

**LAW NO: 5549 ON PREVENTION OF LAUNDERING PROCEEDS OF CRIME
(Adopted on 11/10/2006 and published in the Official Gazette dated 18/10/2006 with the
number 26323)**

CHAPTER ONE

Purpose and Definitions

Objective

Article 1- (1) The objective of this law is to determine the principles and procedures for prevention of laundering proceeds of crime.

Definitions

Article 2 - (1) In this Law;

- a) The Ministry means Ministry of Finance,
- b) Minister means Minister of Finance,
- c) MASAK means Financial Crimes Investigation Board,
- 9) Coordination Board means Coordination Board for Combating Financial Crimes,
- d) Obligated Party means those who operate in the field of banking, insurance, individual pension, capital markets, money lending and other financial services, and postal service and transportation, lotteries and bets; those who deal with exchange, real estate, precious stones and metals, jewelry, all kinds of transportation vehicles, construction machines, historical artifacts, art works, antiques or intermediaries in these operations; notaries, sports clubs and those operating in other fields determined by the Council of Ministers,
- e) **(Amended: 7/7/2011-Decree Law-646/art.10)** Examiner means Tax Inspectors, Customs and Trade Inspectors, Sworn-in Bank Auditors, Treasury Comptrollers, Insurance Supervisory Experts and Actuaries, Banking Regulation and Supervision Agency and Capital Markets Board Experts,
- f) Proceeds of crime means proceeds derived from crime,
- g) Laundering offence means the offence defined in article 282 of Turkish Criminal Law No.5237 dated 26/09/2004.

CHAPTER TWO

Obligations and Information Exchange

Customer identification

Article 3 - (1) The obliged parties shall identify the persons carrying out transactions and the persons on behalf or for the benefit of whom the transactions are conducted within or through the obliged parties before the transactions are conducted.

(2) The Ministry has the authority to determine document types required for customer identification. The types of transactions necessitating customer identification, monetary limits of them and other related principles and procedures shall be determined by regulations.

Suspicious transaction reporting

Article 4 - (1) In case that there is any information, suspicion or reasonable grounds to suspect that the asset, which is subject to the transactions carried out or attempted to be carried out within or through the obliged parties, is acquired through illegal ways or used for illegal purposes, these transactions shall be reported to MASAK by the obliged parties.

(2) The obliged parties shall not give the information to anybody including the parties of the transaction that they report the suspicious transactions to MASAK, other than the examiners

assigned to conduct supervision of obligations and the courts during legal proceedings.

(3) Activities of obliged parties required reporting and principles and procedures of reporting shall be determined by regulation.

Training, internal control, control and risk management systems and other measures

Article 5 - (1) In the scope of necessary measures including measures to assign an officer with necessary authority at administrative level for ensuring compliance with this Law and to establish training, internal control and control and risk management systems, the Ministry has the authority to determine obliged parties and implementation principles and procedures by regarding size of business and business volumes.

Periodically Reporting

Article 6 - (1) The obliged parties shall report the transactions, to which they are parties or intermediaries, exceeding the amount determined by the Ministry to MASAK.

(2) The transaction types subject to periodically reporting, reporting procedure and periods, excluded obliged parties and other implementation principles and procedures shall be determined by the Ministry.

(3) Regarding the implementation of this Law, periodically reporting may be requested from the public institutions and organizations, and institutions and organizations in the nature of public bodies other than the obliged parties. Those who shall report periodically and reporting principles and procedures shall be determined by regulation.

Providing information and documents

Article 7 - (1) When requested by MASAK or examiners, public institutions and organizations, natural and legal persons, and unincorporated organizations shall fully and accurately provide all kinds of information, documents and related records in every type of environment, any kind of information and passwords necessary for accessing to or making these records decipherable, and render necessary convenience.

(2) Those from whom information and documents are requested in accordance with the previous paragraph shall not avoid giving information and documents by alleging the provisions of special laws, provided that the defense right is reserved.

Retaining and submitting

Article 8 - (1) The obliged parties shall retain the documents, books and records, identification documents kept in all forms regarding their transactions and obligations established in this Law for eight years starting from the drawn up date, the last record date, the last transaction date respectively and submit them when requested.

Access system

Article 9 - (1) By MASAK, an access system may be established to the data processing systems of the public institutions and organizations, and institutions and organizations in the nature of public bodies which keep records regarding to economic activities, wealth items, tax liabilities, census information and illegal activities in accordance with their laws or activities within the principles and procedures defined together by the Ministry and competent authorities of related Ministry and institutions and organizations in the nature of public bodies.

(2) The provisions of paragraph (1) do not apply to public economic enterprises and the banks with public capital excluding Central Bank of Republic of Turkey.

Electronic notification

Article 9/A- (Added: 18/6/204-6545/art.87)

(1) The notifications to be drawn up under the implementation of this Law and the Law No.6415 on Prevention of the Financing of Terrorism may be notified electronically and response may be requested electronically notwithstanding the procedures relating to electronic notification established in Article 7/A of Notification Law No.7201. This type of notifications shall be deemed as notified when reached to the other side.

(2) Relating to electronic notifications, MASAK has the authority to construct all kinds of technical infrastructure or to use the existing ones, to impose obligations for using electronic addresses suitable for notification and giving responses electronically, to determine the procedures and principles relating to ones to be notified electronically and electronic notifications.

Protection of obliged parties

Article 10 - (1) Natural and legal persons fulfilling their obligations in accordance with this Law shall not be subject to civil and criminal liability.

(2) The information about the persons reporting suspicious transaction shall not be given to the third parties, institutions and organizations other than courts even if a provision exists in special laws. Necessary measures shall be taken by Courts in order to keep secret the identities of the persons and to ensure their security.

Supervision of obligations

Article 11 - (1) (**Amended: 7/7/2011- Decree Law- 646/art.10**) Supervision of the obligations introduced by this Law and relevant legislation is carried out through the examiners listed in Article 2.

(2) MASAK may request for a supervision within an obliged party in the scope of either one case or a supervision program. The requested unit shall carry out this request. (**Amended third sentence: 7/7/2011-Decree Law- 646/art.10**) Examiners who will be assigned shall be designated upon the request of MASAK by the proposal of the head of the related unit and by the approval of the Minister to whom they are attached or related.

(3) Within the scope of this Law, the examiners assigned to conduct supervision of obligations are authorized to request all kinds of information, documents and legal books from natural and legal persons including the public institutions and organizations, and unincorporated organizations, to examine all kinds of documents and records within them and to receive information from the relevant authorities verbally or in writing. They also use the powers given to them by other laws.

(4) Examiners shall report violations of obligations to MASAK while fulfilling their own duties entrusted to them by their units.

International Information Exchange

Article 12 -1) Head of MASAK shall be authorized to sign the memoranda of understanding, which are not in the nature of international agreement, with foreign counterparts and to amend the memoranda of understanding signed in order to ensure exchanging information within the scope of duties of MASAK. The signed memoranda of understanding and their amendments shall enter into force by the Decision of Council of Ministers.

CHAPTER THREE

Penalties, Seizure and Sending of Decisions

Administrative fine in failure to comply with obligations

Article 13 - (1) The obliged parties failing to comply with any obligation stated in Articles 3 and 6 and Paragraph (1) of Article 4 of this Law shall be punished with an administrative fine of five thousand New Turkish Liras by MASAK. If the obliged party is a bank, finance company, factoring company, money lender, financial leasing company, insurance and reinsurance company, pension company, capital market institution or exchange office, administrative fine shall be applied twofold.

(2) **(Abolished: 18/6/2014-6545/Art. 88)**

(3) The obliged parties who fail to comply with the obligations stated in Article 5 of this Law shall be given at least 30 days in order to remove deficiencies and to take necessary measures. If the obliged parties don't remove deficiencies and take necessary measures then the provisions of Paragraph (1) shall apply to them.

(4) **(Amended: 18/6/2014-6545/Art. 88)** Persons, institutions and organizations who fail to comply with the obligations of electronic notification specified in Article 9/A of this Law shall be punished with an administrative fine of ten thousand Turkish Liras by MASAK for each failure to comply. The total amount of administrative fine applied in this regard in one year cannot exceed two hundred and fifty thousand Turkish Liras.

(5) **(Added: 18/6/2014-6545/Art.88)** For each failure, the total amount of administrative fines applied within the year of the violation pursuant to first three paragraphs of the Article cannot exceed ten million Turkish Liras for obliged parties that will be punished with a twofold fine pursuant to Paragraph 1, and one million Turkish Liras for other obliged parties. If the obliged parties subject to upper limit on fines make same kind of failure to comply with obligation in the following year, the limit shall be applied twofold.

(6) **(Added: 18/6/2014-6545/Art. 88)** Administrative fine cannot be imposed after five years from the date of violation of obligation.

(7) Other principles and procedures regarding this article shall be determined by the regulation to be issued by the Ministry.

Judicial penalty in failure to comply with obligations

Article 14 - (1) Those who fail to comply with the obligations stated in Paragraph (2) of Article 4 and Articles 7 and 8 of this Law shall be sentenced to imprisonment from one year to three years and to judicial fine up to five thousand days.

(2) Security measures peculiar to legal persons shall be adjudicated because of this offence.

Failure in declaring the transaction carried out for the benefit of other person Article 15

(1) In the transactions requiring customer identification which are conducted within or through the obliged parties, if anyone who acts in his/her own name but for the benefit of other person does not inform the obliged parties, in writing, of the person for the benefit of whom he/she acts before carrying out the transactions, he/she shall be sentenced to imprisonment from six months to one year or to judicial fine up to five thousand days.

Disclosure to Customs Administration

Article 16 - (1) Travellers making a physical cross-border transportation of Turkish currency, foreign currency or instruments ensuring payment by them, shall disclose them fully and accurately upon the request of Customs Administration.

(2) In case no explanations are made or false or misleading explanation is made upon the request by the authorities, values carried along by the travellers shall be sequestered by the Customs Administration. The Customs Administration shall impose an administrative fine

equal to one tenth of the amount carried along on travellers who do not make a disclosure and one tenth of the difference between the value carried along and the value disclosed on travellers who make a false disclosure about the amount. Besides, the case shall be considered as suspicious and shall be conveyed to MASAK and other related authorities. The provisions of this Paragraph shall not apply to the differences up to one thousand and five hundred Turkish Liras.

Seizure

Article 17 - (1) In cases where there is strong suspicion that the offences of money laundering and financing of terrorism are committed, the asset values may be seized in accordance with the procedure in Article 128 of Criminal Procedure Law No. 5271.

(2) Public Prosecutor may also make seizure decision in urgent cases. The seizure applied without the judicial decision shall be submitted for the approval of the judge on duty in twenty-four hours at the latest. The judge shall decide on whether it will be approved or not in twenty-four hours at the latest. The decision of Public Prosecutor's Office shall be invalid in case of non-approval.

Notification of Decisions

Article 18- (1) A copy of the decision on lack of grounds for legal action or indictment as a result of investigation related to offences of money laundering and financing of terrorism, adjudication in the conclusion of proceedings and the seizure decision pursuant to Article 17 of this Law shall be sent to MASAK until the end of the following month by the Public Prosecutor's Offices and the courts.

CHAPTER FOUR

MASAK and Coordination Board Duties and Powers of MASAK

Article 19- (1) MASAK is directly attached to the Minister of Finance. The duties and powers of MASAK are as follows:

- a) To develop policies and implementation strategies, to ensure coordination among institutions and organizations, to conduct collective activities, to exchange views and information for the prevention of laundering proceeds of crime.
- b) To prepare law, by-law and regulation drafts in accordance with the policies determined, to make regulations for the implementation of this Law and the decisions of Council of Ministers regarding the Law.
- c) To carry out researches on developments on laundering proceeds of crime, and methods for detection and prevention of laundering offence.
- 9) To make sectoral studies, to develop measures and to monitor the implementation for prevention of laundering proceeds of crime.
- d) To carry out activities for raising public awareness and support.
- e) To collect data, to receive suspicious transaction reports, to analyze and evaluate them in the scope of prevention of laundering proceeds of crime and financing of terrorism.
- f) To request for examination from law enforcement and other relevant units in their fields, when required during the evaluation period.
- g) To carry out or make others carry out examinations and to make research on the subject matters of this Law.
- g) To denounce files to the Chief Public Prosecutor's Office for the necessary legal actions

according to the Criminal Procedure Law in the event of detecting serious findings as a result of the research and examination that a money laundering offence has been committed.

h) To examine the cases conveyed by Public Prosecutors and to fulfill the requests relating to the detection of money laundering offence.

1) To convey the cases to the competent Public Prosecutor's Office in cases where serious suspicion exists that a money laundering or terrorist financing offence has been committed.

i) To ensure supervision of obligations within the scope of this Law and relevant legislation.

j) To request all kinds of information and documents from public institutions and organizations, natural and legal persons, and unincorporated organizations.

k) To request temporary assignment of personnel from other public institutions and organizations to MASAK, when their knowledge and expertise is necessary.

l) To conduct international relations, to exchange views and information for the subjects in the sphere of its duties.

m) To exchange information and documents with counterparts in foreign countries, and for this purpose, to sign memorandum of understanding that is not in the nature of an international agreement.

(2) The unit from which MASAK makes a request according to the sub-paragraph (f) of paragraph (1) shall respond to the request promptly.

(3) MASAK shall carry out its duties of research and examination on money laundering offence through examiners. The examiners shall be designated upon the request of the Head of MASAK by the proposal of the head of the related unit and by the approval of the Minister to whom they are attached or related.

(4) The examiners assigned upon the request of MASAK shall be authorized to request information and document, to make research and examination, to follow-up and supervise the implementation, and for this purpose, to scrutinize all kinds of documents on the matters of the assignment.

Delaying Transactions

Article 19/A- (1) In cases where the assets which are the subject of a transaction are suspected to be linked to offence of laundering or financing of terrorism, the Minister shall be authorized to suspend the transactions that are attempted to be conducted or currently going on within or through obliged parties for seven work days or not to allow the performance of those transactions for the same period of time so that MASAK can verify the suspicion, analyse the transaction and convey the results of those analyses to competent authorities when necessary.

(2) This power may also be used, based on reciprocity principle, for transactions which are the subject of the reasoned request made by foreign counterparts for suspending or not allowing the performance of the transaction provided that MASAK suspects that the transaction is linked to offence of laundering or financing of terrorism.

(3) The other principles and procedures relating to implementation of this article shall be determined by a regulation issued by the Ministry.

Coordination Board

Article 20- (1) The Coordination Board for Combating Financial Crimes has been established in order to evaluate the draft laws on prevention of laundering proceeds of crime and the draft

regulations which will be issued by Council of Ministers, and to coordinate relevant institutions and organizations regarding implementation.

(2) Under the Chairmanship of the Under-Secretary of Ministry of Finance, the Coordination Board consists of the Head of the Revenue Administration, the Head of the Tax Inspection Board, the Head of MASAK, the Deputy Undersecretary of the Ministry of Interior, General Director of Legislation of the Ministry of Justice, the General Director of Economic Affairs of the Ministry of Foreign Affairs, the Head of the Board of Treasury Comptrollers, the Head of the Insurance Supervision Board, the General Director of Financial Sector Relations and Exchange of the Undersecretariat of Treasury, the General Director of Insurance of the Undersecretariat of Treasury, the Head of the Inspection Board of the Undersecretariat of Customs, the General Director of Customs of the Undersecretariat of Customs, the Deputy Head of the Banking Regulation and Supervision Agency, the Deputy Head of the Capital Market Board and the Deputy Head of the Central Bank of the Republic of Turkey

(3) Representatives of institutions whose views and opinions are needed may be invited to Coordination Board meeting without voting right.

(4) The Coordination Board shall convene twice in a year.

Evaluation of Reports and Information

Article 21 - (1) The reports and information received in the scope of this Law shall be evaluated by Finance experts and Assistant Experts who are employed at MASAK.

Disclosure of Secret

Article 22- (1) The persons stated below shall not disclose secrets acquired while exercising their duties, about the persons, transactions and account statements, businesses, enterprises, wealth and professions of the individuals and others related to them, and shall not make use of those secrets for their own or third parties' benefit, even if they left their posts:

- a) The Chairman and the members of Coordination Board, examiners and staff of MASAK,
- b) The persons who are consulted for their knowledge and expertise,
- c) Other public officials who learns the information because of their duties.

(2) These persons shall be sentenced to imprisonment from one year to four years in case of disclosing the secrets. The imprisonment may not be less than two years if the secrets are disclosed for material benefit.

(3) Giving information to the counterparts in the foreign countries by MASAK in accordance with this Law shall not be considered as disclosure of secret.

CHAPTER FIVE

Miscellaneous and Final Provisions

Article 23- (1) The positions shown in the attached list (1) are set out for MASAK and added to the section of Ministry of Finance of the Table (I) annexed to the Decree Law No.190 on General Staff and Procedure dated 13/12/1983.

Article 24- (1) - **(This Article is related to the Decree Law No. 178 Regarding Establishment and Functions of the Ministry of Finance dated 13/12/1983 and inserted to the relevant part.)**

Additional payments

Article 25- (1) The president and members of Coordination Board shall be paid remuneration

for per meeting in the amount to be calculated through multiplying the indicator number of 3000 by the salary coefficient of public officials.

(2) Additional payments not exceeding the amount calculated by multiplying the salary coefficients of public officials with the following indicator numbers shall be paid under the approval of the Minister to the following personnel working for the Financial Crimes Investigation Board;

- a) **(abolished)**
- b) **(abolished)**
- c) for the examiner assigned under this Law (not more than six months),
- 9) **(abolished)**
- d) **(abolished)**
- e) **(abolished)**

(3) **(abolished)**

(4) Such payments shall not be subject to any tax or deduction other than stamp tax.

Abolished and amended provisions

Article 26- (1) Articles 1, 3, 4, 5, 6, 7, 8, 9, 12, 14, sub-paragraphs (a), (b), (d), (e) of article 2 and first and third paragraphs of article 15 of Law No. 4208 dated 13/11/1996 shall be abolished.

(2) The first and third paragraphs of article 13 of Law No. 4208 shall be abolished and the second paragraph shall be amended to be “Ankara Criminal Court of Peace shall be authorized to give any decision on requests of foreign countries relating to the controlled delivery of assets derived from crime.”

(3) The phrases “dirty money” and “dirty money laundering offence” in other legislation refer to “proceeds derived from crime” and “money laundering offence” respectively.

Regulations

Article 27- (1) The principles and procedures relating to the subjects stated in the paragraph (d) and (e) of article 2 and in articles 3, 4, 6, 7, 11, 15, 16, 19 and 20 of this Law shall be arranged by regulations which will be issued by the Council of Ministers within six months following the publication date of this Law.

Increase of fixed amounts

Article 28 - (1) Fixed amounts specified in articles 13 and 16 of this Law shall be applied at the beginning of each year by increasing in the revaluation ratio determined for previous year under the Tax Procedure Law No. 213 dated 04/01/1961. In the calculations, the amounts up to ten Turkish Liras are not taken into consideration.

Additional Article 1- (Added: 26/9/2011-KHK-659/17)

MASAK may perform its duty of research and examination of laundering offence and supervision of obligations through examiners who are designated among examiners through the proposal of the head of their unit upon the request of the Head of MASAK and the approval of the Minister to whom they attached or related and who are temporarily assigned to MASAK for up to three years. This period may be extended for up to another three years within the same principles and procedures. Examiners assigned to MASAK shall be paid, under Article 25, an additional payment throughout their assignment without any time limit.

Provisional Article 1- (1) The provisions of current secondary legislation that are not contrary to this Law shall be in effect until the arrangements stipulated in this Law come into force.

Provisional Article 2- (1) The foreign language requirement stated in the second paragraph of article 21 of this Law shall not apply to the Financial Crimes Investigation Assistant Experts who are in office on the date when this Law is put into effect.

Article 29- (1) This Law shall enter into force on its publication date.

Article 30- (1) The Council of Ministers shall execute the provisions of this Law.