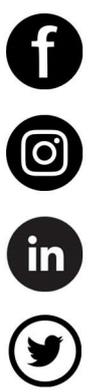




Legislative decree no.(4) of 2001 Concerning

The prohibition of and combating money laundering



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Legislative Decree no. (4) of 2001
Concerning the Prohibition of and Combating Money Laundering

We, Hamad bin Isa Al Khalifa, Emir of the State of Bahrain,
Having pursued the Constitution,
Emiri Order no. (4) of 1975,
The Criminal Procedure Code of 1966, as amended,
The Bahrain Monetary Agency 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 Organizations Law promulgated by Legislative Decree no. (17) of 1987, as amended by Legislative Decree no. (35) of 1996,
Legislative Decree no. (17) of 1989 with respect to Approving the United Nations Convention for Combating the Illegal Trade in Narcotic Drugs and Intoxicants of 1988,
Legislative Decree no. (9) of 1995 with respect to Approving the Arab Agreement for Combating the Illegal Trade in Narcotic Drugs and Intoxicants,
And according to the presentation of the Minister of Justice and Islamic Affairs and the Minister of Finance and National Economy,
And upon the Approval of the Cabinet,

Have promulgated the following Legislative Decree:

Article (1)

Definitions

In the application of the provisions of this Law, and unless the context requires otherwise, the following words and expressions shall have the meanings assigned thereto:

(Court) the Supreme Criminal Court:

(Criminal Activity) any activity constituting a punishable crime whether in the State of Bahrain or in any other country.

(Implementing Unit) the body to which the implementation of the provisions of this Law as per Article (4) Paragraph (4) is assigned.

(Institution) each natural person or corporate upon which the laws of the State of Bahrain are applicable and whose profession or business is associated with any of the activities referred to in the table attached to this Law or in the regulations promulgated under this Law.

(Competent Bodies) the ministries and governmental bodies concerned with licensing the institutions and supervising and controlling the same.

(Proceed of Crime) the Money acquired, whether directly or indirectly, in whole or in part, from any criminal activity.

(Money) everything of value regardless of their type, specification or nature, whether movable or immovable, tangible or intangible, including but not limited to:

- a- Local and foreign currencies, bills, securities and traded and tradable instruments, paid instruments or instruments endorsed for the holders thereof.
- b- Banknotes, deposits and accounts with banks and other financial institutions.
- c- Works of art, jewelry, precious metals and others.
- d- Real estate and property and the rights related thereto whether personal or in kind.
- e- Anything used in money laundering.

(Process) any disposal of the Money, including but not limited to: purchase, sale, lending, mortgage, grant, transfer, delivery, deposit, withdrawal, transfers among accounts, currency exchange, extension of credit, the purchase or sale of any shares, bonds or certificates of deposit or the use of deposit boxes.

(Process Record) it includes:

- a- The identity documents of the parties to the Process.
- b- The details of the Process, stating the institutions through which such Process has been carried out.
- c- The details of any account related to the Process.

Article (2)

Money Laundering Crime

2-1 Any person commits any of the following acts and is required to prove that the source of the money is lawful shall be considered a perpetrator of money laundering:

- (a) Conducting any process related to the Proceed of Crime, with the knowledge or belief, or what causes to believe, that such proceed was acquired from a criminal activity or from any act considered to be associated with a criminal activity.
- (b) Hiding the nature, source, location, method of disposal, movement or ownership of the Proceed of Crime or any right related thereto, with the knowledge or belief, or what causes to believe, that such proceed was acquired from a criminal activity or from any act considered to be associated with a criminal activity.
- (c) Acquiring, receiving or transferring the Proceed of Crime with the knowledge or belief, or what causes to believe, that such proceed was acquired from a criminal activity or from any act considered to be associated with a criminal activity.
- (d) Keeping or possessing the Proceed of Crime with the knowledge or belief, or what causes to believe, that such proceed was acquired from a criminal activity or from any act considered to be associated with a criminal activity.

2-2 Any person commits any of the following acts shall be considered a partner in the crime of money laundering:

- a- Destroying, stealing, hiding or forging any document that would facilitate the detection of the crime or the perpetrators thereof.
- b- Being aware of the perpetrator's intention and providing them with facilitations or information to help them with hiding their crime or enable them to run away.

2-3 The penalty of money laundering stipulated in this Law shall be imposed even if the conviction is not proven in the primary criminal act, which refers in this regard to any criminal activity resulting, whether directly or indirectly, in the Money which is the subject matter of the money laundering crime.

2-4 An independent penalty shall be imposed for both the money laundering crime and the crime formed by the main act resulted in the money which is the subject matter of the money laundering crime.

2-5 Should the money laundering crime be committed by a corporate, every natural persons who worked at or for the account of that corporate in any official capacity at the time of committing the crime shall be considered a perpetrator of the same crime if that person was proven guilty for willfulness or gross negligence.

2-6 Crimes associated with the money laundering crime:

Any person commits any of the following acts shall be considered a perpetrator of a crime associated with the money laundering crime:

- a- Possessing, by way of that person's profession, business, job or any other way, information or suspicions in relation to a money laundering crime without reporting the same to the Implementing Unit.
- b- Abstaining from or hindering the implementation of any decision issued by the Implementing Unit or any order the Implementing Unit causes to be issued by the investigation judge in relation to the procedures of investigating a money laundering crime.
- c- Possessing, by way of that person's profession, business, job or any other way, information or suspicions in relation to taking any of the seizure and investigation actions in a money laundering crime and disclosing the same in a way that harms the investigation process.

Article (3)
Penalties

3-1 Any person commits, attempts to commit or participates in the commitment of a money laundering crime shall be sentenced to imprisonment for a term not exceeding seven years and to a fine not exceeding One Million Dinars.

In any of the following cases, the penalty shall be a sentence to imprisonment for a term not less than five years and to a fine not less than One Hundred Thousand Dinars:

- a- Should the perpetrator commit the crime through an organized gang.
- b- Should the perpetrator commit the crime by misusing their powers or authorities through an institution.

- c- Should the perpetrator commit the crime with the intention of making the money acquired from a criminal activity look like it was acquired from a lawful source.

3-2 without prejudice to the rights of bona fide third parties, any person commits a money laundering crime shall be sentenced, in addition to the determined penalty, to the confiscation of the money which is the subject matter of the crime, or any money owned by that person or their spouse or minor children equal in value to the money which is the subject matter of the crime. A judgement shall also be issued for the confiscation of such money and properties in case the criminal lawsuit becomes abated for the death of the accused party and the heirs thereof do not prove the legality of such money and properties.

3-3 In cases where the money laundering crime is committed by a corporate, and without prejudice to the liability of the natural person, the corporate shall be sentenced to the fine determined in this Law, along with the confiscation of the money which is the subject matter of the crime.

3-4 Any person commits a crime associated with the money laundering crime shall be sentenced to imprisonment for a term not exceeding two years and to a fine not exceeding Fifty Thousand Dinars, or to either penalty.

3-5 Any person breaches the provisions of the Ministerial orders and regulations issued under this Law shall be sentenced to imprisonment for a term not exceeding three months or to a fine not exceeding Twenty Thousand Dinars, or to both penalties.

3-6 The provisions related to the abatement of the criminal lawsuit and the lapse of the penalty by reason of the lapse of the term stipulated in the Criminal Procedure Code or any other law shall not be applicable to the crimes and penalties stipulated in this Law.

3-7 Any perpetrator reports to the Implementing Unit the money laundering crime before the latter becomes aware of the same shall be exempted from the penalties determined in this Law. Should the reporting take place after the Implementing Unit becomes aware of the crime, the reporting shall actually lead to the seizure of the remaining perpetrators or money.

Article (4)

The Committee for Determining Money Laundering Prohibition and Combating Policies

4-1 The Minister of Finance and National Economy shall appoint a committee for developing the policies of the prohibition of and combating money laundering, in coordination with the competent bodies.

4-2 The committee shall be particularly concerned with the following:

- a- Developing the procedures that organize the committee's work.
- b- Developing the general policies concerning the prohibition of and combating money laundering.
- c- Issuing the guiding rules for reporting suspicious processes in coordination with the competent bodies.
- d- Studying and following up on the international and regional developments in the field of money laundering in order to provide recommendations for the development of the guiding rules and suggest appropriate amendments to the Law.

- e- Coordinating with the competent bodies for putting into effect the United Nations Convention and Arab Agreement for Combating the Illegal Trade in Narcotic Drugs and Intoxicants.

4-3 The committee may, for the purpose of performing its work, recourse to any body it deems appropriate.

4-4 The Minister of Interior shall appoint the Implementing Unit, whose competencies shall include the following:

- a- Receiving reports on money laundering crimes and the crimes association therewith.
- b- Taking investigation actions, collecting evidence and investigating money laundering crimes and the crimes association therewith.
- c- Implementing the procedures related to the international cooperation as referred to in the provisions of this Law.
- d- Implementing the decisions, orders and judgments issued by the competent courts in relation to money laundering crimes and the crimes association therewith.

4-5 The competent bodies shall issue, in coordination with the Implementing Unit, instructions as to the procedures of the prohibition of and combating money laundering, including the following:

- a- Regular reports from the institutions concerning suspicious processes.
- b- Reporting any suspicious processes by the institutions.
- c- Checking the identity of the institutions' clients and the beneficiaries thereof and verifying the same.
- d- The institutions' internal requirements for reporting.

4-6 Public Prosecution shall undertake the procedures of the lawsuits concerned with money laundering crimes and the crimes association therewith.

Article (5) **Institutions**

Institutions shall be committed to the following:

- a- Keeping a copy of the identity documents, for five years after the completion of the process, for each transactor as determined in the regulations issued under this Law.
- b- Keeping a record for every new or discontinuous process for five years after the completion of the process which has been recorded.
- c- Reporting any process suspected by the competent employee to the Implementing Unit and the competent bodies, including the nature of the transactors, the nature of the process or any other circumstances.
- d- Providing any additional information or assistance the Implementing Unit may require.
- e- Committing to the directives of the competent bodies in relation to developing and applying policies, procedures and internal controls, including the determination of the employees concerned with the application and control on the management level for combating money laundering and the development of inspection rules which allow the assessment of such procedures, policies and internal controls.
- f- Cooperating with any governmental body, including the Implementing Unit.

- g- Developing and applying inspection procedures in order to ensure the abidance by the provisions of this Article.
- h- Prohibiting opening or keeping any confidential, fake or anonymous accounts.

Article (6)

6-1 investigation procedures:

The Implementing Unit may, if it has the evidence that a person has committed, attempted to commit or participated in the commitment of a money laundering crime, cause an order to be issued by the investigation judge regarding the implementation of any of the following procedures:

- a- Binding the accused person or any other person, whether a natural person or a corporate, to submit any documents, records or papers or provide any information that would be of benefit for the investigation.
- b- Accessing public or private places for the seizure of any items, documents or records that would be of benefit for the investigation.
- c- Reserving and preventing disposal of any money subject to seizure as per the provisions of this Law.
- d- Prohibiting the transfer of such money.

6-2 The Implementing Unit may, in case it is in doubt that the crime-related money might be disposed of, issue an order to reserve such money, presenting that order to the investigation judge within three days from the issuance date of that order. Each concerned party may grieve to the competent court against any of the orders referred to in the preceding paragraph within fifteen days from the issuance date of the order. The court's decision on the grievance shall be final until the subject matter of the criminal lawsuit is decided upon or until the criminal lawsuit is disposed of.

Article (7)

Confidentiality of Accounts and Records

Upon the application of the provisions of this Law, no institution may use the principle of confidentiality of accounts and clients' identity or the information recorded according to the provisions of any other law as a pretext before the investigation judge or the competent court.

Article (8)

Assistance Requests from a Foreign Country

8(1) Should a foreign country request certain information related to suspicious processes or natural persons or corporates involved in such processes or in an investigation or accusation related to a money laundering crime, the Implementing Unit shall implement the request or inform the foreign country of the reasons for which their request cannot be done or the implementation thereof is subject to any delay.

8(2) The Implementing Unit may, in response of the request received from a foreign country, cause an order to be issued by the investigation judge for the following:

- a- A permission to inspect any places or persons for the seizure of any document, material or any other item.
- b- Providing the Implementing Unit with any document or any other item that might help with identifying any money and the location and amount thereof, or identifying any document or any other item related to the transfer of money and the location thereof, being in the possession or under the ownership of the person who is the subject matter of the request, as well as the available information on any process conducted by that person or conducted for the benefit thereof, within the time period set by the investigation judge.
- c- Reserving the money being in the possession or under the ownership of the person named in the request for a term set by the order, and managing or disposing of the money for the purpose of resolving any dispute on the ownership thereof or any interest therein or in any part thereof, as well as paying any expenses.

8(3) Upon a request submitted by a foreign country accompanied by an order issued by one of the courts thereof to a person residing in the State of Bahrain, stating that such person shall turn themselves in or submit any document or material in their possession or under their ownership to the foreign country for purposes related to the proceedings of an investigation carried out by that country, the Implementing Unit may cause an order to be issued by the court to that person having the same content of the order accompanied with the request of the foreign country.

8(4) The investigation judge shall undertake the procedures of hearing the person referred to in the preceding paragraph of this Article, and the Implementing Unit shall send the minutes of hearing to the foreign country.

8(5) The Implementing Unit may, in relation to the procedures of the money laundering crime, cause an order to be issued by the investigation judge to a person existing in a foreign country, stating that such person shall turn themselves in or submit any document or item in their possession or under their ownership to the investigation judge or the competent court in the foreign country upon the approval of that country.

8(6) The Minister of Justice and Islamic Affairs may issue an order for submitting all or part of the money under seizure according to the provisions of this Law to a foreign country, or sharing such money with that country.

Article (9) **Exchange of Information**

9(1) The Implementing Unit and competent bodies in the State of Bahrain may exchange information of public nature with the competent bodies in the foreign countries, in relation to the money laundering crime.

9(2) The Implementing Unit may, in response to an appropriate request from the competent bodies in a foreign country, provide such competent bodies with the determined information on suspicious processes or the natural persons or corporates involved in such processes or in an investigation or accusation related to the money laundering crime.

Article (10)
Miscellaneous Provisions

- 10(1) The investigation judge may, upon the issuance of an order for reserving the money or properties, issue an order for allocating any amounts to the person named in the request within the limits of an appropriate subsistence for that person and their household.
- 10(2) Without prejudice to the rights of bona fide third parties, any contract a party to which becomes aware of or has information that causes them to be aware that the State of Bahrain will be harmed because of that contract in relation to the redemption of its financial rights as per the provisions of this Law shall be deemed null and void.
- 10(3) No institution nor any of its employees shall be held liable, civilly or criminally, as a result of meeting their obligations under the provisions of this Law or any regulations or orders issued by virtue thereof.
- 10(4) The bodies which have been assigned the implementation of the provisions of this Law, or the employees thereof, shall not be held liable, civilly or criminally, in relation to the application of the provisions of this Law and the regulations and orders issued by virtue thereof.
- 10(5) It shall not be considered a defense of the crimes stated in this Law that the accused party is prevented from disclosing the information they have in relation to the crime or suspecting the crime, whether the reason of such prevention is the law or otherwise.

Article (11)

The money laundering crime shall be considered a crime where it is permitted to exchange and turn in criminals according to the provisions of the applicable laws and international agreements approved by the State, and the principle of reciprocity.

Article (12)
Regulations and Orders

- 12(1) The Minister of Finance and National Economy shall, in coordination with the competent bodies, issue the regulations and orders required for the work of the committee stipulated in Article (4) of this Law, and the amendment of the table attached to this Law.
- 12(2) The Minister of Interior shall, in coordination with the competent bodies, issue the regulations and orders required for the work of the Implementing Unit.

Article (13)

This Law shall be implemented by the Ministers, each in his respective capacity, and shall be effective as of the date of its publication in the Official Gazette.

Emir of the State of Bahrain
Hamad bin Isa Al Khalifa

Issued in Riffa Palace:
On: 4 Dhu Al-Qi'dah 1421 H
Corresponding to: 29 January 2001

Table
Institutions' Activities

- 1- Lending (including personal lending and mortgage loans), commercial agency, with or without recourse, and commercial and financial transactions including dealing in bonds and securities.
- 2- Finance lease.
- 3- Venture capital.
- 4- Money transfer services.
- 5- Issuance and management of payment means (credit cards, traveler's cheques and bank cheques).
- 6- Guarantees and obligations.
- 7- Trading in the following for the institution's account or the account of its clients:
 - Securities (cheques, bills, certificates of deposit, etc.).
 - Foreign currencies.
 - Financial options and futures.
 - Processes of exchange rates, interest rates and other financial derivatives.
 - Transferrable instruments.
- 8- Surety of the issuance of shares and participating in the issuance thereof.
- 9- Brokerage.
- 10- Investments.
- 11- Acceptance of deposits.
- 12- Insurance.
- 13- Real estate transactions.
- 14- Dealing in gold ingots.
- 15- Financial brokerage.
- 16- Advocacy.
- 17- Auditing.