

RISK – BASED APPROACH TO ANTI-MONEY LAUNDERING AND TERRORISM FINANCING COMBATING WORKPLAN

I. Background

Lao PDR carried out its first National Risk Assessment (NRA) in anti-money laundering and combating the financing of terrorism, through which identified threats, vulnerabilities and money laundering and financing of terrorism (ML/FT) risk-prone sectors were identified. The NRA provides an important base for the resolution of Lao PDR's shortcomings in its fight against money laundering and the financing of terrorism, namely in the supervision of and performance by reporting enterprises against potential risks. The NRA indicated that the supervision of and actual performance by reporting enterprises are not yet consistent with potential risks and their products are subject to high and medium risks of being used by criminal groups. It is therefore necessary to adequately supervision in line with money laundering risks.

II. National Risk Assessment (NRA) in Combating Money Laundering/Terrorism Financing (AML/CFT) by Reporting Enterprises

The NRA indicated outcomes from risk assessment in 17 business sectors (reporting enterprises) with ML/TF risk-prone products or services. Such risks are mainly due to: weak supervision, poor understanding of AML/CFT activities and weak policies, low performance and unclear AML/CFT procedures. Out of 17 risk sectors according to the NRA, 8 sectors may be classified as medium to high risk sectors and 9 sectors may be classified as medium to low risk sectors as follows:

- ☐ Medium – high risk sectors: 1) casinos, 2) commercial banks, 3) real estate companies, 4) precious metals and artifact trading, 5) financial institutions (including wire transfer companies), 6) currency exchanges, 7) securities companies and 8) insurance companies;
- ☐ Medium to low risk sectors: 1) Lending and credit companies of all types, 2) pawn shops, 3) leasing companies, 4) money transfer services, 5) asset management companies, 6) companies or agents selling and managing financial payment instruments, 7) bar associations or law firms, 8) notaries and 9) audit firms.

III. Guidelines

In line with international standards in RBA-based anti-money laundering and terrorism financing supervision, the work program is based on the clear understanding of

reporting enterprises' ML/TF risks and the requirement for reporting enterprises to assess and determine the level of risk (low or high) of their products, services, office locations and customers. Thereon, reporting enterprises are required to develop internal policies, control measures and procedures capable of reducing such risks under periodical supervision.

Upon reviewing Lao PDR's actual enforcement capacity based on acknowledgment and understanding by parties concerned and business units from 8 sectors designated in the NRA report and another 9 sectors with reporting requirements and divided into 3 groups (Group 1 and Group 2 being risk-prone sectors identified in the NRA, the 3rd Group is comprised of low-risk sectors performing risk assessment and held as secondary priorities) as follows:

1. Group 1 includes 3 sectors: 1) banking sector; 2) securities sector, and 3) insurance sector;
2. Group 2 includes 5 sectors: 1) financial institutions, 2) real estate, 3) currency exchange; 4) precious metals and artifact, 5) casinos;
3. Group 3 includes 9 sectors: 1) companies providing loans and credit of all types, 2) pawn shops, 3) leasing companies, 4) money transfer services, 5) asset management, 6) distributors and administrators of financial payment instruments, 7) bar associations or law firms, 8) notaries, and 9) audit firms.

The 3 sectors in Group 1 are ready for actual performance with supporting regulations and personnel and are therefore selected as primary priorities for the purpose of drawing lessons from actual performance, indentifying strengths, weaknesses and shortcomings, and bringing improvements consistently with the Lao PDR's actual conditions and acting as examples to sectors in Group 2 and Group 3. For such reasons, priority will be placed on the 3 sectors in Group 1 as follows:

1. Commercial banks: 4 out of 42 banks that are ready for performance are selected as examples for the remaining commercial banks in later stages as follows:
 1. State commercial banks;
 2. Commercial banks with state equity;
 3. Private banks;
 4. Foreign commercial bank branch.
2. Securities sectors: Among 4 legally incorporated securities companies with proper support personnel, only 3 companies have the capacity to carry out RBA (1 company being a financial consulting company and does not operate fully).
3. Insurance sector: All 19 insurance companies have different levels of understanding of AML/CFT activities, supporting personnel and tools. It is

therefore seen that all 19 companies may not yet simultaneously carry out RBAs within the set timeframe. 4 companies seen as having better understanding and more detailed AML/CFT procedures and are the 4 companies out of 19 companies providing life insurance services have been selected.

The 5 sectors in Group 2 are ready to perform to a certain level but are not yet ready for RBA consistent supervision and internal regulation.

The casino sector is currently in the process of resolving basic issues in setting up a specific casino supervision mechanism which is associated with the functions of several concerned organizations and thus restricts AML/CFT activities. Nevertheless, the Lao PDR government has placed priority on casinos for the assessment and review of regulations and functions of all organizations concerned in view of identifying tasks and mechanism in supervising casinos in an integrated system, including AML/CFT management, with Spectrum Gaming Group acting as consultant.

With regards to the 9 sectors in Group 3 with low risks, businesses are small and medium sized, certain sectors belong to government organizations and are not ready to perform according to the relevant legal stipulations.

IV. Work Plan over a Period of 1 Year and 5 Months (March 2019 – July 2020)

Preliminary detailed program: The RBA AML/CFT Reporting enterprises (REs) supervision program includes:

1. Phase 1 – RBA AML/CFT supervision of primary priority sectors in Group 1;
2. Phase 2 – RBA AML/CFT supervision of the 1st tier of secondary priority sectors in Group 2;
3. Phase 3 – RBA AML/CFT supervision of the 2nd tier of secondary priority sectors in Group 3.

Phase 1 – RBA AML/CFT supervision of primary priority sectors in Group 1 (consisting of 5 main components and 13 tasks over the period from 3/2018 to 6/2020):

1. Priority to 3 risk sectors according to the NRA (3rd week of 3/19):
 - Discussions with RBA AML/CFT supervisors;
 - Development of appropriate sectoral AML/CFT supervision and monitoring strategies consistent with each sector's risks.
2. Performance of RBA AML/CFT activities by supervisors of all 3 sectors:
 - Audit of pre-market entry conditions (3rd week of 5/19);

- Due diligence on sources of funds;
 - Due diligence on shareholders;
 - Due diligence on senior executives, such as CEOs/CFOs;
 - Due diligence on funds used periodically in business operations;
 - Monitoring and supervision of AML/CFT activities by reporting enterprises (2nd week of 6/19):
 - Requirement for the assessment, identification and understanding of AML/CFT risks in line with set procedures;
 - Requirement for internal measures.
 - Monitoring and supervision of AML/CFT activities by reporting enterprises (2nd week of 7/19):
 - Development of internal regulations within the respective ministries and agencies for reference in line with the principles, conditions and standards indicated in the 27 recommendations of the 40 FATF recommendations relating to the supervision of REs' AML/CFT performance giving consideration to: 1) compliance with the 27 recommendations and 2) efficient performance of such principles;
 - Requirement or encouragement of REs in supervised sectors to exercise their rights and execute their obligations in AML/CFT (Articles 18-32 of the AML/CFT Law) and development of mechanisms and on site – off site performance.
 - Work mechanism between AMLIO and supervisors (2nd week of 5/19):
 - Implementation of AML/CFT supervision strategy and training of supervisors of the 3 sectors;
 - Performance by designated businesses in the 3 sectors is divided into 3 phases, where phase 1 and phase 2 relate to designated units' performance and phase 3 until ME 2020 relates to performance by the remaining businesses in the 3 sectors.
3. Encouragement of Reporting Enterprises in the 3 sectors to carry out RBA:
- Training for all 3 sectors (4th week of 8/19);
 - Performance of RBA risk assessment (in application of item 3.2 above): 1) assessment of: products, service channels, office locations and customers to identify their risks; 2) risk management: development of policies, control measures and specific work procedures and 3) periodical monitoring of assessment of performance (4th week of 2/20).
4. Periodical monitoring and control of performance of items 2 – 4:
- Assessment of RBA AML/CFT acknowledgment by each sector (3rd week of 3/20);

- Requirement of performance coordinator to work jointly with supervisors to review periodical performance (6/20);
- Monitoring and assessment of actual performance (including documentary analysis and pilot execution) by supervisors and enterprises to achieve goals and sub-conditions set as FATF assessment criteria (6/20);
- Propose and recommend solutions to issues discovered from monitoring the assessment of actual performance and compile data or specific reports for use as ME assessment database in 2020 (6/20).

Performance by Group 2 and Group 3 in RBA management will be based on the outcome of performance by Group 1 in order to draw lessons for the supervision of performance by REs of Group 2 and Group 3. Procedures and content will be the same as for Group 1 with differing level of performance based on the size and category of reporting enterprises.

Details of the work program's implementation mechanism over a period of 1 year and 5 months (March 2019 – July 2020) are attached herewith.