

Indonesia: New Anti-Money Laundering Law passed (Law No. 8 of 2010)

On 5 **October 2010**, the Indonesian House of Representatives passed a revised Anti-Money Laundering Law, amending the 2002 Money Laundering Law and giving greater powers to anti-corruption officials.

One of the significant amendments in the new law (Law No. 8 of 2010) is that reports of the Financial Transaction Reports and Analysis Centre ("**PPATK**"), one of the principal bodies engaged in combating money laundering in Indonesia, will now be made available to other government institutions, including the Corruption Eradication Commission ("**KPK**"). Previously, PPATK reports were sent to the Attorney General's Office or the police, who made the decision whether or not to investigate further or prosecute. Newspaper reports suggested that only a small percentage of cases referred in this way resulted in convictions.

The new law has also been reported to allow the PPATK to examine a greater range of documents and to freeze bank accounts involved in suspicious financial transactions. The Indonesian Government is in the process of drafting a series of regulations for the implementation of the law.

In drafting Law No. 8/2010, the government took the recommendations of OECD-Financial Action Task Force 40 + 9 (intergovernmental group for the development of policies against money laundering and terrorist financing).

The following are highlighted features of the New Law in comparison to the replaced old law:

- Wider definition of “financial transaction”. The expanded new definition reads as: “to conduct or receive placements, deposits, payments, withdrawals, transfers, grants, donations, deposits for safekeeping, and/or exchange of sums of money or other acts or activities associated with money”;
- Expanded range of the criminal activities being the source of wealth. The activities now include activities that were not covered by Law No. 15/2002 such as customs and excise and fisheries;
- Expanded meaning of “financial providers” to include not only traditional financial providers but also institutions like pawn shops, organizers of E-Money/E-Wallet, companies engaging in commodity futures trading, business remittance providers and pay card organizers;
- More stringent sanctions for violators;

In addition, the New Law contains elaborated provisions that are spread out in its **14 Articles (Article 3 through 16) on criminal acts**, reporting and compliance supervision,

application of the KYC principles, the government agency in charge (Indonesian Financial Transaction Reports and Analysis Center, “PPATK/INTRAC”), transaction investigation and suspension, and prosecution and witness protection.

Financial service providers have the obligation to report the following activities to INTRAC:

- suspicious financial transactions;
- cash financial transactions of Rp 500.000.000,00 or more, whether in one or several transactions, in one day;
- financial transactions and transfers of fund from and to abroad.

The following transactions are excluded from the above:

- transactions between financial service providers and the government or and the central bank;
- transactions for the payment of salary or pension;
- other transactions specified by the Head of INTRAC

The President ratified the New Law on 22 October 2010, upon which this law became immediately effective. The new law is Law No. 8/2010”, and it replaces Law no: 15/2002 on Money Laundering Criminal Act (as amended by Law no: 25/2003, or “Law No. 15/2002”).

Although the old Law No. 15/2002 has had positive impacts such as increased public awareness of money laundering and the country profile’s improved global image, the government saw the need for a more effective law which meets international standards and which provides legal certainty and effective legal enforcement tools including those for asset tracing and recovery of lost proceeds.

Related Analysis:

November 2010

Last month, the government of Indonesia amended the **Law on the Prevention and Eradication of Money Laundering** granting new and enhanced powers to the national anti-money laundering agency and the anti-corruption unit. The newly galvanised support for both agencies shows a serious effort on behalf of the legislature to ramp up the battle against financial crime. The amendments beef up the role of Indonesia's financial intelligence unit, giving it a full range of AML regulatory and supervisory powers including sanctioning powers, a regional expert told *Compliance Knowledge Platform*. The law also extends the responsibility for investigating cases of money laundering beyond the national police to include the Corruption Eradication Commission, known as the KPK, Customs, the National Narcotics Agency, and the Finance Ministry’s Taxation Directorate General.

The new law grants the KPK power to conduct its own investigations into suspected cases of money laundering linked to corruption. This will give it the freedom to pursue cases independently of the Attorney General's Office, which was mandated under the previous law to conduct AML investigations. Under the 2010 amendments, KPK detectives will have access to financial intelligence reports processed by the PPATK – the Financial Transaction Reports and Analysis Centre.

The provisions under the new law also enhance the PPATK's powers on investigation, allowing it to freeze transactions as well as to collate, analyse and disclose suspicions of money laundering. Financial service providers will be subject to a new reporting threshold under the new law. They must report any cross border financial transaction and international fund transfer instructions to the PPATK with a minimum value of INR 500m, regardless of grounds for suspicion.

Indonesia ranked #110 In the Transparency International Corruption Perception's Index 2010. In February, the Financial Action Task Force reported that Indonesia had given a written high-level political commitment to address the following deficiencies: adequately criminalising money laundering and terrorist financing; establishing and implementing adequate procedures to identify and freeze terrorist assets; amending and implementing laws or other instruments to fully implementing the 1999 International Convention for the Suppression of Financing of Terrorism.

Sources:

- <http://www.knowyourcountry.com/indonesia1111.html> (Last updated January 2011)
- <http://ckpblog.knowledgeplatform.com/post/Indonesiae28099s-new-law-gives-significant-boost-to-AML-efforts.aspx>
- <http://www.thejakartapost.com/news/2010/10/06/new-law-empower-kpk-ppatk-graft-fight.html>
- <http://en.hukumonline.com/pages/lt4caedf0301228/new-anti-money-laundering-law-passed-to-combat-corruption>

Indonesia 2010 FATF Update:

In February 2010, Indonesia made a high-level political commitment to work with the FATF and the APG to address its strategic AML/CFT deficiencies. Since that time, Indonesia has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Indonesia should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation I and Special Recommendation II); (2) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); and (3) amending and implementing laws or other instruments to fully implementing the 1999 International Convention for the Suppression of Financing of Terrorism (Special Recommendation I). The FATF encourages Indonesia to address its remaining deficiencies and continue the process of implementing its action plan.

Source: <http://www.fatf-gafi.org/dataoecd/17/4/45540819.pdf>