

Iraq Anti Money Laundry Law of 2004

Mohammed Norri - Partner, Head of Office - Baghdad - Corporate / Mergers and Acquisitions / Commercial

m.norri@tamimi.com - Baghdad

Who are the people whose money is subject to legal accountability?

1. Each person managing or trying to manage financial transactions and employing its revenues for use in illegal activity; or all those responsible for transferring or sending cash and financial means to an entity or a person knowing that it will be used to support or finance illegal activities. Furthermore, each person with the intention to execute the illegal activity, or take advantage of it, or protect those who manage this activity from prosecution, are subject to legal accountability.
2. Each person responsible for covering up or concealing the location, source, ownership or control of the proceeds of the illegal activity in these two paragraphs shall be:
 - a) Either fined an amount not more than 40 million Iraqi dinars, or double the value of the money used, whichever is more; or
 - b) Shall be given a prison sentence of 4 years.Furthermore, it is possible to give the aforementioned person both the fine, as well as the prison sentence.
3. Any person responsible for providing the money, or hiding or covering up for the money knowing that it is being used in violation of the law.
4. Any person responsible for providing support to a terrorist group or working on the shipment of the armed conflict, restricting or intimidating the public or an international or governmental organization shall be fined 20 million Iraqi Dinars, or given a prison sentence for a period not exceeding two years; or both.

The Central Bank has the right to conduct audits of the financial institutions it is responsible for by watching for any suspicious financial activity subject to money laundering or financial crime.

What are the punitive measures taken against financial institutions that violate the laws against money laundering?

1. According to Article (9) (the "Act") of the Money Laundering Law of 2004 (the "Law") entitled to issue an order to cease the activity resulting in the violation;
2. Assess a monetary penalty under the provisions of the Central Bank of Iraq Law to the violating institution, or any person engaged in or participating in activity violating this Act;
3. Publish the results of any enforcement action, including the name(s) of any persons involved;
4. Issue an order that a person found to have violated this Law or participated in a violation of this Law shall not be permitted to be involved in the affairs of a financial institution either permanently or temporarily;
5. Withdraw authorization to act as financial institutions, if the institutions themselves or persons responsible for administering or managing their business are found to have seriously or repeatedly violated their obligations under this Act.

Money Laundering Reporting Office

The money laundering reporting office was created in accordance with Article (12) of the Law; and even though it is affiliated with the Central Bank of Iraq, it is independent in its line of work and has its own duties and responsibilities. Some of these duties include the following:

- a) To collect, process, analyze and disseminate the financial transactions subject to financial control and reporting.

- b) Participate in implementing Iraqi policy on preventing money laundering, financing of crime, and financing of terrorism;
- c) Cooperate and interact with and exchange information with Iraqi state authorities, competent bodies of other countries and international organizations on money laundering, financing of crime, and financing of terrorism;
- d) Represent Iraq, according to the established procedure, in international organizations dealing with preventing money laundering, financing of crime, and financing of terrorism according to the established procedure, in international organizations dealing with preventing money laundering, financing of crime, and financing of terrorism.

In accordance with Article 14 of the Law, the Central Bank and Anti Money Laundering reporting office may request foreign authorities responsible for supervision of financial institutions or markets, foreign financial intelligence units, or criminal or judicial prosecution authorities, to provide them with information and documents required for the performance of their duties. The CBI and the Reporting Office may share with such foreign authorities as are prepared to provide reciprocal services to the CBI and Reporting Office, information and documents, including nonpublic information and documents, within their discretion, related to or gathered pursuant to this Act, for the purpose of preventing money laundering or the commission of crime, including but not limited to terrorist financing.

Further, Article 21 of the Law provides that the CBI and the Reporting Office retains the right to request all persons to report the transport currency or other monetary instruments greater than 15 million Iraqi dinars from a place within Iraq to a place outside Iraq, or from a place outside Iraq to a place within Iraq. It then goes on to mention that the law requires that a person report the following when transferring money outside Iraq:

- a) The legal capacity in which the person filing the report is acting;
- b) The origin, destination, and route of the currency and/or monetary instruments;
- c) The amount and kind of monetary instruments and/or currency transported;
- d) Other additional information as required.

Conclusion

Money laundering poses significant concern to governmental agencies and international bodies alike. The CBI, aware of the difficulties faced in countering the same, particularly given the economic and security environment on ground, has introduced a number of measures which have helped to mitigate this phenomenon, and ensure greater transparency in transactions.