

Thailand: Counter-Terrorism and Proliferation of Weapons of Mass Destruction Financing Act B.E. 2559 (2016)

A new law to prevent the financing of terrorism, known as "the Counter-Terrorism and Proliferation of Weapons of Mass Destruction Financing Act B.E. 2559 (2016)" (the "**CTPF Act**") has become effective since 31 December 2016. This briefing provides an overview of the provisions of the CTPF Act including the offences created and reporting obligations.

The CTPF Act replaces the Counter-Terrorist Financing Act B.E. 2556 (2013) (as amended) (the "CTF Act"). Some key points of the CTPF Act, which all businesses should be aware of, are set out below.

In addition to setting out measures to prevent and suppress any actions which are considered as a terrorist financing offence, the CTPF Act also covers involvement in the proliferation of weapons of mass destruction.

Designated persons involved in terrorism or terrorist financing

The list of designated persons who are involved in terrorism or terrorist financing created under the CTPF Act is based on the same concept as the CTF Act. Therefore, in a case where a resolution is made or an announcement is passed by the UN Security Council to determine the list of persons, groups of persons, entities or organisations who are acting as terrorists, if the Anti-Money Laundering Office (the "**AMLO**") deems that such resolution or announcement does not conflict with the Thai Constitution or Thai laws, the

AMLO shall announce the list of designated persons pursuant to the rules and procedures set out in the relevant ministerial regulation, without delay. Without such determination by the UN Security Council, if the AMLO suspects that any person is involved in terrorism or terrorist financing or acting on behalf of or pursuant to an order or control of any designated persons, the AMLO shall, upon receipt of approval from the Transaction Commission, which is established under the Anti-Money Laundering Act B.E. 2542 (1999) (as amended), submit the name of such person to the state attorney for the state attorney to request that the court determine if such person is a designated person.

Designated persons involved in proliferation of weapons of mass destruction

In relation to persons, groups of persons, entities or organisations involved in the proliferation of weapons of mass destruction, if there is a resolution or announcement by the UN Security Council, the subsequent procedures by the AMLO would be identical to those which

apply in the case of terrorism and terrorist financing as set out above. However, where it appears that a person, group of people, juristic person or entity is involved in the proliferation of weapons of mass destruction, the AMLO with the approval of the Committee for Considering the Names, which is appointed by the AMLO itself, may refer the matter to the Ministry of Foreign Affairs in order to request that the UN Security Council designate such person, group of people, juristic person or entity.

Duties of "reporting entities"

The CTPF Act imposes certain duties, which remain the same as the CTF Act, on reporting entities (e.g. commercial banks) by requiring them to:

- terminate any actions involving the assets of designated persons;
- provide the AMLO with any information relating to the assets of designated persons; and
- inform the AMLO if the designated persons are, or used to be, their customers.

List of designated persons determined in accordance with the CTF Act

The list of designated persons determined in accordance with the CTF Act that was firstly announced by the AMLO in May 2013 and updated on an ongoing basis is still in full force and effect under the CTPF Act.

Criminal liability

A person who:

- provides or collects funds or conducts a financial or asset transaction or acts in any way to commit a terrorist act or proliferate weapons of mass destruction; or
- acts with the knowledge that the beneficial person of that financial or asset transaction is a designated person; or
- acts with the intention that the funds or asset are to be used in support of any activity of a designated person or persons, a group or an entity involved in terrorism or the proliferation of weapons of mass destruction,

is deemed to commit an offence of terrorism financing or an offence of financing the proliferation of weapons of mass destruction, as the case may be.

Offenders shall be liable to a term of

imprisonment from two to ten years or a fine from Baht forty thousand to two hundred thousand or both.

Offences committed outside Thailand

Even if any criminal offence is committed outside Thailand, the Thai courts will also have jurisdiction over the case, provided that:

- the offender or any conspirator is a Thai national or resides in Thailand;
- the offender is a foreigner and acts with the intention that the offence take place in Thailand or the damaged person is the Thai

Government; or

- the offender is a foreigner and the act is an offence under the law of the state within whose jurisdiction the act takes place and the offender is in Thailand and is not extradited under the law on extradition.

If you have any questions on any of the issues raised in this briefing please contact the authors below.

Authors



Angela Nobthai
Counsel

T: +66 2 401 8828
E: angela.nobthai@cliffordchance.com



Panuwat Chaistaporn
Associate

T: +66 2 401 8834
E: panuwat.chaistaporn@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, Sindhorn Building Tower 3, 21st Floor, 130-132 Wireless Road, Pathumwan, Bangkok 10330, Thailand
© Clifford Chance 2017
Clifford Chance (Thailand) Ltd

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Jakarta* ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Linda Widyati & Partners in association with Clifford Chance.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.