

ANTI-MONEY LAUNDERING AGAINST VIRTUAL CURRENCY IN CASE OF USING BITCOIN *

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ABSTRACT

Anti-Money Laundering is a set of rules and guidelines designed and agreed among countries to use as standard policies and framework in establishing their domestic laws on prevention and suppression of money laundering activities. The expansion of the financial sector and businesses brings about the continuous development of innovative and new financial instruments to facilitate the businesses. In parallel with this development, criminals also take advantages of the unfamiliarity to the newly developed innovation and create new money laundering methods. In this circumstance, and whilst the financial sector is a foundation of the national economic, the government and relevant state authorities have to monitor closely and supervise such new innovations. Among other innovations, virtual currency is created to facilitate financial transactions. It was found that virtual currency is the new financial innovation and also the system that used to connect with the customers through the online network via the internet. The key points of this currency are the description of it which are anonymous account and the system used in the transaction which is the peer-to-peer or blockchain connection system. These features are different from the standard financial instruments such as fiat currencies, financial institution, bank and non-bank business.

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The virtual currency is considerably new in Thailand. To date, the laws have not been developed to effectively govern the transactions using the said virtual currency. Exchangers, administrators, and users of the virtual currency are not within the scope of governance of the Anti-Money Laundering Act; nor are they subject to any other regulations. In other words, obligations and requirements under the Anti-Money Laundering laws do not apply to the virtual currency transactions and/or the involving parties. Thus, there are certain loopholes for some criminals to use the virtual currency instead of money in various financial transactions to avoid detection by the state authorities. Lacking of government supervision in this part leads to a new risk of money laundering through the virtual currency.

This thesis studies the Anti-Money Laundering processes in the United States in comparison with those in Thailand, specifically focusing on the issues of money laundering using a kind of virtual currency: Bitcoin. Bitcoin is the most prevalent kind of virtual currency and is addressed widely and extensively in US laws, regulations and court judgments. Those laws can be useful guidelines for Thailand to develop its appropriate solutions for the problem of money laundering through the virtual currency. The key preventive measures under the Anti-Money Laundering Act are customers profile verification and transactions monitoring and recording. These measures are the essential procedures to control and monitor transactions to reduce the risk of money laundering. Also, it can also examine the suspicious transactions or suspect profiles of each customer. These methods could apply to the virtual currency and their relating business for supervision and manage the risk of money laundering as same as the other financial business under the Anti-Money Laundering law and regulation.

Keywords: Virtual Currency, Crypto Currency, Digital Currency, Bitcoin, Anti-Money Laundering, Customer Due Diligence

บทคัดย่อ

การป้องกันและปราบปรามการฟอกเงินคือกฎระเบียบและแนวทางที่ได้รับการยอมรับจากบรรดาอารยประเทศ ที่จะใช้เป็นนโยบายมาตรฐานและเป็นเค้าโครงในการบัญญัติกฎหมายภายในของแต่ละประเทศบนพื้นฐานของการป้องกันและปราบปรามกิจกรรมการฟอกเงินต่าง ๆ การขยายตัวของภาคการเงินและภาคธุรกิจนำมาซึ่งการพัฒนานวัตกรรมและเครื่องมือทางการเงินใหม่ ๆ อย่างต่อเนื่อง เพื่อประโยชน์ในการทำธุรกิจ ในทางคู่ขนานกับการพัฒนาการดังกล่าว เหล่าบรรดาอาชญากรรมจึงได้รับประโยชน์จากสิ่งแปลกใหม่เหล่านี้ที่ได้มีการพัฒนาวัตกรรมขึ้นใหม่และสร้างวิธีการฟอกเงินแบบใหม่ ๆ ขึ้นมา ในสถานการณ์ดังกล่าวนี้ ในขณะที่ภาคการเงินซึ่งเป็นรากฐานสำคัญของเศรษฐกิจของประเทศไทยและองค์กรของรัฐที่เกี่ยวข้องจะต้องตรวจสอบและดูแลนวัตกรรมใหม่ ๆ เหล่านี้อย่างใกล้ชิดท่ามกลางนวัตกรรมที่หลากหลาย เงินตราเสมือนนั้นถูกสร้างขึ้นมาเพื่ออำนวยความสะดวกในธุรกรรมทางการเงินต่าง ๆ นอกจากนี้ยังพบว่าเงินตราเสมือนคือนวัตกรรมทางการเงินสิ่งใหม่และยังใช้ระบบที่เชื่อมต่อระหว่างลูกค้าผ่านทางเครือข่ายออนไลน์โดยอินเทอร์เน็ต หลักสำคัญของเงินตราดังกล่าวนี้ คือ ลักษณะของมันที่เป็นบัญชีไม่ระบุตัวตน และระบบที่ใช้ในการทำธุรกรรมนั้น คือ ระบบการเชื่อมต่อแบบ peer-to-peer หรือ blockchain ลักษณะเหล่านี้แตกต่างจากเครื่องมือทางการเงินที่เป็นมาตรฐานเช่น เงินตรา สถาบันทางการเงิน ธนาคาร และ ธุรกิจทางการเงินอื่น ๆ ที่ไม่ใช่ธนาคาร

เงินตราเสมือนเป็นสิ่งที่ใหม่อย่างมากในประเทศไทย ในขณะนี้ยังไม่มีการพัฒนากฎหมายที่จะมาควบคุมดูแลการทำธุรกรรมที่ใช้เงินตราเสมือนได้อย่างมีประสิทธิภาพ ผู้ทำธุรกิจแลกเปลี่ยน ผู้ควบคุมจัดการระบบแลกเปลี่ยน และผู้ใช้งาน ของเงินตราเสมือนเหล่านี้ไม่ตกอยู่ภายใต้ขอบเขตของการกำกับดูแลของกฎหมายว่าด้วยการป้องกันและปราบปรามการฟอกเงิน อีกทั้งยังไม่ตกอยู่ภายใต้กฎหมายหรือข้อบังคับใด ๆ แต่อย่างไรก็ตามอีกนัยหนึ่งคือ หน้าที่ต่างๆ และกฎเกณฑ์ข้อบังคับภายใต้กฎหมายป้องกันและปราบปรามการฟอกเงินไม่นำมาปรับใช้กับธุรกรรมเงินตราเสมือน และ/หรือ คู่สัญญาที่เกี่ยวข้อง ด้วยเหตุนี้จึงมีช่องโหว่สำหรับอาชญากรที่จะใช้เงินตราเสมือนแทนที่เงินตราที่แท้จริงในการทำธุรกรรมทางการเงินเพื่อหลีกเลี่ยงการตรวจจับของเจ้าหน้าที่รัฐ การขาดการกำกับดูแลของรัฐบาลในเรื่องดังกล่าวนี้ นำไปสู่ความเสี่ยงใหม่ในการฟอกเงินผ่านเงินตราเสมือน

วิทยานิพนธ์นี้ศึกษากระบวนการป้องกันและปราบปรามการฟอกเงินในประเทศสหรัฐอเมริกา โดยการเปรียบเทียบกับประเทศไทย โดยมุ่งเน้นศึกษาในเรื่องการฟอกเงินโดยใช้เงินตราเสมือน เช่น บิทคอยน์ เป็นต้น โดยบิทคอยน์เป็นเงินตราเสมือนที่แพร่หลายมากที่สุด และมีกรกล่าวถึงอย่างกว้างขวาง และมีรายละเอียดอยู่ในกฎหมายและกฎข้อบังคับรวมถึงคำพิพากษาในประเทศสหรัฐอเมริกา กฎหมายเหล่านั้นสามารถนำมาใช้เป็นแนวทางที่เป็นประโยชน์สำหรับประเทศไทยที่จะพัฒนากฎหมายหรือแนวทางแก้ไขปัญหาค่าที่เหมาะสมสำหรับปัญหาการฟอกเงินผ่านเงินตราเสมือน

มาตรการป้องกันที่สำคัญภายใต้กฎหมายว่าด้วยการป้องกันและปราบปรามการฟอกเงินนี้คือ

การตรวจสอบข้อมูลประวัติส่วนบุคคลของลูกค้า และการตรวจสอบการทำธุรกรรมและการบันทึกข้อมูลต่าง ๆ โดยมาตรการดังกล่าวนี้ เป็นกระบวนการที่สำคัญในการควบคุมและตรวจสอบธุรกรรม เพื่อลดความเสี่ยงของการฟอกเงิน และยังสามารถตรวจสอบธุรกรรมต้องสงสัยหรือข้อมูลประวัติส่วนบุคคลของบุคคลต้องสงสัยที่เป็นลูกค้าได้ กระบวนการเหล่านี้อาจนำมาปรับใช้กับเงินตราเสมือนและธุรกิจที่เกี่ยวข้อง เพื่อการควบคุมดูแลและการจัดก้าความเสี่ยงในการฟอกเงินเฉกเช่นเดียวกับการประกอบธุรกิจการเงินอื่น ๆ ภายใต้กฎหมายและกฎระเบียบว่าด้วยการป้องกันและปราบปรามการฟอกเงิน

คำสำคัญ: เงินตราเสมือน, เงินคริปโต, เงินดิจิทัล, บิทคอยน์, การป้องกันและปราบปรามการฟอกเงิน

1. Introduction

The Virtual Currency is the new financial innovation that brings many issues in the term of Anti-Money Laundering because the criminal use this currency instead of the real currency to launder the proceeds of crime such as disorderly involved persons, transparency problem, extraterritoriality, and convertibility to the legal currency. It uses the digital technology and the complex codes in the transaction via the online network that is different from the formal financial transaction.¹

The virtual currency and the relating parties are not the objective to the predicate offence in Anti-Money Laundering Act (AMLA) in Thailand because it is not the real money or the party under the law. So the offender can use virtual currency instead of the actual money for the purpose of money laundering which is a lack of supervision and difficult to examine the exchange transactions to know the information of each user in the system. The essential milestone to enable government officials, law implementation and own division substances to identification the liable to AML risk of this currency as a new channel of payment system is how virtual currency operate. Another concerning is the process of seizing, freezing, or forfeiting the virtual currency which is not a real money

¹ Law of Electronic Banking by Melanie L. Fein, Aspen Law & Business A division of Aspen Publishers, Inc. Gaithersburg, New York, 2000, page xxv-xxvi.

and intangible so the tools and methods to take measures should be the same as the real money or not.

2. Anti-Money Laundering Legal Regime and Virtual Currency Aspect in Thailand

2.1 Anti-Money Laundering Legal Regime

Presently Anti-Money Laundering (AML) is one of the important issues of the international level because it is related or associated with the severe crime through the groups of terrorist or the organizations across borders and difficult to suppress. Money laundering is a procedure whereby the returns of proceeds from the offences changed into lawful money or different properties. It can see that the unlawful money continues to launder to legitimize the cash. The term of 'Money laundering' is presently broadly utilized. The procedure of making unlawfully picked up continues (which is "dirty money") seem lawful (which is "clean"), this can make via the person or company through the transfer or withdraw the cash.

There are varied and sophistication methods by which money can launder. So the primary purpose of the money laundering is to focus on the money or asset which came from the illegal activities, these products have to proceed to be lawful money or property and cannot be traced back to the source of the crime.

The primary measurements of the Anti-Money Laundering Act are the process of verifying the data profile of the customers and also the monitoring of the transaction recording data. These processes are the essential procedures to control and monitor transactions to reduce the risk of money laundering.

2.2 Virtual Currency Aspect in Thailand

The legal status of virtual currency in Thailand is stilled unclear like the other countries. The government and the financial authority try to consider this type of financial innovation with carefully. Now Thailand has no specific legislations or any regulate on virtual currencies, and others involved businesses operation about it.

Bitcoin is the first virtual currency which was captured by the state officials, so it becomes the most popular virtual currency and has the highest value compared to the others.² It is an electronic coin as a chain of digital signatures. This thing uses as an intermediate of exchange goods and services instead of the real currency through an electronic payment system to testify trust by using cryptographic technology. This system allowing the parties to deal directly with each other without the trusted from the third party.

The most important feature of Bitcoin is the decentralized system different from the government authority. There are no physical bitcoin, only balances within the digital public and private keys which store in a general ledger. Bitcoin transactions have to verify the accuracy through the multi-layer complex code in each transaction.³ For this reason, it operates comply with the idea of privacy and anonymity must be outright, however, that clients should even now have an approach to entrust in the validness of the transaction.⁴ The Bitcoin system was expressly intended to serve as electronic payments through peer-to-peer network tools which operate on the internet trade basis. It was planned to empower clients to transfer bitcoin or other decentralised virtual currencies directly to

² The Financial Crimes Enforcement Network, *FIN-2013-G001: Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies*, 2013.

³ Calvery, Jennifer S., 'Statement of Director Financial Crimes Enforcement Network United States Department of the Treasury Before the United States Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on National Security and International Trade and Finance Subcommittee on Economic Policy', 2013.

⁴ Greene, Olivia. 'Risk Advisory, Risks and Challenges Associated with Bitcoin Transaction Monitoring for AML', 2015. https://www.dhglp.com/Portals/4/ResourceMedia/publications/Risk-Advisory_Bitcoin.pdf (last visited Jun 5, 2016).

each other and settling those exchanges in actual close time without any financial institution or third party.

These technology does not have the central administrating authority and also does not have the essential monitoring center and supervision from the Government officials. Not only bitcoin but this P2P network also applied in another kind of virtual currencies. The issue about the decentralised system effect to the financial situation that making it difficult to determine and oversight the virtual currency transaction in this present.

3. Anti-Money Laundering Against Virtual Currency and The Case Study in The United States

3.1 The United States Regulations

The virtual currency plays a role in this matter due to the criminal activity that changes from the general processes of money laundering which use the channel of the financial institutions, banks to launder the money to use virtual currency instead of the money in the exchange transaction. This circumstance causes the risk of money laundering because it is difficult to monitor and supervise the virtual currency transaction.

However, the US amend the laws, regulations, and guidelines of virtual currency and the relating business to take control and manage the risk of virtual currency. It also determines the definition of virtual currency, the relating business, and the involving person, to make it clear under the applicable law and regulations.

The major regulations which related to the virtual currency in the United States are The Financial Crimes Enforcement Network (“FinCEN”), the Bank Secrecy Act (“BSA”), the Patriot Act, and The Money Laundering Suppression Act (“MLSA”). There is also the state regulation; particularly that is the regulation of New York State which is the beginning endeavor by Regulators at legalizing this kind of currency as a feature of payment in the United States.

These laws and regulations try to enlarge the meanings of existing regulations to include this currency under the laws. These regulations are new and have to determine the result of the virtual

currency enforcement by money laundering matters. In the term of law enforcement, it will focus on the case studies that show the possible process which can be the guidelines to apply the existing laws in the country around the world and also in Thailand. It has to study and comprehend the regulation to improve with these new definitions of commit the crimes and the new process in advance with the virtual currency.⁵

3.2 The Case Study in The United States

(1) The Liberty Reserve Case

The subject matter of this case should focus on the license of operating money transmitting business which related to the money launder offence by acting as a medium of exchange by providing virtual currency service to their customer for the purpose of using it instead of fiat money. Moreover, it also has the additional service that intends to make anonymity account to conceal the real owner and difficult to verify the information of the transaction. For this reason, it creates the convenience financial transfer system for customers and also criminals which can use it to launder the money by the digital services and virtual currency without any monitoring data of their customers in compliance with KYC & CDD procedures according to the law and regulation. So it has to be punished for the offence of operating the unlicensed business which violated the relating regulation.

(2) Silk Road Case

Silk Road is the hidden website for the purpose of buy and sell illegal drugs, weapons, stolen identity information and other unlawful goods and services within anonymous criminal transactions and not under the law enforcement also outside the regulation of drug trafficking, computer hacking, and money laundering conspiracies.⁶ In addition to the network, it accepts only bitcoins for payment. Silk

⁵ Pamplin, Berkley A., 'Virtual Currencies and The Implications for U.S. Anti-Money Laundering Regulations'. Master of Science in Economic Crime Management, Utica College, 2014.

⁶ USA v. Ulbricht, 2014

Road only using this virtual currency as the intermediate for buyers and sellers to another conceal their identity via the shared peer-to-peer (P2P) framework. Bitcoin exchanges are distinguished just by the unknown bitcoin address or record which clients can get boundless addresses and can choose one location for every exchange. Also, there is another additional choice which is "anonymisers" past the general administration into Silk Road exchanges to hide and cover the real identity and the source of the transaction.⁷

However, the most important factor is the capability of the law enforcement to examine and detect the criminals online within the scope of the law. The concept of the anonymous is the core of the problem because it brings the complex data and process to examine the real person behind each account. The criminal will use this system to commit the money laundering online pass the closed network that difficult to detect any related party of the transaction. Bitcoin exchanges were intended to be entirely anonymous. However, the aftereffect of the Silk Road examination brings up the issue of the monitoring in virtual currency clients that could be distinguished and supervising the Bitcoin framework.

(3) Trendon T. Shavers Case

This case is about the fraud trading of securities by Shavers and the Bitcoin Savings and Trust ("BTCST"), a Bitcoin-designated Ponzi scheme that is established and performed by Shavers. It is involved with Bitcoin, so the court has defined that Bitcoin ("BTC") is "a virtual currency that may trade on online exchanges for conventional currencies, including the U.S. dollar, or used to purchase goods and services online. BTC has no single administrator, or central authority or repository."⁸ The court accepted bitcoin as money or form of money which is an intermediary in exchange of goods and services depending on each or social that

⁷ *Id.*

⁸ Securities and Exchange Commission v. Trendon T. Shavers, et al. The Complaint, (2014). <https://www.sec.gov/litigation/complaints/2013/comp-pr2013-132.pdf> (last visited Jun 7, 2016).

recognize this thing can be used instead of the money.⁹ So, it can exchange to the other formal currency such as U.S. dollar, Euro or Baht. It also can be used as a channel to get the interest from the bitcoin investment.

4. Anti-Money Laundering Against Virtual Currency Under Thailand Regulation

4.1 Current Thailand regulation on Virtual Currency Money Laundering

The method of the virtual currency is higher risk in the case of money laundering by using this thing instead of the usual money. Because there are no specific legislations to be considered in the case about virtual currency. However, the government, related institutions, and other authority beware and warn about this currency and try to manage or control against the offense. The government does not accept this kind of the digital data unit which use as the money that can pay in legal tender. Many regulations could be used to enforce or regulate the virtual currency but in this article, it will focus on the Anti-Money Laundering Act B.E. 2542 first and try to interpret and adapt other provisions to resolve this issue.

The Anti-Money Laundering Act B.E.2542 (“AMLA”)

This act is aimed to prevent money laundering, force against the offender and manage the asset or money from the offence to eliminate the proceeds of crime which can be the fund for the criminal to commit another offence. There are three issues that should consider about AMLA against virtual currency.

(1) Predicate Offence

It does not have predicate offences which related to the VC or VC service business because this thing is a new financial innovation and new business which is not under this regulation or the other laws. So, this situation causes a risk of money laundering through the VC instead of the money.

(2) Assets under AMLA

⁹ *Id.*

The money or property or the proceeds of crime under the AMLA definition have many kinds of property that involved with the predicate offence. It is the other important issue about VC because it is not one of the property meaning under this regulation. The Virtual Currency does not accept or treat like the money or assets, and the status is still unclear. So, the government or BOT just caution about the risk of using VC, but they do not recognize on VC status to be legal in Thailand.

(3) The Financial Institutions and Designated Non-Financial Businesses and Professions

Under this Act, it defines the duties of the financial institutions and other related business to follow the requirements of this law which can be divided into three things as follows:

(3.1) The duty to report the transaction

It does not have the regulation to control or supervise the virtual currency service business and also includes the requirement about the criteria of the amount of virtual currency transaction which have the duty to report to AMLO like the cash or property transactions.

(3.2) The duty to identify and review the information of the customers.

KYC and CDD are the processes of examining about the identification of the customer which is the important procedure to prevent and detect the money laundering offence. This principle will reduce the risks associated with the predicate offense under the AMLA which based on international standards.

(3.3) The duty of retaining the data

The law also requires the operators to store the data of customers within the specified time under this law depending on each type of information.

However, AMLA does not have any regulations that related to the VC or VC business at all. For this reason, it must be interpreted and applied to other laws that may be

relevant to the feature of VC and VC business.

4.2 Other Thailand Regulations which can apply to Virtual Currency

Under the AMLA, it does not have any article which mentioned about the Virtual Currency or the business which related with the VC. From the primary rules about Anti-Money Laundering, it should focus on the other regulations which can comply with AMLA to regulate or supervise VC. Therefore, this part will diagnose the regulations that related with the financial and also the electronic transaction for the purpose of finding the proper guidelines to determine and regulate the VC and related business.

4.2.1 The Electronic Transaction Act, B.E. 2544

In generally the VC transaction occurs in the online network which is not face to face dealing. Therefore, it could be compared to the electronic transaction that should fall under the provision of the law as the same. VC can interpret as well as data message and the electronic transaction that should be the subject under this law.

- The Royal Decree on Security Procedures for Electronic Transactions Act B.E. 2553

This regulation is an extension of the Electronic Transactions that encourage the administration and security of information in the transactions. To have acceptance and confidence in the electronic data even more according to the Electronic Transactions Act section 25 stipulates that “any electronic transaction is done by the security procedures prescribed in the ordinance, then it presumed to be reliable.”¹⁰ The security model of this regulation can divide into three levels which are strict level, middle level, and basic level.¹¹ It must use the security procedures with VC transaction under this regulation for the reliability of such transactions. From the pattern of the VC transaction, it should be

¹⁰ The Electronic Transaction Act B.E. 2544 sec. 25 [hereinafter *The Electronic Transaction Act*].

¹¹ The Royal Decree on Security Procedures for Electronic Transactions B.E. 2553 sec 4. [hereinafter *The Royal Decree on SPET*].

classified in the strict level of the electronic transaction due to the decentralized system and anonymity account.

4.2.2 The Computer Crime Act B.E. 2550

The virtual currency service business and all relating person can be under the Computer Crime Act. It is causing an obligation for the person or juristic person to follow the laws. So under this law, it imposes the duty of service provider to store computer traffic data or information of service user about the data that input into a computer system at least ninety days or not exceeding two years depending on the order of relevant competent official.¹² The virtual currency service business must store their information and computer traffic data within the period to be supported to the formal and establish the credibility and a clear status of virtual currency, including reducing the risk of a channel for money laundering.

4.2.3 Financial Institution Businesses Act B.E. 2551

Typically the financial institution business under this act also including “the commercial banking business, finance business and credit foncier business and shall include the undertaking of specialized financial institution business.”¹³ These businesses must be the public limited company and get the license by the Minister with the recommendation of the Bank of Thailand. It granted with rules as the Minister deems appropriate.¹⁴

Although, this act does not mention about VC and VC service business because it is not the subject under this law. However, it has the provision that may apply to VC and VC service business which the regulation about other business “involving with public fundraising through deposit acceptance or any other means, granting of credits or undertaking financial business, affects the overall economy of the country, and there is no particular law governing such business. BOT may propose for an enactment of a Royal Decree prescribing such business to be subject to the enforcement of this Act, either in whole or in part, including related

¹² The Computer Crime Act B.E. 2550 sec. 26

¹³ The Financial Institution Businesses Act B.E. 2551 sec. 3 [hereinafter *The Financial Institution Business Act*].

¹⁴ The Financial Institution Businesses Act, supra note 15. sec 9.

penalty provisions. In this regard, supervisory regulations of such business may also be prescribed.”¹⁵

4.3 The Decisions of Thai Supreme Court

The subject matter is the status of VC under Thai laws and regulations. The related agency or government did not accept this financial innovation as one of the media of exchange or payment method or treat it like the money. If there is the issues that involved with VC in Thailand, the court or the state authorities have to interpret the status of this things not only the object under the laws but also include a process to implement the preventive measure and suppression measure.

The court determined about the electricity and telephone signal wave that are the things that can be theft under the Criminal Code. Under this law, it does not have the meaning of the things. Therefore, it has to require other legislation to interpret the meaning under the law in vice-versa.

The issues are about the property which can be enforced by the AMLA. The property that can confiscate must relate to the predicate offense as prescribed in AMLA section 3 (1).¹⁶ And it has to meet the asset definitions under this regulation. If there is the case that involving with the virtual currency, so it will have the problem in the process of confiscation under the AMLA. Because it has to interpret the status of VC that meets the asset definition under this law or not.

5. Conclusion

The problem of money laundering is not only focused on the drug trafficking or tax avoidance offence, but it must highlight on the risk of each customer and business transaction. Bank directors and controllers should likewise combat with the impacts and potential outcomes of money laundering on the banking frameworks. As the Basel Committee thinks about the issue on a multinational level, to developing the international legal structure on money laundering not

¹⁵ The Financial Institution Businesses Act, supra note 15. sec 5.

¹⁶ AMLA, supra note 101.

only the real money but also the virtual currency (digital money) as well.

6. Recommendations

Virtual Currency or Bitcoin has kept up their system and clients record with no immediate security rupture to the entire system by utilizing cryptography or peer-to-peer innovation. It is hard to distinguish the majority of the exchanges which running using the computerized, so the particular framework or organization has essential influence in the advancement of Bitcoin or other virtual currency, however, it does not decide its prosperity.¹⁷ The government has to propose further proceeding by related authorities against wrongdoers of the anti-money laundering laws or related regulations and improve the operation that will be enforced in actually which can be determined into two parts as follows:

6.1 Amend the legislations to cover the offence against Virtual Currency

Anti-Money Laundering Act (AMLA) has to add more provision about the virtual currency. The first one is to amend the new definition of virtual currency and virtual currency service business to make it clear legal status under the law. The AMLA should be the primary law to supervise and enforce about the virtual currency to manage the risk of money laundering through virtual currency. Moreover, another key provision of this Act that should be amended is the requirement of financial institutions and other businesses that tend to be used as vehicles for money laundering report all cash transactions of THB two million or more. The Institution which related with the Virtual Currency or Bitcoin (Money Exchangers, Website-Administrators, etc.) should have the same duty as the other financial institution under this act.

6.2 Monitoring approach

This method about the acquisition of customer data and data preservation which is significant for monitoring the virtual currency

¹⁷ Peng, Starry. 'BITCOIN: Cryptography, Economics, and the Future.' School of Engineering and Applied Science, University of Pennsylvania, December 2013.

overall because all of the process on the internet which is broadcasting in the global network. So it is connecting every country together in the system to do the transaction via the computer or mobile phone. The involved person and corporation that is acting as the intermediary in the transaction have duties under the regulation and security procedures which related to the information of the customer; data transfer history and another valuable data that involved with the transaction to do KYC and CDD with every customer. Moreover, they must keep the record within the specified period for the purpose of examination.

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