

PREVENTION OF LAUNDERING PROCEEDS OF CRIME LAW

Law No. 5549

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CHAPTER ONE Purpose and Definitions

Purpose

Article 1 – (1) The purpose of this law is to determine the principles and procedures for prevention of laundering proceeds of crime.

Definitions

Article 2 – (1) In this Law;

- a) Ministry means Ministry of Finance,
- b) Minister means Minister of Finance,
- c) Presidency means Presidency of Financial Crimes Investigation Board,
- ç) Coordination Board means Coordination Board for Combating Financial Crimes,
- d) Obligated Party means those who operate in the field of banking, insurance, individual pension, capital markets, money lending and other financial services, and postal service and transportation, lotteries and bets; those who deal with exchange, real estate, precious stones and metals, jewelry, all kinds of transportation vehicles, construction machines, historical artifacts, art works, antiques or intermediaries in these operations; notaries, sports clubs and those operating in other fields determined by the Council of Ministers,
- e) Examiner means Finance Inspectors, Tax Inspectors, Customs Inspectors, Revenue Comptrollers, Sworn-in Bank Auditors, Treasury Comptrollers, Banking Regulation and Supervision Agency and Capital Markets Board Experts,
- f) Proceeds of crime means proceeds derived from crime,
- g) Money laundering offence means the offence defined in article 282 of Turkish Criminal Law No 5237 dated 26/09/2004.

CHAPTER TWO Obligations and Information Exchange

Customer identification

Article 3 – (1) The obliged parties shall identify the persons carrying out transactions and the persons on behalf or account of whom the transactions are conducted within or through obliged parties before the transactions are conducted.

(2) The Ministry has the authority to determine document types required for customer identification. The types of transactions necessitating customer identification, monetary limits of them and other related principles and procedures shall be determined by regulations.

Suspicious transaction reports

Article 4 – (1) In case that there is any information, suspicion or reasonable grounds to suspect that the asset, which is subject to the transactions carried out or

attempted to be carried out within or through the obliged parties, is acquired through illegal ways or used for illegal purposes, these transactions shall be reported to the Presidency by the obliged parties.

(2) The obliged parties may not give the information to anybody including the parties of the transaction that they report the suspicious transactions to the Presidency, other than the examiners assigned to conduct inspection of obligations and the courts during legal proceedings.

(3) Activities of obliged parties required reporting and principles and procedures of reporting shall be set out by regulation.

Training, internal control and risk management systems and other measures

Article 5 – (1) In the scope of necessary measures, the Ministry has the authority to determine obliged parties and implementation principles and procedures, including measures to assign an officer with necessary authority at administrative level for ensuring compliance with this Law and to establish training, internal control and risk management systems by regarding size of business and business volumes.

Periodically Reporting

Article 6 – (1) The obliged parties shall report the transactions, to which they are parties or intermediaries, exceeding the amount determined by the Ministry to the Presidency.

(2) The transaction types subject to periodically reporting, reporting procedure and periods, excluded obliged parties and other implementation principles and procedures shall be determined by the Ministry.

(3) Regarding the implementation of this Law, periodically reporting may be requested from the public institutions and organizations, and institutions and organizations in the nature of public bodies other than the obliged parties. Those who shall report periodically and reporting principles and procedures are set out by regulations.

Providing information and documents

Article 7 – (1) When requested by Presidency or examiners, public institutions and organizations, natural and legal persons, and unincorporated organizations shall provide all kinds of information, documents and related records in every type of environment, all information and passwords necessary for fully and accurately accessing to or retrieving these records, and render necessary convenience.

(2) Those from whom information and documents are requested in accordance with the previous paragraph may not avoid giving information and documents by alleging the provisions of special laws, providing the defense right is reserved.

Retaining and submitting

Article 8 – (1) The obliged parties shall retain the documents, books and records, identification documents kept in every kind of environment regarding their transactions and obligations established in this Law for eight years starting from the drawn up date, the last record date, the last transaction date respectively and submit them when requested.

Access system

Article 9 – (1) By the Presidency, an access system may be established to the data processing systems of the public institutions and organizations, and institutions and

organizations in the nature of public bodies which keep records regarding to economic activities, wealth items, tax liabilities, census information and illegal activities in accordance with their laws or activities within the principles and procedures defined together by the Ministry and competent authorities of related Ministry and institutions and organizations in the nature of public bodies.

(2) The provisions of paragraph (1) do not apply to the banks with public capital excluding Central Bank of Republic of Turkey and public economic enterprises.

Protection of obliged parties

Article 10 – (1) Natural and legal persons fulfilling their obligations in accordance with this Law may not be subject to civil and criminal responsibilities.

(2) The information about the persons reporting suspicious transaction may not be given to the third parties, institutions and organizations other than courts even if a provision exists in special laws. Necessary measures shall be taken by Courts in order to keep secret the identities of the persons and to ensure their security.

Inspection of obligations

Article 11 – (1) Inspection of the obligations introduced by this Law and relevant legislation is carried out through Finance Inspectors, Tax Inspectors, Customs Inspectors, Revenue Comptrollers, Sworn-in Bank Auditors, Treasury Comptrollers and Capital Markets Board Experts.

(2) The Presidency may request for an inspection within an obliged party in the scope of either one case or an inspection program. The requested unit shall meet the requirement of the request. Finance Inspectors, Tax Inspectors, Customs Inspectors, Revenue Comptrollers, Sworn-in Bank Auditors, Treasury Comptrollers, Banking Regulation and Supervision Agency and Capital Markets Board Experts are designated upon the request of the Presidency by the proposal of the head of the related unit and by the approval of the Minister to whom they are attached or related.

(3) Within the scope of this Law, the examiners assigned to conduct inspection, are authorized to request all kinds of information, documents and legal books from natural and legal persons including the public institutions and organizations, and unincorporated organizations, to examine all kinds of documents and records within them and to receive information from the relevant authorities verbally or in writing. They may also use the powers given to them by other laws.

(4) Examiners shall report violations of obligations to the Presidency while fulfilling their own duties entrusted to them by their units.

International Information Exchange

Article 12 – (1) President of Financial Crimes Investigation Board is authorized to sign the memoranda of understanding, which are not in the nature of international agreement, with foreign counterparts and to amend the memoranda of understanding signed in order to ensure exchanging information within the scope of duties of the Presidency. The signed memoranda of understanding and their amendments enter into force by the Decree of Council of Ministers.

CHAPTER THREE

Penalties, Seizure and Sending of Decisions

Administrative fine in violation of obligations

Article 13 – (1) The obliged parties violating any obligation stated in articles 3 and 6 and paragraph (1) of article 4 of this Law shall be punished with administrative fine of five thousand New Turkish Liras by the Presidency. If the obliged party is a bank, finance company, factoring company, money lender, financial leasing company, insurance and reinsurance company, pension company, capital market institution or bureau de change, administrative fine shall be applied two-fold.

(2) In case of violation of the obligations stated in article 3 and paragraph (1) of article 4 of this Law, the employee who does not fulfill the obligation shall be punished with administrative fine of two thousand New Turkish Liras as well.

(3) The obliged parties who do not fulfill the obligations stated in article 5 of this Law shall be given at least 30 days in order to remove deficiencies and to take necessary measures. If the obliged parties don't remove deficiencies and take necessary measures then the provisions of paragraph (1) shall apply to them.

(4) Administrative fine may not be imposed after five years from the date of violation of obligation.

(5) Other principles and procedures regarding this article are determined by the regulation to be issued by the Ministry.

Judicial penalty in violation of obligations

Article 14 – (1) Those who violate the obligations stated in paragraph (2) of article 4 and articles 7 and 8 of this Law shall be sentenced to imprisonment from one year to three years and to judicial fine up to five thousand days.

(2) Security measures peculiar to legal persons shall be adjudicated because of this offence.

Failure in declaring the transaction carried out on account of other person

Article 15 – (1) In the transactions requiring customer identification which are conducted within or through the obliged parties, if anyone who acts in the name of himself/herself but on account of other person does not inform the obliged parties of the person on account of whom he/she acts in writing before carrying out the transactions, he/she shall be sentenced to imprisonment from six months to one year or to judicial fine up to five thousand days.

Disclosure to Customs Administration

Article 16 – (1) Passengers who carry Turkish currency, foreign currency or instruments ensuring payment by them to or from abroad, shall disclose them fully and accurately on the request of Customs Administration.

(2) In case no explanations are made or false or misleading explanation is made upon requested by the authorities, valuables with the passenger shall be sequestrated by the Customs Administration. An administrative fine shall be imposed on the passengers who do not make explanation and who make false explanation on the amount they carry, with one tenth of the value carried, and of the difference between the value carried and disclosed respectively. Besides, the circumstance is considered as suspicious and shall be conveyed to the Presidency and other related authorities. The provisions of this paragraph do not apply to the differences up to one thousand and five hundred New Turkish Liras.

Seizure

Article 17 – (1) In cases where there is strong suspicion that the offences of money laundering and financing terror are committed, the asset values may be seized in accordance with the procedure in article 128 of Criminal Procedure Law No. 5271.

(2) Public Prosecutor may also give seizure decision in case of any delays giving rise to inconvenience. The seizure applied without the judicial decision is submitted for the approval of the judge on duty at the latest in twenty-four hours. The judge shall decide on whether it will be approved or not at the latest in twenty-four hours. The decision of Public Prosecutor's Office shall be invalid in case of non-approval.

Sending decisions

Article 18- (1) A copy of indictment or the decision on lack of grounds for legal action at the end of investigation, adjudication in the conclusion of proceedings which are related to money laundering and financing terror offences and the seizure decision pursuant to article 17 of this Law shall be sent to the Presidency until the end of the following month by the Public Prosecutor's Offices and the courts.

CHAPTER FOUR Presidency and Coordination Board

Duties and Powers of the Presidency

Article 19- (1) The Presidency of Financial Crimes Investigation Board is directly attached to the Minister of Finance. The duties and powers of the Presidency are as follows:

- a) To develop policies and implementation strategies, to coordinate institutions and organizations, to conduct collective activities, to exchange views and information in order to prevent laundering proceeds of crime.
- b) To prepare law, by-law and regulation drafts in accordance with the policies determined, to make regulations for the implementation of this Law and the decisions of Council of Ministers regarding the Law.
- c) To carry out researches on the developments and trends on laundering proceeds of crime, and on the methods of detecting and preventing them.
- ç) To make sectoral studies, to improve measures and to monitor the implementation on the purpose of prevention of laundering proceeds of crime.
- d) To carry out activities to raise the public awareness and support.
- e) To collect data, to receive suspicious transaction reports, to analyze and evaluate them in the scope of prevention of laundering proceeds of crime and terrorist financing.
- f) To request for examination from law enforcement and other relevant units in their fields, when required during the evaluation period.
- g) To carry out or to have carried out examinations on the subject matters of this Law.
- ğ) To denounce files to the Chief Public Prosecutor's Office for the necessary legal actions according to the Criminal Procedure Law in the event of detecting serious findings at the conclusion of the examination that a money laundering offence is committed.
- h) To examine the cases conveyed from Public Prosecutors and to fulfill the requests

relating to the determination of money laundering offence.

1) To convey the cases to the competent Public Prosecutor's Office in cases where serious suspicion exists that a money laundering or terrorist financing offence is committed.

i) To ensure inspection of obligations within the scope of this Law and relevant legislation.

j) To request all kinds of information and documents from public institutions and organizations, natural and legal persons, and unincorporated organizations.

k) To request temporary personnel assignment from other public institutions and organizations within the Presidency, when their knowledge and expertise is necessary.

l) To carry out international affairs, to exchange views and information for the subjects in the sphere of its duties.

m) To exchange information and documents with counterparts in foreign countries, to sign memorandum of understanding that is not in the nature of an international agreement for this purpose.

(2) The unit requested according to the sub-paragraph (f) of paragraph (1) by the Presidency shall respond to the request promptly.

(3) The Presidency fulfills its duties of examination on money laundering offence through examiners. The examiners are designated upon the request of the President by the proposal of the head of the related unit and by the approval of the Minister to whom they are attached or related.

(4) The examiners assigned upon the request of the Presidency are authorized to request information and document, to make examination, to inspect the obligations, to scrutinize all kinds of documents on the matters of the assignment.

Coordination Board

Article 20- (1) The Coordination Board for Combating Financial Crimes is constituted in order to evaluate the draft laws on prevention of laundering proceeds of crime and the draft regulations which will be issued by Council of Ministers, and to coordinate relevant institutions and organizations regarding implementation.

(2) The Coordination Board, under the chairmanship of Undersecretary of Ministry of Finance, consists of President of Financial Crimes Investigation Board, President of Finance Inspection Board, President of Tax Inspection Board, President of Revenue Administration, Deputy Undersecretary of Ministry of Interior, General Director of Laws of Ministry of Justice, General Director of Economic Affairs of Ministry of Foreign Affairs, President of the Board of Treasury Comptrollers, General Director of Banking and Foreign Exchange of Undersecretariat of Treasury, General Director of Insurance of Undersecretariat of Treasury, President of Inspection Board of Undersecretariat of Customs, General Director of Customs of Undersecretariat of Customs, Vice President of Banking Regulation and Supervision Agency, Vice President of Capital Markets Board and Vice President of Central Bank.

(3) In case their opinions and knowledge are required, representatives of other institutions and organizations may be invited to the Coordination Board without the right to vote.

(4) The Coordination Board meetings are held at least twice a year.

Financial Crimes Investigation Expert and Assistant Expert

Article 21 – (1) Financial crimes investigation experts and assistant experts are employed at the Presidency. In addition to the requirements listed in article 48 of State Officials Law No: 657, the following qualifications are required in order to be appointed as Financial Crimes Investigation Assistant Expert:

- a) Being graduated from the faculties of management, economics, economics and administrative sciences, political sciences and law or higher education institutions whose equivalency is approved by the Board of Higher Education,
- b) Being successful in the special competition and qualification exams on the subjects of the profession and foreign language,
- c) Being no more than 30 years old on the date of examination.

(2) Assistant experts are appointed as Financial Crimes Investigation Experts, providing that they have a minimum of three-year actual experience, receive an affirmative employment record each year, succeed in the proficiency exam and get at least (C) level at the Foreign Language Examination for Public Staff or a score corresponding to this level from the equivalent examinations. The ones who are not successful in proficiency exam or do not submit the foreign language proficiency document in two years following the proficiency exam shall be assigned to other cadres suitable for their positions.

(3) The reports and information received in the scope of this Law are evaluated by Financial Crimes Investigation Experts and Assistant Experts.

(4) The other duties, authority and responsibilities, and employment, promotion, working principles and methods of Financial Crimes Investigation Experts and Assistant Experts are set out by the regulation issued by the Ministry.

Disclosure of Secret

Article 22- (1) The persons stated below may not disclose secrets acquired while exercising their duties, about the personalities, transactions and account statements, businesses, enterprises, wealth and professions of the individuals and others related to them, and may not make use of those secrets for their own or third parties' benefit, even if they left their posts:

- a) The President and the members of Coordination Board, examiners and staff of Financial Crimes Investigation Board,
- b) The persons who are consulted for their knowledge and expertise,
- c) Other public officials who aware of the information because of their duties.

(2) These persons are sentenced to imprisonment from one year to four years in case of disclosing the secrets. The imprisonment may not be less than two years if the secrets are disclosed for material benefit.

(3) Giving information to the counterparts in the foreign countries by Presidency in accordance with this Law is not considered as disclosure of secret.

CHAPTER FIVE Miscellaneous Provisions

Article 23- (1) The positions shown in the attached list (1) are set out for Financial Crimes Investigation Board and added to the section of Ministry of Finance of the Table (I) annexed to the Decree Law No.190 on General Cadre and Procedure dated 13/12/1983.

Article 24- (1) –As to the Decree Law No. 178 Regarding Establishment and Functions of the Ministry of Finance dated 13/12/1983;

a) Sub-paragraph (r) of article 2 is amended to “r) to determine the procedures and principles for prevention of laundering proceeds of crime.”

b) Article 14 together with its title is amended to;

“The Presidency of Financial Crimes Investigation Board”

Article 14- The Presidency of Financial Crimes Investigation Board carries out the duties specified in article 19 of the Prevention of Laundering Proceeds of Crime Law and the duties given by other laws.”

c) Article 33 is amended to;

“*Article 33-* The Coordination Board for Combating Financial Crimes is constituted as stated in article 20 of the Prevention of Laundering Proceeds of Crime Law and carries out the duties given in the same article.”

Additional payments

Article 25- (1) The president and members of Coordination Board are paid remuneration for per meeting in the amount to be calculated through multiplying the indicator number of (3000) by the salary coefficient of public officials.

(2) Additional payments not exceeding the amount calculated by multiplying the salary coefficients of public officials with the following indicator numbers are paid under the approval of the Minister to the following personnel working for the Financial Crimes Investigation Board;

a) (7000) for the President of Financial Crimes Investigation Board,

b) (6000) for the vice president and head of department,

c) (10000) for the examiner assigned under this Law (not more than six months),

ç) (5000) for the Financial Crimes Investigation Expert, director and data-processing director,

d) (4000) for the Financial Crimes Investigation Assistant Expert, chief, expert, translator, engineer, statistician, IT analyst and programmer,

e) (3000) for the others.

(3) With respect to the additional payments to the temporary personnel assigned in Presidency, the indicator number specified for the cadres in the Presidency for that duty is taken into consideration.

(4) Such payments are not subject to any tax or deduction other than stamp tax.

Abolished and amended provisions

Article 26- (1) Articles 1, 3, 4, 5, 6, 7, 8, 9, 12, 14, sub-paragraphs (a), (b), (d), (e) of article 2 and first and third paragraphs of article 15 of Law No. 4208 dated 13/11/1996 are abolished.

(2) The first and third paragraphs of article 13 of Law No. 4208 are abolished and the second paragraph is amended to “Ankara Criminal Court of Peace is authorized to give any decision on requests of foreign countries relating to the controlled delivery of assets derived from crime.”

(3) The phrases “dirty money” and “dirty money laundering offence” in other legislation refer to “proceeds derived from crime” and “money laundering offence” respectively.

Regulations

Article 27- (1) The principles and procedures relating to the subjects stated in the paragraph (d) and (e) of article 2 and in articles 3, 4, 6, 7, 11, 15, 16, 19 and 20 of this Law are arranged by the regulations which will be issued by the Council of Ministers within six months following the publication date of this Law.

Increase of fixed amounts

Article 28 – (1) Fixed amounts specified in articles 13 and 16 of this Law are applied at the beginning of each year by increasing in the revaluation ratio determined for previous year under the Tax Procedure Law No. 213 dated 04/01/1961. In the calculations, the amounts up to ten New Turkish Liras are not taken into consideration.

Provisional Article 1- (1) The provisions of current secondary legislation that are not contrary to this Law shall be in effect until the arrangements stipulated in this Law come into force.

Provisional Article 2- (1) The foreign language requirement stated in the second paragraph of article 21 of this Law shall not apply to the Financial Crimes Investigation Assistant Experts who are in office on the date when this Law put into effect.

Article 29- (1) This Law enters into force on its publication date.

Article 30- (1) The Council of Ministers executes the provisions of this Law.

LIST (1)
THE CADRES ESTABLISHED

Ministry of Finance
Central Organization

Class	Titles	Cadre Degrees	Number of Additional Cadres
GAS*	Head of Department	1	4
GAS	Director	1	3
GAS	Data-processing Director	1	1
GAS	MASAK Expert**	1	6
GAS	MASAK Expert	2	5
GAS	MASAK Expert	3	4
GAS	MASAK Expert	4	4
GAS	MASAK Expert	8	2
GAS	MASAK Assistant Expert	3	2
GAS	Chief	5	3
GAS	Chief	1	2
GAS	Translator	1	2
GAS	Statistician	5	5
GAS	Statistician	1	2
GAS	IT Analyst	4	1
GAS	Programmer	6	1
GAS	Programmer	4	1
GAS	Operator Preparing and Controlling Data	5	6
GAS	Operator Preparing and Controlling Data	8	7
		TOTAL:	61

*GAS : General Administrative Services

**MASAK Expert : Financial Crimes Investigation Expert