  - (b) prevention of terrorism upon other State and citizens by a terrorist by using his territory;
  - (c) prevention of instructing, preparing, managing and financing relating to an act of terrorism;
  - (d) enhancing the cooperation of the control of border area to prevent the transnational or transboundary movement of terrorists and terrorist groups;
  - (e) training, technical cooperation and capacity building on the suppression of an act of terrorism;

- (f) carrying out activities of educating on counter terrorism;
  - (g) cooperation to establish the central information department in the region;
  - (h) cooperation for capacity building in the suppression of an act of terrorism in accord with the international standards;
  - (j) cooperation in research and development activities on the suppression of acts of terrorism;
58. International mutual assistance may be carried out with the State Parties of International Convention and member States of regional organizations for suppression of acts of terrorism in accord with the existing Mutual Legal Assistance in Criminal Matters Law.

## **Chapter XVI**

### **Extradition**

59. In respect of the extradition of a terrorist:
- (a) any offence of an act of terrorism or financing of terrorism contained in this Law shall be deemed as an extraditable offence and extradite in accord with the existing law.
  - (b) it shall be carried out with reference to other stipulations prescribed by the law of the requested State to extradite according to the provisions of extradition prescribed in the international conventions on counter terrorism.
  - (c) the relevant working committees and government departments and organizations shall, under the guidance of the Central Committee, cause to carry out the extradition and accept extradition in accord with the stipulation as may be necessary.
60. In respect of the request from any State Party of International Convention on Counter Terrorism or any member State of regional organization for mutual assistance in criminal matters and extradition of an offender who committed any offence of terrorism contained in this Law in the territory of the State:
- (a) acts of terrorism covered under this law shall not be deemed as a political offence, an offence connected with it or an offence inspired by political motives;
  - (b) such request shall not be refused on the sole ground that it concerns with a political offence or an offence connected with it or an offence inspired by political motives.

## **Chapter XVII**

### **Fair Treatment in Taking Action**

61. Any person shall, in performing the investigation and taking action for acts of terrorism under this law, be guaranteed the fair treatment and enjoyment of other entitled rights in accord with the stipulations in conformity with the International Human Rights Law.
62. Any person shall, if he has been alleged and taken into custody of an act of terrorism, have the right to inform without delay to the nearest appropriate embassy, consulate or representative of the State of which that person is a national for entitlement of his right.

## **Chapter XVIII**

### **Fund for the Prevention and Suppression of an Act of Terrorism**

63. The Central Committee shall establish the fund for the prevention and suppression of an act of terrorism with the following income and assets:
- (a) subsidy from the Union budget in accord with the existing law;
  - (b) provided fund not less than 10 percent of the money paid by the relevant Region or State government to its budget under the serial number 9 of Schedule 5 of the Constitution in respect of the offences contained in this Law;
  - (c) cash and kind donated by domestic and foreign well-wishers.
64. The Central Committee may allow to use and expend the fund for the prevention and suppression of an act of terrorism for the following purposes:
- (a) expenses required in performing functions and duties of the Central Committee and function and duties of the Working Committees;
  - (b) matters of adopting necessary measures for prevention and suppression of an act of terrorism;
  - (c) matters of investigation and taking action against acts of terrorism;
  - (d) appropriate aids for victims of an act of terrorism;
  - (e) matters on reforming conviction and rehabilitation of terrorists;
  - (f) matters of cooperation with international organizations, regional organizations and foreign States in respect of acts of terrorism;
  - (g) expenses in performing other necessary matters and other emergency duties specified by the Central Committee.

## **Chapter XIX**

### Miscellaneous

65. If any person who is not under investigation in respect of money and assets connected with an offence of an act of terrorism or financing of terrorism can prove that he has obtained such money and any asset by giving consideration in good faith and possessed it by any means of transfer, the right of such person shall not be affected.
66. The Central Committee shall, in respect of seeking asylum as refugee under human right if it is found that the asylum seeker has committed an act of or abetted, instigated or conspired to commit that act of terrorism after scrutinizing carefully whether or not he did so, take proper action upon him under this law.
67. If the exhibit relating to any act of terrorism prosecuted under this Law is not easily producible before the court, and a report or relevant documentary evidence of how such exhibit is kept in custody may be submitted and such exhibit needs not be produced before the court. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court shall pass an administrative order in accord with Law.
68. The Ministry of Home Affairs shall organize the necessary staff office and appoint the staff to enable to assist in performing the functions and duties of the Central Committee, Working Committees and bodies formed under this Law.
69. Notwithstanding anything contained in any existing law, acts of terrorism shall be taken action only under this Law.
70. In prosecuting against any act of terrorism, it shall obtain the prior sanction of the Central Committee or the Body delegated by the Central Committee.
71. No prosecution shall lie in any court against any person or any member of any organization assigned to perform any function and duty contained in this Law for the performance thereof in good faith.
72. In implementing the provisions contained in this Law:
- (a) the Ministry of Home affairs may, with the approval of Union Government, issue the necessary rules, regulations and bye-laws;
  - (b) the Central Committee and the relevant Union Ministries may issue the necessary notifications, orders, directives and procedures;
  - (c) the Working Committee may, with the approval of Central Committee, issue the necessary orders and directives.

I hereby sign under the Constitution of the Republic of the Union.

Sd.

Thein Sein

President

The Republic of the Union of Myanmar

Myanmar Law Information System (MLIS)

**THE REPUBLIC OF THE UNION OF MYANMAR**

**THE COUNTER FINANCING OF TERRORISM RULES**

**11 September, 2015**

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**The Republic of the Union of Myanmar**  
**Ministry of Home Affairs**  
**Notification No. 1202/2015**  
**The 12<sup>th</sup> Waxing Day of Wagaung, 1377 M.E.**  
**(11 September, 2015)**

**Preamble**

In exercise of the power conferred by sub-section (a) of section 72 of the Counter Terrorism Law, the Ministry of Home Affairs issues the Rules with the approval of the Union Government in order to perform the prevention and suppression of offences relating to financing of terrorism.

**Chapter(1)**

**Title and Definitions**

1. These Rules shall be called **the Counter Financing of Terrorism Rules**.
2. The expressions contained in these Rules shall have the same meanings as are defined in the Counter Terrorism Law. In addition, the following expressions shall have the meanings given hereunder:
  - (a) **Law** means the Counter Terrorism Law;
  - (b) **Financing of Terrorism Offence** means the offences which are prescribed in section 41, 42, 43(a) or 44 of the Law;
  - (c) **Central Board** means the Counter Terrorism Board formed by the Union Government in pursuant to section 3(aa) of the law;
  - (d) **Working Committee** means Counter Financing of Terrorism Working Committee established by the Central Board pursuant to Rule 13;



- (e) **Designated Person** means a person or entity, organization, association or group as a terrorist or terrorist group designated and listed by the Central Board, pursuant to United Nations Security Council's resolutions and or section 6(e) of the law and Rule 9(c);
- (f) **Supervisory Authority** means the authority assigned by the Anti-Money laundering Central Board to ensure compliance with the requirements under the Anti-Money Laundering Law by the Reporting Organization designated to report;
- (g) **Reporting Organization** means banks and financial institutions, designated non-financial business and professions designated by the Anti-Money Laundering Law to report. In this expression, an organization assigned to report by notification from time to time by the Anti-Money Laundering Central Board is also included;
- (h) **Money** means legally exchangeable coins, bank notes and their denominations issued by the Central Bank of Myanmar or a foreign country, negotiable instrument which are promissory notes, bills of exchange, cheques, bonds, treasury notes, bills and debentures, or debt guarantee instrument, foreign currencies, and any kind of instruments or certificate related to foreign currencies;
- (i) **Property** means being corporeal or incorporeal, tangible or intangible, movable or immovable property in any form. This expression also includes profits, rights, dividend, title and other incomes on or value accruing from or title documents or generated by electronic means pertinent to assets property;
- (j) **Prohibition** means prohibition by issuing order by the Central Board not to give financial service and transaction for properties and funds owned by the designated person and or a person or entity, organization, association, group related to designated person;
- (k) **Freeze** means order of the freezing of assets and funds of designated person and or a person or entity, organization, association, group related to designated person not to convert, transfer, disguise, conceal issued by the Central Board;

- (l) **United Nations Security Council Resolution – UNSCR** means the Resolutions adopted by the United Nations Security Council pursuant to Chapter VII of the United Nations Charter;
- (m) **United Nations Security Council Resolution – UNSCR Committee** means the respective sanction committee of the UNSCR including the 1267 Committee and such Committees;
- (n) **Third Party** means a person or an entity not under investigation relating to money and property involved in the offences of terrorism or financing of terrorism and obtained any such money and property with consideration in good faith by any means.

## **Chapter (2)**

### **Issuing Order relating to Designations of Domestic Terrorist or Terrorist Group and Order of Freeze**

3. The Central Board shall submit to obtain approval from the Union Government to designate without delay of an entity, organization, association or a group as terrorist group or any natural person as a terrorist under any of the following institutions;
- (a) when so requested by the Working Committee, any relevant Government Department, Financial Intelligence Unit, Countering Body;
  - (b) when so received a request from a foreign sovereign State and territory;
  - (c) when so been an endangered situation to the State and people immediately.
4. Any foreign sovereign State and territory shall submit a request to designate as a terrorist or terrorist group according to Rule 3 (b) through the Ministry of Foreign Affairs by diplomatic channel to the Central Board.
5. The request to designate as a terrorist or terrorist group shall be included the following facts written by Myanmar language or English Language:
- (a) identification documents by which terrorist or terrorist group requested to be designated;
  - (b) following data that enable to identify a terrorist or terrorist group or who is related to such terrorist or terrorist group:
    - (i) identified information;
    - (ii) background information;

- (c) reason of the request to designate as a terrorist or terrorist group;
- (d) action taken on a terrorist or terrorist group requested to designate;
- (e) contact person, address and organization of the requesting State.

6. The Central Board shall, in performing its duty according to Rule 3, submit to designate to the Union Government if it has reasonable ground to believe that the submitted information are consistent with the following facts including criteria for designations as set out in UNSCR 1373 and such resolutions relating to designation of terrorist or terrorist group:

- (a) committing terrorist acts;
- (b) person or entity, organization, association or group has committed or attempted to commit terrorist acts, or participated as an accomplice or contributed to the commission of terrorist acts;
- (c) person or entity, organization, association or group owned or controlled, directly or indirectly, by any designated person or entity, organization, association or group/
- (d) person or entity, organization, association or group acting for and on behalf of, or at the direction of, any designated as a terrorist or terrorist group.

7. When the Central Board submits a designation proposal to the Union Government pursuant to Rule 3, the following information and documents shall be included:

- (a) necessary documents and instruments including a personal data;
- (b) summary of the case;
- (c) result of its analysis;
- (d) consideration;
- (e) other required information.

8. The Central Board shall direct the Working Committee to issue freeze order, without delay and prior notice, to all natural and legal persons, including all reporting organizations.

9. When the Central Board receives the approval of the Union Government to designate as a terrorist or terrorist group, it shall:

- (a) direct the Working Committee to perform in line with Rule 8 as soon as person, organization, association or group has been designated as terrorist or terrorist group;
- (b) direct the Working Committee to supervise to all Reporting Organization to comply with the freeze order and order of the designation as a terrorist or terrorist group as long as remains;
- (c) publish the designations and freeze orders in the Official Gazette, the Website of the Central Board and the Myanmar Police Force;
- (d) contact and inform the order of designations as a terrorist or terrorist group for enabling to add in the list of designations of the relevant Sanction Committee of the United Nations Security Council and the requested foreign sovereign State and territory, through the Ministry of Foreign Affairs to the relevant Sanction Committee of the United Nations Security Council and the relevant authority of the requested foreign sovereign State and territory;
- (e) direct the Working Committee for identifying , tracing, locating or quantifying the funds referred to in Rule 10.

10. In issuing freeze order under Rules 8 and 9, the following facts shall be included<sup>1</sup>:

- (a) funds and assets owned or controlled not only by the person or entity, organization, association or group designated as a terrorist or terrorist group but also person or entity, organization, association or group related to terrorist act, conspiracy or threat;
- (b) funds and assets that are wholly or jointly owned or controlled, directly or indirectly, by the person or entity, organization, association or group designated as a terrorist or terrorist group;
- (c) funds or other assets derived or generated from funds or other assets owned or controlled, directly or indirectly, by the person or entity, organization, association or group designated as a terrorist or terrorist group;
- (d) funds or other assets of persons and entities acting on behalf of , or at the direction of , the person or entity, organization, association or group designated as a terrorist or terrorist group.

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<sup>1</sup> IN to Recommendation 6 para 6(a), pg-43

11. Pursuant to section 6(m) of the Law, upon the issuance of a freeze order, any national of Myanmar, or any person or entity within Myanmar is prohibited from making any funds or other assets, economic resources, of financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of designated persons or entities; entities owned or controlled, directly or indirectly by designated persons or entities: and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorized by the Central Board or otherwise notified in accordance with the relevant Security Council resolutions<sup>2</sup>.

12. When the Central Board publishes the issuance of designations and freeze orders according to Rule 9(c), the following information shall be included:

- (a) cause of designation as a terrorist or terrorist group;
- (b) description of the effects of the designation, as provided in the Law and the relevant resolution of the UNSC;
- (c) procedures for considering, delisting requests, including, where applicable, the possibility of submitting such a request to the Office of the Ombudsperson of the United Nations; and
- (d) provisions regarding available exemptions for access to frozen Funds.

### **Chapter (3)**

#### **Formation of Counter Financing of Terrorism Working Committee and Duties and Functions thereof**

13. The Central Board Shall form a Counter Financing of Terrorism Working Committee comprising suitable persons to carry out matters relating to counter financing of terrorism offences and its duties and functions set out in these Rules and may direct to perform the following functions and duties:

- (a) cooperate and exchange information with government departments, government organizations, Financial Intelligence Unit and other domestic organizations which implement the matters contained in this Law, and cooperate with the counterpart agencies;

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<sup>2</sup> IN to Recommendation 6 para 6(b), pg-43

- (b) provide awareness, training and the required assistance to the government departments and organizations for enabling to support the implementation of counter financing of terrorism;
- (c) review or consider the Investigation Body's report according to section 47(b) of the Law and cause to prosecute as may be necessary;
- (d) direct to the Investigation Body to exercise powers for tracing, identifying, locating or quantifying the funds referred to in Rule 10 and to enforce the prohibition and freeze orders;
- (e) report the taken actions and supervisions submitted by the regulatory authorities in line with Rule 32(e) to the United Nations Security Resolutions Committee.

14. The Working Committee formed by Rule 13 shall perform the following functions after issuing the freeze order:

- (a) making a prompt dissemination of the list of designations to Reporting Organizations, ordering them to report back on any findings and actions taken under Rule 33, 34, 35, 36 and 37;
- (b) reporting back to the Central Board when it receives any report pursuant to sub-rule (a);
- (c) contact and inform the order of designations as a terrorist or terrorist group for enabling to add in the list of designations of the relevant Sanction Committee of the United Nations Security Council and the requested foreign sovereign State and territory, coordinate with the Ministry of Foreign Affairs, to the relevant Sanction Committee of the United Nations Security Council and the relevant authority of the requested foreign sovereign State and territory.

#### **Chapter (4)**

##### **Designation of Terrorist or Terrorist Group and Issuing Freeze Order Compliance with UNSCR**

15. The Ministry of Foreign Affairs shall inform immediately to the Central Board as soon as it receives notification of United Nations Security Council Resolution Committee relating to designation of person or entity, association, organization or group as a terrorist or terrorist group.

16. When the Central Board receives the notification sent under Rule 15, it shall:
- (a) issue a freeze order without delay and prior notice to all necessary natural and legal persons, entities including all Reporting Organizations;
  - (b) aware meanwhile of the UNSCR Committee's designations, issue a freeze order according to sub-rule (a) and contemporaneously proceed according to the requirements of Rule 9(a), (b), (c), (d) and (e).

### **Chapter (5)**

#### **Identification of Designated Person or Entity, Association, Organization or Group**

17. The Working Committee shall:
- (a) scrutinize and identify, in accord with section 6(e) of the Law, names of any person or entity, association, organization or group that meets the criteria set out for designations as required by the UNSCR Committees and that meets the set out for domestic designations in Rule 6;
  - (b) propose the names of any person or entity, association, organization or group that meets the criteria required for designations by UNSCR Committees through Ministry of Foreign Affairs, to the relevant UNSCR Committees.
18. The Central Board shall, under Rule 17, consult and seek such assistance from relevant public sector agencies as may be necessary to determine whether, on reasonable grounds, there is sufficient evidence to support the criteria for designations set out in Rule 6 or the criteria required for designations by UNSCR Committees.
19. Any person or entity, association or organization, if it finds any information in the course of its business or has reasonable grounds to believe that, a person or entity or organization that is able to meet the designation criteria set out in Rule 6 or the criteria required for designations by UNSCR Committees shall immediately pass confidential information to the Central Board and relevant Working Committee or any member of law enforcement agency.
20. The Government departments and organizations shall furnish to the Central Board all such information, including relevant intelligence material, as may be required to assist the Union Government in making a designation under Rule 9(c).

21. If government organization, where at any time in the course of the exercise of its functions, receives or otherwise becomes aware of, any information relevant to any person, entity or organization that enable to meet the designation criteria set out in Rule 6 or the criteria required for designations by UNSCR Committees, that information shall be forthwith submitted to the Central Board.

22. In proposing the names to the relevant UNSCR Committees, the Central Board shall:

- (a) follow the procedures including standard forms for listing, contained in or as may be adopted pursuant to any relevant the United Nations Security Council Resolution;
- (b) to the extent possible, provide as much relevant information as possible on the proposed name, in particular, including sufficient identifying information and such other relevant information as may be required under any applicable United Nations Security Council Resolution;
- (c) specify the situations of the State if necessary, to be known by the relevant UNSCR Committee.

23. For the purposes of scrutinizing and identifying under these Rules, the Central Board may consult with other countries or United Nations Agencies as may be necessary.

24. The Central Board may restrict subject to conditions on the use and disclosure of the information that are relating to suppression of financing of terrorism offences.

## **Chapter (6)**

### **Investigation and Taking Actions**

25. After a designation and the issuance of freeze order, the Working Committee may, in accordance with section 47, sub-section (b) of the Law, on a case-by-case basis, form an Investigation Body Comprising at least three members including one member of the Working Committee to investigate the financing of terrorism offence.



26. The Working Committee may confer the following functions and duties to the Investigation Body formed under Rule 25, Countering Body or personnel of the Financial Intelligence Unit:

- (a) identifying money and asset obtained by committing terrorism or saving, collecting, receiving, possessing of money and property to commit such offences or terrorist or terrorist group or the asset of financiers of terrorism, and the circumstances;
- (b) searching, obstructing, controlling, freezing and seizing as exhibit the assets of terrorist or terrorist group or financiers of terrorism;
- (c) inspecting, searching and seizing as exhibit of building, land and business and business-site being named of other person or in his possession for financing of terrorism;
- (d) prohibiting, sealing or freezing the seized exhibits under sub-rules (b) and (c) not to transact by other means during the period of investigation;
- (e) examining, searching and seizing financial records or other record kept in any bank and financial institution, examining the relevant records, copying and seizing as exhibit if it is required;
- (f) calling for and examining the required documents from the person under investigation or any other person or government departments and organization or banks and financial institutions.

27. The Reporting Organizations shall permit the inspection of financial and other records and making copies thereof by the Investigation Body assigned by this rules.

28. When the Investigation Body find out, during the investigating period, a person or one of entities who commits financing of terrorism, the Investigation body shall submit to the Working Committee and carry out as follows:

- (a) transferring to such law enforcement agency in order to charge with a single action if it is still charged by a law enforcement agency with any offence contained in this law;
- (b) prosecuting by performing as plaintiff if there is no charge with any offence contained in this Law by any law enforcement agency.

29. The following content shall be included in transferring pursuant to Rule 28(a):

- (a) investigation report;
- (b) seized evidence;
- (c) list of the frozen property.

30. The Investigation Body shall submit to the Working Committee, if necessary, to pass the following orders regarding the funds during the investigation period:

- (a) freeze order to prohibit the transfer, conversion, disposition or movement of any property, equipment or other instrumentalities on the basis of, validity and term of the freeze order until confiscation order is passed by the Supreme Court;
- (b) right to inspect, search, examine the relevant record, seize as exhibit and make copies, if necessary, of the financial records and other records of any Bank and a Financial Institution.

31. The Investigation Body shall:
- (a) keep as confidential of investigation matters;
  - (b) report the performance to the relevant Working Committee.

**Chapter (7)**  
**Duties and Functions of the Supervisory Authorities**

32. The Supervisory Authorities shall:
- (a) conduct off-site supervision and on-site inspection at such stipulated periods by the supervisory authorities pursuant to a risk based approach to supervision undertaken by them to determine whether reporting organizations have complied with their obligations under the Law and the Rules;
  - (b) issue, develop, in collaboration with the Working Committee, such rules and guidance; and disseminate other necessary information for the purpose of the effective implementation of the Rules;
  - (c) supervise the Reporting Organizations to ensure the implementation of inter-departmental controls and procedures in carrying out their functions and duties under the Rules;
  - (d) submit a report to the Working Committee the monitoring activities and supervisory action undertaken pursuant to the Rules on a six monthly basis;
  - (e) submit a report to the Working Committee the actions taken and supervision undertaken pursuant to the sub-rule (d)

**Chapter (8)**  
**Duties and Functions of the Reporting Organization**

33. The Reporting Organization shall, when the list of a designated person or entity, association, organization or group is disseminated by the Work Committee or the freeze order is issued by the Working Committee, immediately conduct a search of its records to determine whether it is holding any funds including funds set out in Rule 10.

34. The Reporting Organization, in performing in accordance with Rule 33, identifies that possessing the Funds that are subject to a freeze order or designation, it shall:

- (a) take steps to ensure that the funds frozen pursuant to the Law and the Rules are secured and unable to deal with or disposed of by any means;
- (b) freeze without delay and without prior notice the funds including funds as set out in Rule 10;
- (c) provide as soon as possible and not later than three working days the following information to the Working Committee:
  - (i) particulars of the funds frozen;
  - (ii) actions taken in relation to the prohibition set out in Rule 11.

35. The Reporting Organization may, according to Rule 16, give notice of the implementation of the freeze order, pursuant to the Law or the Rule, upon the designated person or entity or any person reasonably believed to have an interest in the frozen funds.

26. The Reporting Organizations shall lay down and implement the procedures to ensure compliance with the duties contained in these Rules including:

- (a) procedures to search and examine its records or database regarding the designated person;
- (b) procedures to freeze without delay the funds including funds as set out in Rule 10 possessed by the reporting organizations, including in safe custody, in response to directions received from the Working Committee, Supervisory Authorities, the Myanmar Financial Intelligence Unit;
- (c) procedures to monitor attempted access by customers or other parties to the funds including funds as set out in Rule 10;
- (d) procedures to allow access to the funds including funds as set out in Rule 10 held in response to directions from the Working Committee, Supervisory Authorities or the Myanmar Financial Intelligence Unit;
- (e) procedures to unfreeze funds in response to directions from the Working Committee, Supervisory Authorities or the Myanmar Financial Intelligence Unit;
- (f) procedures to submit a report, without delay, to the Myanmar Financial Intelligence Unit in relation to every attempt to access the funds which are subject to an order issued under the Law.

37. The Reporting organizations shall permit the inspection of financial records and other records and making copies thereof by the Supervisory Authority exercising the powers conferred under the Rules.

**Chapter (9)****Domestic Delisting the Terrorist or Terrorist Group**

38. Any designated person or entity may submit an application for delisting to the Central Board.

39. The Central Board shall submit to and take approval from the Union Government if it finds that the designated person or entity has not been met the criteria set out in Rule 6 by results of its analysis or application submitted to the Central Board, and it shall:

- (a) delist from its own designation list, if the applicant is listed in the domestic list of Myanmar pursuant to Rule 9(c);
- (b) issue a cancellation order of the freeze order issued under Rule 8 and 9;
- (c) inform the relevant foreign sovereign State and territory through the Ministry of Foreign Affairs if the list issued by Rule 9(c) has been made upon the request of a foreign sovereign State and territory;
- (d) inform the UNSCR Committees and the relevant foreign sovereign State and territory if the government of Myanmar has mad the request of its domestic designation to be considered in the lists of said parties.

40. The Central Board shall immediately publish a notice of the delisting and cancellation of the freeze order in the Official Gazette and in the Websites of the Central Committee and the Myanmar Police Force, and shall undertake the measures set out in Rule 39 if a designated person and entity is delisted pursuant to these Rules.

41. The Central Board may decide to make a delisting if it has determined by new information or analysis, or the foreign authority that has requested the designation previously inform to delist that designation.

42. All natural and legal persons including the Reporting Organization shall immediately unfreeze the funds when a cancellation order of designation list has been received.

### **Chapter (10)** **Procedures for Clarifying Errors in Designations**

43. A person or an entity, whose assets or funds have been frozen (affected party), shall apply in writing to the Central Board for the cancellation of the freeze order relating to funds or assets frozen on the grounds of mistaken identity.

44. An application under Rule 43 shall be accompanied by relevant documentation to support the claim of the affected party.

45. The Central Board shall examine an application received under Rule 43 and determine:

- (a) whether the name, address and description are in conformity with the information provided in the designation;
- (b) whether the affected party is related to the designated person or entity pursuant to Rule 9(c);
- (c) whether there is a case of mistaken identify.

46. The Central Board may request such additional information as may be necessary from the affected party, any relevant public sector agency or any person who has in his possession, custody or control the frozen assets of an affected party to make a determination as to whether the affected party is not the designated person, entity, association, group or organization.

47. Whether the Central Board establishes that the affected party is not the actual designated person or entity, it shall immediately direct any person who has in his possession, custody or control the frozen funds of the affected party to unfreeze the funds of the affected party.

48. A direction under 47 shall clearly set out the reasons indicating that the affected party is not the designated person and entity.

49. The natural person who has in his possession, custody or control the frozen assets of an affected party shall immediately unfreeze such assets, upon the issue of a direction by the Central Board.

50. Notwithstanding the unfreezing of the funds of the affected person, the freeze order shall remain in effect against the person or entity named in the order.

## **Chapter (11)**

### **Authorization for Access to Frozen Funds**

51. Upon receiving an application in writing by designated person or entity for access to frozen assets or funds, or a person desires to make funds or other assets, economic resources, or financial or other related services available for the benefit of a person or entity, designated under the Law and the Rules, the Central Board shall authorize dealings with frozen property or the provision of funds or other assets, economic resources of financial or other related services to a person or entity designated, provided it is satisfied that the proposed dealing, payment or benefit is necessary for:

- (a) reasonable basic expense including payment for foodstuffs, rent or mortgage, medicines and medical treatment taxes, insurance premiums and public utility charges, water, fire, electricity, gas charges;



- (b) payment of reasonable professional fees and reimbursement of incurred expenses related to the provision of legal services;
  - (c) reasonable fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources.
52. (1) Any decision made pursuant to Rule 51 that permits dealings with assets or funds of a person or entity, designated by the relevant UNSCR or the provision of funds or other benefits to such persons shall not be undertaken unless such decision is:
- (a) transmitted to the UNSCR Committees established to administer the relevant UNSCR;
  - (b) not approved by the UNSCR Committee.
- (2) The decision made pursuant to above sub-rule (1) (a) shall not be implemented within (10) days from the date of submission of this decision to the United Nations Security Resolution Committee. If the relevant United Nations Security Resolution Committee not reply within (10)days, this decision may implement by assuming that it has been already approved.

53. Notwithstanding in Rule 51, if a designated person or entity within Myanmar listed in the Al-Qaida Sanction List desires to apply the request to the Al-Qaida Sanctions Committee to exempt for ordinary or extraordinary expenses from such frozen assets as may be necessary only after the request has also been submitted to the Central Board in accordance with the prescribed procedure.

## Chapter (12)

### Protection of Third Party Interests and Settlement of Disputes

54. In respect of assets or funds frozen pursuant to Rules 8 and 9 of a person or entity designated by the Central Board, any *bona fide* third party acting in good faith who is aggrieved due to the designated person related to frozen assets or funds under these Rules may submit his application to the Central Board to cancel the freeze or prohibition order.

55. In relation to an application under Rule 54, where a third party has an interest in property jointly owned with or leased to a designated person or entity, the Central Board may issue an order to:

- (a) permit the frozen property to sell or otherwise convert into cash;
- (b) pay to the third party a sum of money that represents the value of the third party's interest from the net proceeds of sale;
- (c) leave from the balance of the proceeds of sale of the property representing the interest of the designated person or entity subject to the operation of the freeze order.

56. The Central Board shall issue immediately order to cancel the freeze order, to unfreeze the funds of the *bona-fide* third parties and publish this order in the Official Gazette and the relevant webpages.

57. In relation to funds frozen in line with Rule 16 pursuant to designation made by United Nations Security Council Resolution 1267, 1989 and successor resolution, any *bona fide* third party whose assets or funds have been frozen may submit his application according to the following means:

- (a) submit to the relevant Sanctions Committee through the Central Board;

- (b) submit directly to the relevant UN Sanctions Committee through the UN Focal Point and send a copy of the application to the Central Board.

58. The necessary documents and evidence should be attached in submitting an application in accordance with Rule 57.

59. During investigation, if the Investigation Body finds that the *bona fide* third party does not concern with the case in respect of the person who is designated by the Central Board under Rule 9. The Investigation Body shall submit through the Working Committee regarding to the frozen assets, and continue its functions and duties in accord with the direction of the Central Board.

60. The *bona fide* third party shall have the duty to prove that the assets and funds were obtained with consideration and in good faith.

### **Chapter (13)**

#### **Miscellaneous**

61. In the course of a military operation by the Tatmadaw or security operation by Security Force or by Countering Body, if it is identified act of terrorism or financing of terrorism. The concerning highest ranking officer of the relevant agency or the army unit may arrest and seize evidence, documents, money, properties, vehicles/vessels and animals involved in the offence. The arrested persons and exhibits together with a certified copy of the excerpt from the Daily Situation Report shall be handed over systematically to the nearest Myanmar Police Station without delay.

62. In the absence of expressing provisions in these Rules regarding the issue of search warrant, search, arrest, or seizure as exhibits for any offence contained in the Law, the provisions of the Code of Criminal Procedure shall be complied with.

63. The Central Board may take appropriate measures for rewarding the following persons in respect of an offence against which action has been taken under the Law:

- (a) an informer regarding the commission of any offence under the Law;
- (b) secret hardcore information;
- (c) officials, staff, personnel of Countering Force, public who suppresses effectively for enabling to arrest the offender of financing of terrorism.

(Sd.)\*\*\*\*\*

Lieutenant General Ko Ko  
Union Minister  
Ministry of Home Affairs

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