

**LEGISLATIVE DECREE NO. (4) OF 2001¹ WITH RESPECT TO
PROHIBITING AND COMBATING MONEY LAUNDERING AND TERRORISM
FINANCING²**

We, Hamad bin Isa Al-Khalifa,

Amir of the State of Bahrain.

Having reviewed the Constitution,

Emiri Order No. (4) of 1975,

The Criminal Procedure Code of 1966, as amended,

The Bahrain Monetary institution Law promulgated by Legislative Decree No. 23 of 1973, as amended,

The Commercial Companies Law promulgated by Legislative Decree No. 28 of 1975, as amended,

The Penal Code promulgated by Legislative Decree No. 15 of 1976, as amended,

The Bahrain Stock Exchange Law promulgated by Legislative Decree No. 4 of 1987,

The Law of Commerce promulgated by Legislative Decree No. 7 of 1987, as amended,

The Insurance Companies and institution Law promulgated by Legislative Decree No. 17 of 1987, as amended by Legislative Decree No. 35 of 1996,

Legislative Decree No. 17 of 1989 on the Ratification of United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988,

And Legislative Decree No. 9 of 1995 on the Ratification of the Arab Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,

And upon the presentation of the Minister of Justice and the Minister of Finance ³,

And with the approval of the Council of Ministers,

Hereby Decree the following Law:

Article (1)

DEFINITIONS

¹ "This is unofficial translation, in case of a difference between the Arabic and the English text, the Arabic text shall prevail" Updated on 22/8/2019.

² Amended by Law No. (54) of 2006

³ Amended by Law No. (54) of 2006

In the application of this Law, the following terms shall have the meanings set out for each term hereunder, unless the context suggests a different meaning:

(Court): The High Criminal Court.

(Criminal activity): Any activity that constitutes a punishable crime whether in the State of Bahrain or in any other State.

(Enforcement Unit): The Unit mandated to implement the provisions of this Law in accordance with paragraph (4) of Article (4).

(Institution): Any natural or legal person to whom the laws of Bahrain apply and whose occupation or business is related to any of the activities listed in the Schedule attached to this Law or in the regulations promulgated thereto.

(Competent authorities): Ministries and Government entities which licence, supervise and control institutions.

(Proceeds of crime): Property which is derived directly or indirectly, in whole or in part, from any criminal activity.

(Property): All valuables of any kind, description or nature, whether movable or immovable, tangible or intangible, including, for example:

A-National or foreign currencies, bills of exchange, securities, traded instruments, and negotiable instruments including those payable or endorsed to bearer.

B-Banknotes, deposits, and accounts with banks and other financial institutions.

C- Works of art, jewellery, precious metals and other items of value.

D- Real estate, property and the rights related thereto, whether personal or real.

E- Anything used in money laundering and Terrorism financing.

(Transaction): any disposition of property including but not limited to purchase, sale, lend, mortgage, gift, transfer, delivery, deposit, withdrawal, transfer between accounts, exchange of currency, extension of credit, purchase or sale of any stock, bonds, certificates of deposit or use of safe deposit boxes.

(Transaction record) includes:

A- Identification documents of the transaction parties.

B- Transaction details including the institutions through which it was made.

C- Details of any account related to the transaction.

(Terrorism): Any act or threat of violence, whatever its motives or purposes, in execution of individual or collective criminal undertaking, which aims to terrorize people, intimidate or endanger their lives, decency, freedom, security or rights, harm the environment or A public or private property or public utility, or to occupation or seizure thereof, or endanger of a national resource or international utilities, or threat to stability, territorial integrity, political unitythe sovereignty of independent States⁴.

(Illicit transfer of property across borders): A criminal act committed by any natural or legal person by any means, directly or indirectly, by the transfer of property across international borders, in case of not disclosed in violation of the public policy or if the transfer of property for the purpose of money-laundering or terrorism financing⁵

Article 2

CRIME OF MONEY LAUNDERING AND TERRORISM FINANCING

2-1) It is prohibited to launder the money obtained from the following crimes, whether occurred inside or outside the Kingdom:

- A) Crimes of drugs and psychotropic substances.
- B) Crimes of kidnapping and piracy.
- C) Crimes of terrorism and its financing.
- D) Crimes related to environmental protection and hazardous waste.
- E) Crimes related to explosives, weapons and ammunition.
- F) Crimes of bribery, misappropriation, prejudice to the public property, exploitation of occupation or influence, and Crimes of illicit gains.
- G) Crimes of theft and other Crimes of the same condition, fraud, dishonesty and related Crimes.
- H) Crimes of debauchery and prostitution.
- I) Crimes against intellectual rights.
- J) Tax evasion Crimes (Customs duties).
- K) Crimes of providing financial services in violation of the rules established by law, Crimes of insiders and the crimes related to market information.
- L) Trafficking in human beings Crimes.
- M) Trafficking in antiquities Crimes.

⁴ Amended by Legislative Decree No. (57) of 2018

⁵ Amended by Law No. (54) of 2006

N) Any other Crimes stipulated by Bahraini Penal Code or any other law, and Crimes set forth in the international convention and protocols thereto, which the Kingdom of Bahrain is party of, if it is penalized under Bahraini law.⁶

2-2) Any person who commits any of the following acts for the purpose of showing that the source of the property is lawful shall have committed the Crime of money laundering:

- a) Conducting a transaction related to proceeds of crime knowing or believing or having reason to believe, that such proceeds was obtained from any of the Crimes set out in paragraph 2.1 or from any act of participation in such Crimes.
- b) Concealment of the nature, source, location, method of disposal, movement or ownership of the proceeds of crime or any right related to such proceeds, knowing or believing, or having reason to believe, that such proceeds was obtained from any of the crimes stipulated in paragraph 2-1 or from any act of participation in such Crimes.
- c) The acquisition or receipt or transfer of the proceeds of crime, knowing or believing, or having reason to believe, that such proceeds was obtained from any of the Crimes set out in paragraph 2.1 or from any act of participation in such Crimes.
- d) the retention or possession of the proceeds of crime knowing or believing, or having reason to believe, that such proceeds was obtained from any of the Crimes set out in paragraph 2.1 or from any act of participation in such Crimes.⁷

2-3) Any of the following acts shall be deemed to be an act of participation in the offence of money laundering and Terrorism Financing :

- a) The destruction, misappropriation, concealment or forgery of any document which may assist in the crime detection or its perpetrators.
- b) Knowledge of the perpetrator intent, and providing him any facilities or information which may assist such perpetrator to conceal the crime or escape.

2-4) A person shall be penalized for the crime of money laundering stipulated in this Law even if he is not convicted in the underlying criminal act. In this context, "underlying criminal act" refers to any criminal activity from which the property which is involved in a money laundering crime has been directly or indirectly derived.

⁶ Amended by Law No. (25) of 2013

⁷ Amended by Law No. (25) of 2013

2-5) A person shall be penalized separately for money laundering crime and for underlying criminal act that the property, which is involved in a money laundering crime, were obtained.

2-6) Where a crime of money laundering is committed by a legal person, every natural person who was at the time of the commission of the crime, work in an official capacity for or on behalf of such legal person, shall be guilty of that crime if the crime was committed by the intentional conduct or gross negligence from such natural person.

2-7) crimes related to the crime of money laundering and Terrorism financing :

A person who commits any of the following acts shall have committed a crime related to money laundering and Terrorism financing:

a) Failure to disclose to the Enforcement Unit any information or suspicion acquired in the course of that person's trade or business or profession or employment or otherwise regarding the crime of money laundering and Terrorism financing.

b) refusal or obstruction or hindering of any order issued by the Enforcement Unit or by public prosecution⁸ regarding the investigation procedure in the crime of money laundering and Terrorism financing.

c) disclosure of any information or suspicion acquired in the course of that person's trade or business or profession or employment or otherwise regarding the issue of an investigation order or seizure order in a money laundering and Terrorism financing crime, where such disclosure will harm the investigation.

Article 3

PENALTIES

3-1) any person collects, gives, allocates property, money or its proceeds to association, group, organization, institution, or gang that exercised a Terrorism activities, located in the country or outside, or to any member of its, or he making any transaction in the interest of its, or supporting or financing it's by any means, if he knows about its Terrorism activities Shall be liable to imprisonment for life or for not less than ten years and fine not less than hundred thousand dinars and not exceeding five hundred thousand dinars.

The same penalty shall be imposed on any person who collects, gives, or allocated property or money or its proceeds to an individuals or group of individuals within inside the country or outside that exercised a Terrorism activities, or he making any transaction in the interest of any of

⁸ Amended by Law No. (54) of 2006

them, or providing supporting or financing any of them by any means, and was aware of its involved in Terrorism activity.

The same penalty shall be imposed on any person who received directly or indirectly by any means any property or money of any kind from such person or such entities to maintain or exploit in the interest of any of them.

Attempt for any of the crimes set forth in the preceding paragraph shall be punishable by the same penalty for the full crime.⁹

3/2) any person committing, attempting or participating in a money laundering crime shall be liable to imprisonment for a period not exceeding seven (7) years and a fine not exceeding Bahrain Dinars One Million (BD 1,000,000/-).

The penalty shall be imprisonment for a period of not less than five (5) years and fine of not less than Bahrain Dinars One Hundred Thousand (BD 100,000/-) in any of the following cases :

- a) If the perpetrator has committed the crime through an organised criminal gang.
- b) If the perpetrator has committed the crime by using his power or influence through an institution.
- c) If the perpetrator has committed the crime to imply that the source of the proceeds which are derived from the criminal activity is a lawful source.

3/3) Without prejudice to the rights of bona fide third parties a person commit of the crime of money laundering and Terrorism Financing shall in addition to the penalty prescribed, be liable to confiscation of property which is the subject matter of the crime, or any other property owned by him equivalent in value to the property which is subject matter of the crime.

The judge shall rule order the confiscation of property proved to be obtained from the crime on the extinction of the criminal proceedings due to the death of the accused.¹⁰

3/4) In cases where the crime of money laundering and Terrorism Financing is committed by a legal person and without prejudice to the liability of any natural person, the legal person shall be liable to the punishment of a fine prescribed in this Law in addition to confiscation of the property which is the subject matter of the crime.

⁹ Amended by Legislative Decree No. (36) of 2017

¹⁰ Amended by Law No. (25) of 2013

3/5) Any person who commits any of the crimes related to money laundering and Terrorism Financing shall be liable to imprisonment for a period not exceeding two (2) years, or fine not exceeding Bahrain Dinars Fifty Thousand (BD 50,000/-), or both.

3/6) Any person who contravenes the provisions of Regulations and Ministerial resolutions issued under this Law shall be liable to imprisonment for a period not exceeding three (3) months or a fine not exceeding Bahrain Dinars Twenty Thousand (BD 20,000/-) or both.

3/7) The provisions relating to extinction of criminal proceedings and prescription of penalty under the Code of Criminal Procedure or any other Law, shall not affect the penalties and the crimes prescribed under this Law.

3/8) Any of the perpetrator who reports a money laundering and Terrorism Financing crime to the Enforcement Unit before such crime is known to the Enforcement Unit shall be exempted from the penalty prescribed under this Law. Where the perpetrator reports the crime after it is known to the Enforcement Unit, his report shall lead to arrest the other perpetrator persons or attachment of property.

Article 4

THE POLICY COMMITTEE FOR Prohibiting and Combating OF MONEY LAUNDERING and Terrorism Financing

4/1) The Minister of Interior¹¹ shall in co-ordination with the Competent authorities appoint a policy committee for the Prohibiting and Combating of money laundering and Terrorism Financing.

4/2)The Committee in particular exercise the following:

- a) establish procedures to regulate the Committee's works;
- b) establish general policies with respect to the Prohibiting and Combating of money laundering and Terrorism Financing
- c) in co-ordination with the Competent authorities issue guidelines on the reporting of suspicious transactions;
- d) study and follow up regional and international developments in the field of money laundering and Terrorism Financing for the purpose of recommending updates to the guidelines and amendment to the Law;

¹¹ Amended by Legislative Decree No. (57) of 2018

e) co-ordinate with the Competent authorities for the implementing of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the Arab Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the International Convention for the Suppression of the Financing of Terrorism, the United Nations Convention against Transnational Organized Crime and the Protocols thereto, and Relevant conventions, regulations and resolutions in force, and observance of the recommendations of the FATF on combating money laundering and the Terrorism Financing.¹²

4/3) The Committee in discharging its functions, may seek the assistance of such entities as it may determine necessary.

4/4) The Minister of Interior shall appoint the Enforcement Unit, which shall have exercise the following:

- a) receipt of reports on money laundering, Terrorism Financing and illegal transfer of funds across board crimes and related crimes;¹³
- b) conducting investigations and compiling evidence in money laundering Terrorism financing and illegal transfer of funds across board crimes and related crimes;¹⁴
- c) execution procedures relating to international co-operation under the provisions of this Law;
- d) execution of decisions, orders and decrees issued by the competent courts in money laundering, Terrorism Financing and illegal transfer of funds across board crimes and related crimes.

4/5) The Competent authorities shall in co-ordination with the Enforcement Unit issue instructions on procedures to Prohibiting and Combating money laundering, Terrorism Financing and illegal transfer of funds across board including the following:

- a) regular reports from institutions on suspicious transactions;
- b) institutions reporting on suspicious transactions;
- c) institutions establishing the identity of the customers and the beneficiaries of customers and verification of that identity;
- d) internal reporting requirements of institutions.

4/6) (repealed)¹⁵

¹² Amended by Law No. (54) of 2006

¹³ Amended by Law No. (54) of 2006

¹⁴ Amended by Law No. (54) of 2006

¹⁵ Repealed by Law No. (54) of 2006

Article 5
INSTITUTIONS

An institution shall:

- a) keep for a period of five (5) years after the transaction has ended a copy of the documents of identity of each client as may be provided for in the regulations made pursuant to this Law;
- b) keep a transaction record of any new or unrelated transaction for a period of five (5) years after the ended of the transaction so recorded;
- c) report to the Enforcement Unit and the Competent authorities any transactions suspected by the Competent employee by reason of the identity of the persons involved, the nature of the transaction or any other circumstances;
- d) provide the Enforcement Unit with such further information or assistance as the Enforcement Unit may request;
- e) comply with the instructions of the Competent authorities regarding setting and applying internal policies, procedures and controls including the designation of compliance and control employee at management level to combat money laundering and Terrorism Financing, and set rules for auditing which provide Evaluat of procedure, policy and internal controls methods evaluation;
- f) co-operate with any Government entity including the Enforcement Unit;
- g) Establisht and apply an audit procedure which ensure the compliance with the provisions of this Article;
- h) prohibit open or keep any secret, dummy, or anonymous accounts.

Article 5(bis)
THE DISCLOSURE SYSTEM

The transfer of property to or from the State is guaranteed to all passengers in accordance with the law. The Minister concerned with customs affairs¹⁶ may issue a resolution to determine the maximum amount of property allowed to be transfer to or from the State without disclosure. Any amount above the maximum amount shall be subject to disclosure system, such decision shall be issued by the Minister concerned with

¹⁶ Amended by Legislative Decree No. (57) of 2018

customs affairs upon a suggestion from the policy committee for Prohibiting and Combating money laundering and Terrorism Financing.¹⁷

Article 6

INVESTIGATIONS PROCEDURE

6/1) Where the Enforcement Unit has evidence that a person has committed or attempted or participated in committing a money laundering crime and Terrorism Financing, it may obtain an order issued by the public prosecution authorizing any of the following actions:

- a) requiring the accused or any other natural or legal person to deliver up any documents or records or papers or to provide any information which is requisite for the investigation;
- b) entry into public or private premises for the attachment of any documents, records, or objects which are requisite for the investigation;
- c) reticence and freezing of any property which is subject to confiscation in accordance with the provisions of this Law;
- d) prevent of the transfer of such property.

6/2) The Enforcement Unit, in case of uncertainty, may order the attachment of the property related to the crime in order to prevent its disposal, provided that the public prosecution shall be notified within three (3) days of the issue of the said order.

Any interested party may appeal to the competent Court from any order issued pursuant to the preceding paragraph within fifteen (15) days of the date of issue of the order.

The ruling of the Court in the appeal shall be final until the criminal case is adjudged or disposed of.

Article 7

SECRECY OF ACCOUNTS AND RECORDS

For the implementation of the provisions of this Law, no institution can plead before the public prosecution or the competent Court for secrecy or confidentiality in respect of accounts, identification of customers or information registered under the provisions of any Law.

Article 8

REQUEST OF ASSISTANCE FROM FOREIGN STATES

¹⁷ Amended by Law No. (54) of 2006

8/1) Where a foreign State makes a request for specific information relating to suspicious transactions, natural or legal person involved in those transactions or the investigation or prosecution of a money laundering and Terrorism Financing crime, the Enforcement Unit shall execute the request or inform the foreign State making the request of any reason for not response the request or of any delay in the execution of the request.

8/2)The Enforcement Unit, in response to a request from a foreign State, may obtain from the public prosecution an order for the following:

- a) a warrant to search any premises or persons for seizure of any document, material or thing;
- b) deliver Enforcement Unit any document or anything which can assist to identifying, locating or quantifying any property or identifying any document or anything necessary related to transfer of any property or its located and it's in the possession of or under the control of the person subject of the request, in addition the information relating to any transaction executed by such person or executed in the interest of him, during the period that determined by the public prosecution;
- c) attachment of any property of or in the possession of any person named in the request for the period specified in the order, and the management or disposal of that property for the purpose of determining any dispute as to the ownership of or other interest in the property or any part thereof, and payment of any costs.

8/3)The Enforcement Unit may, upon request from a foreign State accompanied by an order issued by a court of the requesting State directed to any person residing in Bahrain to deliver himself or any document or material in his possession or under his control to the foreign State, for the purposes of conducting investigations in that State, obtain a Court order directed to that person in the same terms as in the order accompanying the request.

8/4) The public prosecution shall take the procedures for hearing the person referred to in the foregoing paragraph of this Article, and the Enforcement Unit shall transmit the record of hearing to the foreign State.

8/5) The Enforcement Unit may, in respect of any proceedings for a money laundering and Terrorism Financing crime, obtain an order from the public prosecution to any person resident in a foreign State to deliver himself or any document or thing in his possession or control, to the public prosecution or,, to the competent court in foreign State, upon the approval of that State.

8/6) The Minister of Justice may order that the whole or any part of any property confiscated under the provisions of this Law, be given to or shared with a foreign State.

Article 9

EXCHANGE OF INFORMATION

9/1) The Enforcement Unit and Competent authorities in the State of Bahrain may exchange information of a general nature regarding the crime of money laundering and Terrorism Financing with competent authorities in foreign States.

9/2) The Enforcement Unit may in response to a reasonable request from a competent authority in a foreign State provide to that competent authority specific information relating to suspicious transactions or natural or legal person involved in those transactions or the investigation or prosecution of a money laundering and Terrorism Financing crime.

Article 10

MISCELLANEOUS PROVISIONS

10/1) Where an order for attachment of property is issued the public prosecution may make an order to allocated any amount to the person named in the request for the reasonable subsistence of that person and his family.

10/2) Without prejudice to the rights of bona fide third parties a contract shall be considered illegal and void if either party thereto knew or should have known that as a result of the contract the State of Bahrain would be prejudiced in its ability to recover financial claims pursuant to the provisions of this Law.

10/3) No institution or employee of an institution shall be liable under any criminal or civil proceedings brought against it or him for complying with the obligations on them under this Law or any Regulations or Resolutions issued thereunder.

10/4) Entities which implement the provisions of this Law and their staff shall not be liable under any criminal or civil proceedings brought against them for their compliance with the provisions of this Law and the Regulations issued thereunder.

10/5) It shall not be a defense to the crimes set out in this Law that the accused was prohibited from disclosing any information available to him in respect of the crime or suspicion thereof whether the prohibition is imposed by law or otherwise.

Article 11

The crime of money laundering and Terrorism Financing shall be deemed to be one of the extraditable crimes in accordance with the applicable Laws and the international conventions ratified by the State of Bahrain and the principle of reciprocity.

Article 12

REGULATIONS AND RESOLUTIONS

- 1) The Minister of Interior in co-ordination with the Competent authorities may issue Regulations or Resolutions in relation to the functioning of the Committee provided for in Article 4 of this Law and for any amendments to the Schedule to this Law.
- 2) The Minister of Interior in co-ordination with the Competent authorities may issue Regulations or Resolutions in relation to the functioning of the Enforcement Unit.¹⁸

Article 13

The Ministers, where applicable, implement this Law and it shall come into force as of the date of its publication in the Official Gazette.

Hamad bin Isa Al-Khalifa
Amir of the State of Bahrain

Issued at Reffa'a Palace
Dated the 29th day of January 2001
Corresponding to 4 DHU'L QA'DA 1421 H

¹⁸ Amended by Legislative Decree No. (57) of 2018.

SCHEDULE

ACTIVITIES OF INSTITUTIONS

- 1) Lending (including personal Lending, mortgage Lending, factoring (with or without recourse), financial or commercial transaction including bonds and financial instrument)
- 2) Finance leasing
- 3) Venture risk capital
- 4) Money transmissions services
- 5) Issuing and managing means of payment (including credit cards, travelers' cheques and bankers' cheques)
- 6) Guarantees and commitments
- 7) Trading for own account or account of customers in:-
 - a) securities (including cheques, bills of exchange and certificates of deposit);
 - b) foreign currency
 - c) financial futures and options;
 - d) exchange and interest rate instruments and other financial derivatives; and
 - e) transferable instruments
- 8) Underwriting share issues and the participation in such issues
- 9) Money broking
- 10) Investment transaction.
- 11) Deposit taking
- 12) Insurance transactions
- 13) Real property transactions
- 14) Bullion dealing
- 15) Financial intermediaries
- 16) Legal Practice and Advocacy
- 17) Audit