

Annex I
(referred in Article 8 of Law no. 3/2017)

Republication

MACAO SPECIAL ADMINISTRATIVE REGION

Law No. 2/2006

Prevention and suppression of the crime of money laundering

The Legislative Assembly decrees, pursuant to Article 71, paragraph 1, of the Basic Law of the Macao Special Administrative Region, the following with the force of law:

CHAPTER I
General provisions

Article 1
Object

This law establishes measures aimed at preventing and suppressing the criminal offence of money laundering.

Article 2
Subsidiary law

The provisions of the Criminal Code shall be subsidiary applicable to the criminal offences provided for in this law.

CHAPTER II
Criminal provisions

Article 3
Money laundering

1. For the purpose of this law, advantages shall be regarded as any assets derived from the commission, directly or indirectly, through any form of participation, of a typified act punishable with a penalty of imprisonment of a maximum term above 3

years or, independent of the applicable penalty, from any illegal acts fulfilling the conditions of the following typical crimes:

- 1) foreseen in paragraph 2 of Article 337, Article 338 and paragraphs 1 and 2 of Article 339 of the Criminal Code;
- 2) foreseen in Article 8 of the Organized Crime Law, approved by Law no. 6/97/M, of July 30;
- 3) foreseen in paragraph 2 of Article 170 of the Electoral Law for the Legislative Assembly of the Macao Special Administrative Region, approved by Law no. 3/2001, with amendments introduced by Law no. 11/2008, Law no. 12/2012 and Law no. 9/2016; and also paragraph 2 of Article 136, of the Electoral Law for the Chief Executive, approved by Law no. 3/2004, with amendments introduced by Law no. 12/2008 and Law no. 11/2012.
- 4) foreseen in paragraph 2 of Article 46 and paragraph 2 of Article 49 of Law no. 12/2000 with amendments introduced by Law no. 9/2008, the law that regulates the voting registration of individuals and legal persons;
- 5) foreseen in Articles 3 and 4 of Law no. 19/2009 that regulates the Prevention and Repression of Corruption on the Private Sector;
- 6) foreseen in Article 21 of Law no. 7/2003 with amendments introduced by Law no. 3/2016, the law that regulates external trade;
- 7) foreseen in Article 4 of Law no. 10/2014, the law that regulates external trade corruption;
- 8) foreseen in Articles 212, 213, 214-B and 214-C of the Law governing copyright and related rights regime, approved by Decree-Law no. 43/99/M, of August 16, with amendments introduced by Law no. 5/2012;

- 9) foreseen in Articles 289 to 293 of the Law governing the legal regime of industrial property, approved by Decree-Law no. 97/99/M, of December 13.
2. Whoever converts or transfers advantages obtained by himself or any third person, or assists or facilitates any of those operations, for the purpose of disguising its illicit origin or of avoiding the main perpetrator or participant of the previous crimes from being prosecuted or submitted to a criminal sanction, shall be punished with a penalty of up to 8 years of imprisonment.
3. Whoever conceals or disguises the true nature, source, location, disposition, movement or ownership of the advantages incurs the same penalty.
4. The punishment for the criminal offences provided for in paragraphs 2 and 3 shall take place even when the typified act from which the advantages derive from has been committed outside the Macao Special Administrative Region, hereinafter referred to as the MSAR, or whenever the place or the authors of the offence are unknown.
5. The intent required as constitutive element of the crimes foreseen in paragraphs 2 and 3 may be inferred from objective factual circumstances.
6. To demonstrate and prove the illicit origin of the obtained advantages, the previous conviction of the author of the predicate offense is not required.
7. The act is not punishable when the criminal procedure relative to the typified offence from which the advantages derive depends on a complaint and that complaint has not been lodged in time, except if the advantages derive from the typified acts provided for in Articles 166 and 167 of the Criminal Code.
8. The penalty applicable under the terms of the previous paragraphs may not exceed the maximum limit of the penalty provided for the typified act from which the advantages derive.

9. For the purposes of the previous paragraphs, in case that the advantages derived from two or more kinds of typified acts, the penalty with the highest maximum limit shall be the one to be taken into account.

Article 4 Aggravation

The penalty provided for in the previous Article is punished with a penalty of 3 to 12 years of imprisonment, with the limits referred in paragraphs 8 and 9 of the said Article, if:

- 1) The criminal offence of money laundering is committed by a criminal association or a secret society, or by someone who is a member of or supports such association or society;
- 2) The typified act from which the advantages derive is that of Articles 6, 6-A and 7 of Law no. 3/2006 (Prevention and repression of terrorism offenses), Articles 7 to 9, 11 and 16 of Law no. 17/2009 (Prohibition of production, trafficking and consumption of illicit narcotics and psychotropic substances), or Articles 153-A (trafficking in persons) and 262 (prohibited arms and explosive substances) of the Criminal Code;
- 3) The perpetrator commits the criminal offence of money laundering in a habitual manner.

Article 5 Criminal liability of legal persons

1. Legal persons, even if irregularly formed, and the associations without legal personality shall be liable for the criminal offence of money laundering when it is committed on their behalf and in their collective interest:

- 1) By their organs or representatives; or

- 2) By a person under their authority, when the commission of the criminal offence has been rendered possible by virtue of an intentional breach of the duties of supervision or control that they are entrusted with.
2. The responsibility of the entities referred to in the previous paragraph does not exclude the individual responsibility of the respective perpetrators.
3. For the criminal offence referred to in paragraph 1, the following principle penalties shall be applicable to the entities therein referred:
 - 1) Fine;
 - 2) Judicial dissolution.
4. The fine penalty is fixed in days, the minimum being 100 and the maximum being 1000.
5. Each day of fine corresponds to an amount between \$100.00 (one hundred patacas) and \$20,000.00 (twenty thousand patacas).
6. If the fine is applied to an association without legal personality, its common patrimony shall be liable, and in its absence or insufficiency, the patrimony of each one of its associates shall be, jointly and severally, liable.
7. The penalty of judicial dissolution shall be only imposed when those who established the entities referred to in paragraph 1 had the exclusive or predominant intention of, through the entity, committing the criminal offence therein provided for or when the repeated commission of such criminal offence demonstrates that the entity is being used, exclusively or predominantly, for that purpose, be it by its members or by whoever exercises its management.
8. The following accessory penalties may be applicable to the entities referred in paragraph 1:

- 1) Prohibition of the exercise of certain activities for a period of 1 to 10 years;
 - 2) Deprivation of the right to subsidies or subventions granted by Government departments or public entities;
 - 3) Closing of the establishment for a period of 1 month to 1 year;
 - 4) Definite closing of the establishment;
 - 5) Judicial injunction;
 - 6) Publicity of the sentence, at the expense of the sentenced person, in one of the most widespread Chinese language newspapers and Portuguese language newspapers of the MSAR, as well as through a notice, written in the referred languages, for a period not less than 15 days, affixed at the place where the activity was exercised, in such a manner as to be visible to the public.
9. The accessory penalties may be applied cumulatively.
10. The termination of employment that may occur as a result of the application of the penalty of judicial dissolution or of any of the accessory penalties provided for in paragraph 8, shall be considered, for all purposes, as being a wrongful dismissal, in which case the employer is held liable.

CHAPTER II-A

Special procedural measures

Article 5-A

Control of bank accounts

1. When the control of a bank account is ordered the credit institution is under obligation of communicating to the judicial authority or law enforcement agency any movements made through that bank account within 24 hours of the operation having been made.

2. When this is necessary to prevent the practice of the crime of money laundering, the control of bank accounts in concern is authorized or ordered by court order, which may include the obligation to suspend specific movements.

3. The order referred to in the previous paragraph identifies the bank accounts to be under control, the period over which that control may be made and the judicial authority or law enforcement agency in charge of executing that control.

Article 5-B Prohibition of tipping off

1. Entities referred to in paragraph 1 of the previous Article, as well as their directors, employees and collaborators are bound by judicial secrecy relating to the acts that they perform or that they become aware off according to that article, and they cannot tip off to the persons that are targeted by an account control order or by a request for information or documentation.

2. The disclosure of information, in good faith, to judiciary authority or law enforcement agency shall not constitute breach of any secrecy, nor shall it imply responsibility of any nature to whoever made such disclosure.

CHAPTER III Preventative provisions

Article 6 Subjective scope

The following entities are under the obligation of complying with the duties provided for in Article 7:

- 1) Those subject to the supervision of the Monetary Authority of Macao, such as credit institutions, financial companies, offshore financial institutions, insurance companies, money changers and remittance companies;

- 2) Those who are subject to the supervision of the Gaming Inspection and Coordination Bureau, such as entities that operate games of chance, lotteries, mutual bets and promoters of games of chance in casinos;
- 3) Traders of goods of very high unit value, such as entities trading in pawned objects, precious metals, precious stones and luxury transport vehicles as well as auctioneers;
- 4) That exercise the intermediary activities of real estate or of buying real estate for re-selling;
- 5) Lawyers, solicitors, notaries, registrars, auditors, accountants and tax advisers, when participating or assisting, in the exercise of their professional activities, the operations of:
 - (1) Buying and selling of real property;
 - (2) Managing of client funds, securities or other assets;
 - (3) Managing of bank, savings or securities accounts;
 - (4) Organization of contributions necessary for the creation, operation or management of companies;
 - (5) Creation, operation or management of legal persons or entities without legal personality or buying and selling of enterprises.
- 6) Providers of services, in preparing or performing operations for a customer, within the scope of the following activities:
 - (1) Acting as an agent in forming legal persons;
 - (2) Acting as a director or secretary of a company, a partner or holding of a similar position in relation to other legal persons;

- (3) Providing a registered office, business address, premises, administrative or postal address for a company, or any other legal person or entities without legal personality;
- (4) Acting as a trustee;
- (5) Acting as a partner of a company on behalf of another person;
- (6) Carrying out the measures necessary for a third party to act in the manner prescribed in subparagraphs (2), (4) and (5).

Article 7

Duties

1. The entities referred in the previous Article are subject to the following duties:
 - 1) Duty to adopt customer due diligence measures, including the duty of identification and verification of the identity concerning the contracting parties, clients and patrons;
 - 2) Duty to adopt adequate measures to detect operations suspected of money laundering;
 - 3) Duty to refuse performing operations, when the necessary information is not provided for the compliance with the duties established in the previous 2 subparagraphs;
 - 4) Duty to keep records, for a reasonable period of time, relative to the compliance with the duties established in subparagraphs 1) and 2);
 - 5) Duty to report the operations, or attempted operations, regardless of their amounts, when they indicate the commission of the criminal offence of money laundering;

- 6) Duty to collaborate with all the authorities with competence in the prevention and suppression of the criminal offence of money laundering.
2. The compliance with the duties established in subparagraphs 5) and 6) of the previous paragraph does not entail, for lawyers and solicitors, within the scope of the operations referred to in paragraph 5) of Article 6, the obligation of disclosing information obtained in the course of ascertaining the legal position for the client, within the context of legal counseling, or in the course of legal defense or representation of a client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether the information is obtained before, during or after such proceeding.
3. The disclosure of information by the entities referred to in Article 6, its directors, employees and collaborators, in good faith, in compliance with the duties established in subparagraphs 5) and 6) of paragraph 1, shall not constitute breach of any secrecy, nor shall it imply responsibility of any nature to whoever made such disclosure.
4. Facts that become known as a result of the performance of functions, relative to the compliance with the duties referred in subparagraphs 5) and 6) of paragraph 1, may not be revealed by the entities referred to in Article 6, its directors, employees and collaborators to contracting parties, customers, patrons or to third parties.
5. In cases where the entities referred to in Article 6 suspect that the operations may involve the commission of money laundering offenses and have a reasonable expectation that the fulfillment of customer diligence measures can alert the contracting parties, clients or patrons, they may terminate the application of these customer due diligence measures and report the suspicious transaction instead.
6. The information disclosed in compliance with the duties established in paragraph 1 may only be used for purpose of criminal proceedings or for the prevention or suppression of the criminal offence of money laundering

Chapter III-A

Sanctions regime

Article 7-A

False declarations

Whoever, being a member of the governing bodies of credit institutions, their employee or rendering them services, provides information or surrenders documentation which is false or tampered with within the proceeding ordered under authority of Chapter II-A, or refuses to provide the required information or documents or obstructs their apprehension without reasonable cause, is punished with a penalty of 6 months to 3 years of imprisonment or a fine over 60 days.

Article 7-B

Administrative infractions

1. Non-compliance with the duties established in Articles 5-A, 5-B and 7 constitutes an administrative offence, punishable with a fine of \$10,000.00 (ten thousand patacas) to \$500,000.00 (five hundred thousand patacas), or \$100,000.00 (one hundred thousand patacas) to \$5,000,000.00 (five million patacas), depending on whether the offender is a natural or legal person.

2. When the economic benefit obtained by the offender from the commission of the infraction exceeds half of the maximum limit established in paragraph 1, such limit shall be raised to the double of such benefit.

Article 7-C

Procedure

1. The authorities referred to in the Administrative Regulation as stipulated in paragraph 1 of Article 8 are competent, within their respective area of supervision, for the institution and preparation of the enforcement procedure relative to administrative infractions.

2. The Chief Executive is competent to render the final decision, with reference to a proposal from the enforcing authority.

3. The competence provided in the previous paragraph cannot be delegated.

4. The application of the penalty and the payment of the respective fine do not release the offender, whenever that is still possible, from compliance with the duty.

5. The general framework for administrative infractions and respective procedure, approved by Decree-Law no. 52/99/M, of October 4, shall be subsidiary applicable to the proceedings of administrative offence of this law.

Article 7-D **Liability of legal persons**

1. Legal persons, even if irregularly formed, associations without legal personality and special commissions shall be liable for the administrative offences provided for in this Law, when they are committed by their bodies or representatives, acting on their behalf and in their collective interest.

2. The liability referred to in previous paragraph is excluded when the agent has acted against the expressed orders or instructions of whoever has the right to deliver them.

3. The liability of the entities referred to in paragraph 1 shall not preclude the individual liability of the respective agents.

4. Legal persons, even if irregularly formed, associations without legal personality and special commissions shall be jointly liable for the payment of fines, compensation damages, judicial expenses or any other costs when their agents are convicted of the offences under the previous paragraph.

Article 7-E **Liability to pay fines**

1. Without prejudice to the following 2 paragraphs, liability to pay fines rests with the offender.

2. If the offender is a legal person, for the fine payment, all the administrators or who otherwise represents the legal person shall be jointly liable, when held liable for the administrative offence.

3. If the fine is applicable to an association without legal personality or to a special commission, the common patrimony of such association or commission shall be used for the payment, and in its absence or insufficiency, the patrimony of each associate or member shall be used, in a joint liability regime.

CHAPTER IV

Final provisions

Article 8

Regulatory provisions

1. The prerequisites and the contents of the duties established in Article 7, as well as the creation of the supervision system for the respective compliance, shall be regulated by an administrative regulation.

2. The competences to centralize, analyze and disclose information resulting from the compliance with the duties established in paragraph 1 of Article 7 are conferred to a yet to be created entity or to an existent entity.

3. The entity referred in the previous paragraph may, for carrying out of the functions conferred upon it:

- 1) Request information from any public or private entities;
- 2) Provide information to entities outside the MSAR, in compliance with inter-regional agreements or with any other instrument of international law.

Article 9
Repealing provision

It is repealed:

- 1) Articles 10, 14 and paragraphs 3), 4) and 5) of Article 18 of Law no. 6/97/M, of July 30;
- 2) Decree-Law no. 24/98/M, of June 1.

Article 10
Alterations to Law no. 6/97/M, of July 30

1. Subparagraph u) of paragraph 1 of Article 1 of Law no. 6/97/M, of July 30, is amended as follows:

“u) Money laundering”.

2. References to Article 10 of Law no. 6/97/M, of July 30, shall be deemed to be made to Article 3 of this law, when the aggravating circumstances provided for in Article 4 occurs.

Article 11
Entry into force

This law enters into force the next day after publication.

Approved on 23 March 2006.

The President of the Legislative Assembly, *Susana Chou*.

Signed on 25 March 2006.

To be published.

The Chief Executive, *Ho Hau Wah*.