

Thailand

Information on Good Practices and Challenges with respect to the Establishment of Effective Financial Disclosure Systems

1. Basic Information

1.1 Does your country have a financial disclosure system(s) for appropriate public officials in line with article 8, paragraph 5 and 52, paragraph 5 and 6 of the Convention?

Ans. YES

a. Broad overview and relevant national legislation

Overview

Pursuant to the relevant provisions of the Organic Act on Anti-Corruption B.E. 2561 (2018) which would be raised hereafter, a public official has a duty to disclose his financial information to the NACC. The high-ranking public officials and the positions listed under the NACC Notification on the List of Public Officials to Submit the Account of Assets and Liabilities under Section 103, B.E. 2561 (2018) are obliged to submit the account declaring assets and liabilities of theirs, of their spouses, and of their children not yet becoming sui juris to the NACC upon taking and vacating office. Officials holding certain positions, such as judges and prosecutors, may also be obliged to submit every 3 years while in office. Furthermore, a political position holder is obliged to declare the list of assets and liabilities, including those are of himself, of spouses, and of all children who have not yet become sui juris. Such account must be submitted upon taking and vacating office.

/A state...

A state official has a duty to submit the account, together with the supporting documents including the personal income tax payment of the previous fiscal year, within the period prescribed. The list of assets and liabilities must be reported on a specific account form containing the particular details of assets and liabilities both in and outside of Thailand and all assets in direct or indirect possession or management of others.

The submitted account must fully disclose sources of income comprising official duty performance, personal business, and other activities; such as gratuity gain, inheritance, sales, etc. Moreover, a political position holder is obliged to indicate his/her employment information for the past 5 years, as well as his/her spouse's current employment information.

After submitting the account and the supporting documents, it will be inspected, by the competent authorities, for the accuracy and actual existence of assets and liabilities listed in relevant laws. In case of office vacation, the change of assets and liabilities will be inspected to determine the relation of incomes between office taking and vacation. The unrelated information reveals unusual increase of assets or unusual decrease of liabilities. The inspection will be changed from the regular approach to be either verifying inspection approach or in-depth inspection approach. Such approaches will consider the facts and evidences from other agencies together with the explanation from the submitter. In this regard, the inspector will propose the inspection report to the NACC for consideration to further investigate on the ground of unusual wealth.

In the case where an official intentionally fails to disclose the account or discloses false particulars, the NACC has power and duty to refer such matters with a documentary report and its commentary to the Supreme Court's Criminal Division for Holders of Political Positions or the Criminal Court for Corruption and Misconduct Cases for determination. In addition, the failure to submit a disclosure within the prescribed time period, or disclosure of false information, is punishable by imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

Relevant national legislation

1. Organic Act on Anti-Corruption, B.E. 2561 (2018) (OACC)

The example of OACC provisions which are used to provide answers in the questionnaire are as follows:

Section 28 The NACC has the following duties and powers:

...

(3) Obligate persons holding political positions, judges of the Constitutional Court, persons holding positions in independent agencies and state officials to submit account showing particulars of assets and liabilities of themselves, spouse and children who have not yet become sui juris, and to inspect and disclose the results of the inspection of such accounts;

...

/Section 42 ...

Section 42 The NACC Commissioner shall submit an account of assets and liabilities of himself or herself, his or her spouse and children who have not yet become sui juris, including assets directly or indirectly consigned to the possession or administration of other persons, to the President of the Senate. Provisions of Chapter V, Management of Assets, Sections 105 to 133 shall apply mutatis mutandis by conferring the power of the NACC to the President of the Senate. The President of the Senate shall appoint a committee for assets and liabilities inspection to conduct preliminary inspection prior to submission to the President of the Senate for consideration.

...

Section 102. In the proceedings under section 28(3), the NACC shall at least prescribe that the following persons shall submit the account of assets and liabilities of himself or herself, spouse and child under the legal age to the NACC:

- (1) person holding political position;
- (2) Justice of the Constitutional Court;
- (3) person holding a position in an Independent Organ;
- (4) judicial official under the law on Rules of judicial official of the Court of Justice who is in the position of the Director-General and above;
- (5) official of the Administrative Court under the law on establishment of Administrative Court and administrative case procedure who is in the position of the Director-General of the Administrative Court of First Instance and above;
- (6) prosecutors under the law on rule of prosecutors who is in the position of the Director-General and above;
- (7) person holding a high-ranking position;
- (8) other positions as prescribed by other laws to submit the account of assets and liabilities;
- (9) local administrator, local deputy administrator, assistant local administrator and members of the local assembly as prescribed by the NACC.

Spouses under paragraph one shall include persons living together as if being husbands and wives without registering marriage certificate under the criteria as prescribed by the NACC.

Section 103. The position of a public official who must submit the account of assets and liabilities of his or her, spouse, child under the legal age to the NACC shall be as prescribed by the NACC and the provisions of paragraph two of section 102 shall apply mutatis mutandis.

Section 104. When the NACC prescribes the positions for which the account of assets and liabilities shall be submitted under section 102 and section 103, it shall publish to the general public and inform the supervisory agency.

/Section 105 ...

Section 105. Submission of account of assets and liabilities to the NACC shall be made with the evidence which can prove the actual existence of the assets and liabilities including the evidence of income tax of a natural person in the previous tax year. In the case of submission of documents, the person submitting such documents shall sign and certify, every page, the correctness of the account of assets and liabilities and each of the copies including the details of the documents for the account of assets and liabilities submitted. In this regard, the assets and liabilities to be submitted shall include the assets and liabilities in a foreign country and include direct or indirect assets of such person being entrusted in the possession or supervision of other persons.

The criteria, duration, extension of time, procedure for submission of account of assets and liabilities and evidence pertaining thereto under paragraph one shall be as prescribed by the NACC and may be submitted through the electronic means. Such prescription shall also consider technology appropriate to the electronic form and method to replace the documents and shall be in accordance with the law on electronic transaction and time for submission of account of assets and liabilities shall not be less than sixty days.

The account of assets and liabilities under paragraph one shall be submitted as follows:

(1) positions under section 102 (1), (2), (3) and (9) shall be submitted upon taking office and vacation from office;

(2) positions under section 102(4), (5), (6), (7), (8) and other positions as prescribed by the NACC except (1) shall be submitted upon taking office and vacation from office of the state official and every three year throughout the time of being in the position as the state official;

(3) In the case under (1), if a person is out of the office and has been appointed to the previous position or a new position within one month, such person does not have to submit the account of assets and liabilities in the case of vacation from office and taking office in a new position but this does not prohibit such person from submitting it as evidence.

In the case under (1) or (2), in the case where any state official is appointed to other position whose duty is to submit the account of assets and liabilities, such state official does not have to submit a new account of assets and liabilities but this does not prohibit such person from submitting it as evidence.

Section 106. For the purpose of public participation in inspecting the assets and liabilities, the NACC shall disclose the account of the assets and liabilities, location of the immovable properties and documents pertaining thereto of the person holding the position under section 102(1), only the Prime Minister, Ministers, Member of the House of Representatives, Member of the Senate and persons under section 102 (2), (3), (7) and (9) including the spouse and child under the legal age of such person, to the general public expeditiously but it shall not exceed thirty days as from the expiry date of submission of the account by which the account of the assets and liabilities, location of the immovable properties and documents pertaining thereto shall not specify the registration details of the assets, the photos of the assets or personal information unnecessarily or which may cause danger to the owner of the information. In this Regard, it shall be as prescribed by the NACC by publishing it during the clear time period.

/ Disclosure ...

Disclosure of the account of assets and liabilities of a person under section 102 (9) of any position shall be as prescribed by the NACC.

In the case where the NACC is of the view that the disclosure of information under paragraph one may cause danger to the owner of information, the NACC shall delete or edit or conduct other acts which result in not disclosing such information before disclosing it to the public and shall notify the person submitting the account.

Section 110. In inspecting the assets and liabilities, the NACC shall inspect the correctness and actual existence of the assets and liabilities under the account of assets and liabilities initially submitted to the NACC and upon the subsequent submission of the account of assets and liabilities, the inspection shall as well include the change of the assets and liabilities.

In regard to the undertaking under paragraph one, the NACC may assign to a competent official or inquiry official to inspect under paragraph one prior to submitting it to the NACC in accordance with the criteria, procedure, time period for completion of inspection or consideration of dispute, and conditions prescribed by the NACC.

For the purpose of inspection of assets and liabilities, the provisions of section 34 and section 38 shall apply to the inspection of assets and liabilities mutatis mutandis and the competent official or inquiry official shall also have the power under section 34 (1), (2) and (3).

Section 111. Subject to section 106, the NACC shall disclose the result of the inspection of assets and liabilities of the persons, prescribed by the NACC to submit the account of assets and liabilities, under this Organic Act on anti-corruption to the general public. Such disclosure shall disclose whether the account is normal or abnormal.

Section 112. In inspection of assets and liabilities, the NACC shall have the power to order state agencies, financial institutions, or any relevant person to inspect the accuracy or actual existence as appeared in the account of assets and liabilities submitted to the NACC, or any asset or liability not listed in the account of assets and liabilities, and shall notify the result to the NACC within the time limit as prescribed by the NACC.

Section 113. In case the result of inspection of change in assets and liabilities finds that there is a circumstance indicative of unusual wealth, the NACC shall conduct an inquiry for subsequent request for assets to become properties of the State.

Section 114. When it appears that any person who has the duty to submit the account of assets and liabilities to the NACC intentionally fails to submit the account of assets and liabilities or intentionally submits the account of assets and liabilities with the false statement or conceals the fact which should have been disclosed and there is a reasonable circumstance to believe that there is an intention not to disclose the sources of such assets or liabilities, the NACC or competent official assigned shall inform such person of the charge and specify reasonable time period for such person to give explanation. In this regard, it shall be in accordance with the criteria and procedure as prescribed by the NACC and shall submit to the NACC for further consideration.

/ In the case...

In the case under paragraph one if the NACC has the decision that any person intentionally fails to submit the account of assets and liabilities or intentionally submits the account of assets and liabilities with the false statement or conceals the fact which should have been disclosed and there is a reasonable circumstance to believe that there is an intention not to disclose the sources of such assets or liabilities, the NACC shall undertake the followings:

(1) in the case of person under section 102 (1), (2), (3) and (9), submit the matter to the Supreme Court Criminal Division for Persons Holding Political Positions for consideration. In this Regard, the Supreme Court Criminal Division for Persons Holding Political Positions shall as well have the power to consider and adjudicate on cases of the persons under section 102 (9);

(2) in the case of a state official, except for the state officials under section 102(9), submit to the Criminal Court for Corruption and Misconduct Cases.

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Section 116. In conducting an inquiry or reaching opinion or decision on whether or not a person is unusually wealthy, the NACC shall have the power to inspect the sources of the assets and liabilities, financial movement or transaction of such person and perform any other acts to obtain the fact to complement the deliberation. In case the alleged culprit has submitted the account of assets and liabilities, regardless of whether it was submitted to the NACC or was the submission under Section 130, the NACC shall compare the account of assets and liabilities with the existing assets during the time of inquiry including the income and expenses, and income tax of such person. For this purpose, the NACC shall have the power to order the alleged culprit to submit the account of assets and liabilities according to the list and time period as prescribed by the NACC regardless of whether such person has previously submitted the account of assets and liabilities.

The time period under paragraph one shall not be less than thirty days but not exceed sixty days.

Upon undertaking the inquiry under paragraph one, the death of the alleged culprit shall not deprive the NACC of the power to continue its investigation. However, the case shall be finalised within two years from the date of the death of such person.

Section 130. State officials who are not required to submit the account of assets and liabilities under section 42, section 103, and section 158 shall submit the account of assets and liabilities to the head of the government agency, state enterprise or State agency to which he or she is attached or for which he or she performs duties as prescribed in the Royal Decree.

The provisions of paragraph one shall not apply to State official who does not have permanent salary or position.

In the case where the State official under paragraph one holds several positions, he or she shall only submit the account of assets for the position which he or she performs the duties regularly.

/The account...

The account of assets and liabilities submitted under paragraph one shall be kept at a State agency to which such State official is attached and shall be deemed to be official secret which cannot be disclosed except the submission to the NACC as requested by the NACC or when the NACC prescribes that such person holding the position shall submit the account of assets and liabilities under section 103 or in the case where there is a disciplinary investigation against such State official.

In the case where a State official has moved to attached to a new State agency, the previous agency shall deliver the account of assets and liabilities of such person to the new agency to which such person has moved to attach. In this Regard, it shall be within three months as from the date of vacation from the previous office.

The submission time period, form, criteria, submission method and maintenance of the account of assets and liabilities under paragraph one shall be as prescribed in a Royal Decree, which shall take into consideration the ability to be inspected, convenience, and shall not burden unnecessarily. In such Royal Decree, there may be an exception of temporarily hired State official or certain type of State official who needs not submit the account of assets and liabilities under paragraph one.

The Prime Minister shall have charge and control of the Royal Decree under paragraph one and paragraph six.

Section 158. Competent officials (of Office of the NACC) from the level of Directors of the division, assistant inquiry officials, inquiry officials, chief inquiry officials and competent officials whose positions and duties related to the inspection of assets and liabilities shall have the duty to submit the account of assets and liabilities of his or hers, spouse, and child who is not of the legal age including the assets assigned to be in direct or indirect possession or supervision of other persons to the NACC for inspection and disclosure of result of the inspection of assets and liabilities. In such inspection, for the purpose of good governance and prevention of conflict of interest, the NACC may prescribe the rules on the entrustment of the competent officials to inspect accounts of assets and liabilities in a particular case.

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Section 167. Any person having the duty to submit the account of assets and liabilities as prescribed by the NACC under section 28(3), members of the Commission under section 42 or competent officials under section 158 who intentionally fails to submit the account of assets and liabilities and complementary documents to the NACC or the President of the Senate, as the case may be, within the time period as prescribed by this Organic Act or intentionally submits the account of assets and liabilities with false statement or conceals fact which should have notified and there is a circumstance that there is the intention to conceal the origin of assets or debts, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

/2. Relevant...

2. Relevant Regulations and Notifications of the NACC

- The NACC Regulation on the Inspection of the Assets and Liability of State Officials and Legal Proceedings related to the Submission of Account (2018)
- The NACC Regulations on the Submission and Inspection of Assets and Liability of Competent Officials under Section 158 of the OAAC and the Relevant Legal Proceedings (2018) (2019)
- The NACC Notification on Criteria and Procedures of the State Official's Submission of Account of Assets and Liability to the NACC (2018)
- The NACC Notification on Criteria and Procedures of Disclosure of Account of Assets and Liability (2018)
- The NACC Notification on the Criteria of Non-registered Partner regarded as Spouse (2018)
- The NACC Notifications on the Prescription of Positions which have the Duty to Submit the Account of Assets and Liability under Section 102 (2018)
- The NACC Notification of the Prescription of Local Administrator, Deputy Local Administrator, Assistant Local Administrator, or Member of the Local Assembly who have the Duty to Submit the Account of Assets and Liability under Section 102(9) (2018)
- The NACC Notification of the Prescription of Local Administrator, Deputy Local Administrator, Assistant Local Administrator, or Member of the Local Assembly who have the Duty to Submit the Account of Assets and Liability (2018)
- The NACC Notifications on the Prescription of Positions which have the Duty to Submit the Account of Assets and Liability under Section 103 (2018)
- The NACC Notification on Criteria to Affix Signature or Equivalent Methods in the Submission of Account of Assets and Liability (2019)

b. Ad hoc financial disclosure requirements, including applicable categories of officials, sectors/activities, etc.

Ans. Please refer to all provisions of the Organic Act on Anti-Corruption B.E. 2561 (2018) and the NACC Regulations and Notifications aforementioned.

c. Objectives of the country's financial system

Ans. Combined system (Detection of illicit enrichment and Prevention of conflicts of interest)

1.2 Has your country criminalized "illicit enrichment" as foreseen under article 20 of the Convention

Ans. After submitting the account and the supporting documents, they will be inspected by the NACC officers for accuracy and the actual existence of assets and liabilities listed therein. The approaches employed by the NACC to inspect the account are the comparative approach,
/inspective...

inspective approach, and in-depth approach. When comparative inspection detects an irregular increase of assets which may constitute the ground for illicit enrichment, the NACC is under the duty to conduct an inquiry to further request for asset seizure or confiscation. The example of relevant provisions of the Organic Act on Anti-Corruption (2018) regarding sanction against illicit enrichment are as follows:

Section 118. In the case where the NACC has conducted an inquiry and is of the opinion that a person holding political position, judge of the Constitutional Court or person holding a position in an Independent Organ is unusually wealthy, the NACC shall submit a report, inquiry case file, document, evidence and opinion to the Attorney-General within thirty days as from the date of the resolution for the Attorney General to initiate a case in the Supreme Court Criminal Division for Persons Holding Political Positions for the Court to order that such assets including other assets or benefit obtained in exchange of such assets to be vested on the State due to unusual wealth and the provisions of section 84 shall apply mutatis mutandis.

Section 119. Upon receiving a case file under section 118, the Attorney General shall proceed to submit the complaint to the Supreme Court Criminal Division for Persons Holding Political Positions for the assets to be vested on the State within ninety days as from the date of receipt of the case file from the NACC and the provision of section 77 shall apply mutatis mutandis.

In case of requesting the assets to be vested on the State, the alleged culprit shall have the burden to prove to the Court that such assets were not a result of unusual wealth.

The Court fee shall be exempted for the case prosecution or request for the assets to be vested on the State

Section 122. In case where the NACC has conducted an inquiry and decided that a State official is unusually wealthy, the NACC shall submit a report, case file inquiry, document, evidence and opinion to the Attorney General within thirty days as from the date of decision for the Attorney General to proceed with the submission to the Criminal Court, Division of Corruption and Malfeasance Cases for the Court to order for confiscation of unusual wealth and be vested on the State and the provisions of section 83, section 84, section 119, section 120 and section 121 shall apply mutatis mutandis.

In case the State official under paragraph one is the person holding the position of Attorney General, the President shall submit a request to the Criminal Court for Corruption and Misconduct cases. In this regard, the provisions of section 80 shall apply mutatis mutandis.

In the case under paragraph one, the NACC shall notify the decision including summary of facts to the superior or person having the power to appoint or remove the alleged culprit within thirty days as from the date of decision to dismiss within sixty days as from the date of being notified and such conduct shall be deemed corruption in the course of duties.

The provisions in paragraph three shall not apply to alleged culprit who is a judicial official under the law on regulations for judicial officials, judicial official of the Administrative Court under the law on establishment of Administrative Court and Administrative Case Procedure or public prosecutors under the law on public prosecutors. In case where the NACC has conducted an inquiry and decided that such government official is unusually wealthy, it shall notify the President of the Judicial Commission, the President of the Judicial Commission of Administrative Court or the President of the Public Prosecutors Commission, as the case may be, for further consideration and proceeding

/with...

with the matter in accordance with the law on regulations for judicial officials, the law on establishment of Administrative Court and Administrative Case Procedure or the law on public prosecutors, as the case may be. In case an order of dismissal is issued, it shall be deemed to be the dismissal due to corruption in the course of duty.

In case the alleged culprit is a local administrator, deputy local administrator, assistant local administrator, or member of the local assembly, the decision including summary of facts shall be submitted to the person having the power to order dismissal. Such order shall be made within sixty days as from the date of being notified and it shall be deemed that the alleged culprit committed an offence of corruption in duties.

The superior or person authorized to appoint or remove from office under paragraph three, or person authorized to dismiss under paragraph five shall have the power to order dismissal without any investigation or resolution from the Cabinet or approval from the personnel management organization.

Regarding illicit enrichment, sections 118 and 119 of the OAAC prescribe seizure and forfeiture of property connected with unusual wealth. Moreover, expulsion or dismissal on the ground of corruption in office may be imposed pursuant to section 122.

In order to collect relevant facts, sources of assets and liabilities and financial transactions shall be inquired. In addition, the NACC is authorized to conduct other proceedings to obtain more background information. Among other information, the submitted account of assets and liabilities is taken into account. Where necessary, an order requiring the submission of an additional account for the purpose of the NACC inquiry may be issued. Despite the above, the burden of proof rests with the accused.

2. Targeted officials

2.1 Please list the categories of officials required to file a financial disclosure. Please select all that apply and provide the range of targeted officials in each relevant category

✓ Public officials

- ✓ Members of the legislative branch
 - person holding political position (in legislative part)
 - Member of the House of Representatives
 - Senator
 - Political parliamentary official under the regulations on parliamentary officials, such as (1) **Advisor** to President of the National Assembly, Speaker of the House of Representatives, and President of the Senate; (2) **Spokesperson** for President of the National Assembly, Speaker of the House of Representatives, and President of the Senate; and (3) **Secretary** to President of the National Assembly, Speaker of the House of Representatives, and President of the Senate, etc.

/Members...

- ✓ Members of the judiciary and prosecution
 - justice of the Constitutional Court;
 - judicial official under the law on Rules of judicial official of the Court of Justice who is in the position of the Director-General and above;
 - official of the Administrative Court under the law on establishment of Administrative Court and administrative case procedure who is in the position of the Director-General of the Administrative Court of First Instance and above
 - prosecutors under the law on rule of prosecutors who is in the position of the Director-General and above;
- ✓ Members of the executive branch
 - person holding political position (in executive part)
 - Prime Minister
 - Minister
 - Political official under the regulations on political officials, such as (1) Advisor to Prime Minister, Deputy Prime Minister, and Minister; (2) Secretary-General and Deputy Secretary-General to the PM; (3) Spokesman and Deputy Spokesman of the Office of the PM; (4) Secretary and Assistant Secretary to the Minister, etc.
 - Persons holding a high-ranking position, such as (1) Heads of a government agency at the level of Ministry, Sub-Ministry, Department or a government agency having juristic person status; (2) Permanent Secretary for Defence; (3) Chief of Defence Forces; (4) Commanders-in-Chief of the Armed Forces; (5) Commissioner-General of the Royal Thai Police; (6) Provincial Governors; (7) member of the Board and the chief executive of a state enterprise; (8) Heads of independent agencies, etc.
 - Chief Executives of other government agencies, such as (1) Bank of Thailand; (2) The Securities and Exchange Commission; (3) Office of Insurance Commission; (4) Autonomous Universities; (5) Thai Media Fund; (6) Thai Health Promotion Foundation; (7) Thailand Institute of Nuclear Technology; (8) Defence Technology Institute; (9) Community Organizations Development Institute; (10) Thailand Institute of Justice; (11) National Vaccine Institute; (12) National Astronomical Research Institute of Thailand; (13) Gem and Jewelry Institute of Thailand; (14) Oil Fuel Fund Office; (15) Thailand Science Research and Innovation; (16) Thailand Arbitration Center; (17) Neighbouring Countries Economic Development Cooperation Agency; (18) National Innovation Agency; (19) Geo-Informatics & Space Technology Development Agency; (20) National Health Commission Office; (21) Office of SMEs Promotion; (22) Khurusapha (Teachers Council of Thailand); (23) Life Insurance Fund; (24) General Insurance Fund; (25) Government Pension Fund, etc.
 - Persons holding other high-ranking position as prescribed by the law, such as (1) President, Commissioners and Secretary-General of the National Broadcasting and Telecommunications Commission; (2) President, Commissioners and Secretary-General of the Energy /Regulatory...

Regulatory Commission; (3) Persons holding Director-General position or an equivalent head of other government agencies, which are not considered sub-ministry; (4) Chancellors of some universities; (5) Secretary-General of the National Health Security Office, etc.

- Persons holding equivalent positions as prescribed by the NACC, such as (1) Secretary-General of the Office of the Constitutional Court; (2) Secretary-General of the Office of the Judiciary; (3) Secretary-General of the Office of the Administrative Courts; (4) Secretary-General of the Office of the Attorney General; (5) Secretary-General of the House of Representative; (6) Secretary-General of the Senate, etc.
- ✓ Officials of independent government bodies
 - Persons holding a position in Independent Organs: (1) Election Commission of Thailand and Secretary-General of the EC; (2) Ombudsman and Secretary-General of the Ombudsman; (3) State Audit Commission and Auditor General; (4) the National Human Rights Commission of Thailand and Secretary-General of the NHRC; (5) the National Anti-Corruption Commission and Secretary-General of the NACC, etc.
- ✓ **Official at subnational levels of government (local government, provinces and municipalities)**
 - local administrator, local deputy administrator, assistant local administrator and members of the local assembly as prescribed by the NACC.
- ✓ **Representatives of publicly owned (fully and partially) enterprises,**
 - State officials who are not required to submit the account of assets and liabilities under Sections 42, 103, and 158 shall submit the account of assets and liabilities to the head of state enterprise
- ✓ **Other positions as prescribed by other laws to submit the account of assets and liabilities**
 - Competent officials from the level of Directors of the division, assistant inquiry officials, inquiry officials, chief inquiry officials and competent officials whose positions and duties related to the inspection of assets and liabilities

2.2 What factor (s) shaped the decision on the targeted categories of officials?

- ✓ Objective of the system
- ✓ Hierarchical level and position of officials
- ✓ Corruption risk level of sectors and functions
- ✓ Resources and capacity to manage and verify disclosure

2.3 Does any authority have the power to request any official who would usually fall outside the disclosure system to file financial disclosure?

Ans. YES, in conducting an inquiry or reaching opinion or decision on whether or not a person is unusually wealthy, the NACC shall have the power to inspect the sources of the assets and liabilities, financial movement or transaction of such person and perform any other acts to obtain the fact to complement the deliberation. In case the alleged culprit has submitted the account of assets and

/liabilities...

liabilities, regardless of whether it was submitted to the NACC or the head of organization, the NACC shall compare the account of assets and liabilities with the existing assets during the time of inquiry including the income and expenses, and income tax of such person. For this purpose, the NACC shall have the power to order the alleged culprit to submit the account of assets and liabilities according to the list and time period as prescribed by the NACC regardless of whether such person has previously submitted the account of assets and liabilities. (Please see also Section 116 of the OACC aforementioned)

2.4 How does your country create and update the list of filers?

Ans. Office of the NACC, by Bureau of Assets Inspection System Development, is responsible for updating the list of filers on a regular basis.

2.5 Please provide the approximate number of the filers.

Ans. The approximate numbers are as follows:

2020: 3,454 accounts
 2021: 50,912 accounts
 2022: 20,250 accounts
 2023: 1,770 accounts

3. Frequency of disclosures

3.1 When and how often are targeted officials required to file/submit financial disclosures?

- ✓ Upon entering office
- ✓ Upon leaving office
- ✓ Once every three years
- ✓ Some categories of officials are more frequently required to declare than the others

3.2 Does the competent authority have the power to request targeted officials (filers) to submit ad hoc financial disclosures between the official submission periods?

Ans. YES. When it appears that the account of assets and liabilities or documents pertaining thereto obtained under paragraph one is incomplete or contains inaccurate information and there is no circumstance indicative of intention to conceal the assets or liabilities, the Secretary-General or the person entrusted by the Secretary-General shall notify such person to complete or correct within the time period as prescribed by the Secretary-General

/3.3 Are...

3.3. Are the targeted officials required to update/amend their financial disclosures between the submission periods?

Ans. After the submission period, the persons with such duty who would like to amend his/her submitted account or to submit the additional information or evidence regarding the account of assets and liability, such person shall submit his/her application together with the explanation to do so to the NACC.

4. Competent authority and disclosure process

4.1 Which authority/entity is responsible for collecting and maintaining financial disclosures?

- ✓ Central competent authority
- ✓ Entities employing the targeted officials
- ✓ Other authorities depending on the categories/levels of officials
 - The House of Senate is the authority who maintains the disclosures of the NACC Commissioners under Section 42 of the OAC

4.2 How are the financial disclosures submitted?

- ✓ Centralized submission directly to the central competent authority via:
 - Electronic (online) submission system
 - Submission using the paper submission
- ✓ Delegated submission using paper submission (e.g. to individual bodies, which store them and transmit them to the competent authority).

Remarks: The relevant legislation regarding the delegated submission is being drafted.

4.2.1 Please elaborate on your response above and describe the process and methods of submitting the disclosures.

Ans. By virtue of Section 130 of the Organic Act on Anti-Corruption (2018), state officials who are not required to submit the account of assets and liabilities under Sections 42, 103, and 158 shall submit the account of assets and liabilities to the head of the government agency, state enterprise or state agency to which he or she is attached or for which he or she performs duties with time period, form, criteria, submission method and maintenance of the account of assets and liabilities prescribed in an Royal Decree. Such submitted account of assets and liabilities shall be kept at a state agency to which such state official is attached and shall be deemed to be official secret which cannot be disclosed except for the submission to the NACC as requested by the NACC, or when the NACC prescribes that such person holding the position shall submit the account of assets and liabilities under Section 103, or in case where there is disciplinary investigation against such state official.

/4.3 If electronic...

4.3 If electronic submission is possible, please describe the online tools and platforms available for submitting financial disclosures.

Ans. In case of the submission to the central competent authority (NACC), the filers is entitled to register in the Online Declaration System (ODS) via the platform operated by the NACC (<https://asset.nacc.go.th/ods-app>). Each filer’s username and password, as well as the OTP sent to filer’s mobile are required for each logging in.

4.4 Please describe the measures implemented to ensure compliance and appropriate quality of information when completing and submitting the financial disclosure (e.g. disseminating information materials, training, awareness raising, etc.)

Ans. Office of the NACC, as the Central Competent Authority on the targeted officials’ declaration of assets and liabilities, has disseminated information materials on summary of facts of “the Notification of the NACC concerning the criteria and procedure for submission of electronic asset declaration system of public official to the NACC (2022). The foster understanding of targeted officials on who is obliged to the online submission and when it should be processed, things to know about the online submitting, for example:

- Declarant shall follow register procedures of submission by electronic means as prescribed without disclosing in the information to the third party.
- Any action as prescribed by law shall be in a written document, written evidence, or the physical appearance of a document.
- In such a case, it must be signed in the account of assets and liabilities, as well as any supporting documents. If they are complied with the instruction of the system, such electronic information shall be deemed as signed.
- Declarant shall keep and maintain electronic document at least five years since the document is submitted.
- etc.

5. Scope of disclosures

5.1 Please list the assets and interests included in the financial disclosure forms, including categories of assets and other financial interest.

- ✓ Immovable and movable assets
 - their value and source
 - those (assets) held in the name of others
- ✓ Income
 - their source
- ✓ Securities
- ✓ Investments
- ✓ Savings
- ✓ Bank accounts
 - Any other financial relationship with financial institutions
- ✓ Liabilities/loans/mortgage
- ✓ Cash

- ✓ Livestock
- ✓ Ownership interests (shareholdings) in companies and other legal entities and arrangements
- ✓ Business/outside activities (business interests and financial connections)
- ✓ Usufruct rights (to use and benefit from an asset owned by others)

5.2 Is the requirement to disclose an asset dependent on its value

Ans. YES, for example, the filers' or family members' cash which shall be declared must be in the amount of at least 300,000 Baht. In case it exceeds 2 million Baht, the purpose of collecting shall also be declared to the NACC. In addition an overdraft in the minimum amount of 50,000 Baht shall be declared too.

5.3 Does the information mentioned in question 5.1 include assets and relevant financial interests located both in and outside the country?

Ans. YES.

5.3.1 Does it require the disclosure of an interest in or a signature or other authority over a financial account in a foreign country (Article 52 P.6 of the Convention)

Ans. Assets and liabilities must be reported on a specific form containing the details of assets and liabilities both in Thailand and abroad, and all assets in direct and indirect possession or management of other persons. In this regard, financial accounts in a foreign country in which the official has an interest or over which the official has a signature or other authority are regarded as the officials' accounts in the possession of other persons, which shall be declared in the financial disclosure too.

5.4 Does your country's financial disclosure system include a declaration of beneficial ownership (of legal entities and arrangements, including nominee arrangements and trusts)

Ans. An example of the beneficial ownership information which shall be declared in the financial disclosure is the holding of stakes and shares of ministers. By virtue of the Management of Partnership Stakes and Shares of Minister act B.E. 2543 (2000), the details of stakes and shares held by ministers which are transferred to legal entities for the purpose of its management during the time of holding position shall be declared as assets of the officials which are in the possession of other persons.

5.4.1 Are the targeted officials required to declare assets and interests held, managed or controlled through such legal entities and arrangements

Ans. YES

5.5 Are targeted officials also required to submit information for their family members?

Ans. YES

a. Please describe the scope of the family members

- spouse - registered/non-registered partner - children who have not yet become sui juris

b. Please describe the type of information that must be submitted for family members. Is it the same as of the public official?

Ans. YES

5.6 Does the financial disclosure system cover individuals other than the family members of the filers?

Ans. NO; however, the non-registered partners of the filers are included in 'family members' as prescribed in the NACC Notification on the Criteria of the Non-registered Partner regarded as Spouse (2018)

5.7 For subsequent regular financial disclosures, what is the extent of information included in such financial disclosures?

Ans. A complete new disclosure

5.8 Does your country's financial disclosure regime require declaring expenditures?

Ans. YES. Regular expenditure, e.g. consumption expenditure, house or vehicle installment, insurance premium, etc. shall be included in the account of assets and liability, and other expenditure, such as travelling expense or donation shall also be reported.

6. Access to disclosed information

6.1 Is the information on financial disclosure publicly available?

Ans. for 6.1 (a), (b), (c)

YES IN PART. The NACC shall disclose the account of the assets and liabilities, location of the immovable properties and documents pertaining thereto of the person holding the position under section 102(1), only the Prime Minister, Ministers, Member of the House of Representatives, Member of the Senate and persons under section 102 (2), (3), (7) and (9) of the OACC (2018) including the spouse and child under the legal age of such person, to the general public expeditiously but it shall not exceed thirty days as from the expiry date of submission of the account

In this regard, disclosure of the account of assets and liabilities of a person under section 102 (9) of any position shall be as prescribed by the NACC.

(Please see Section 106 of the OACC (2018) aforementioned.)

Ans. for 6.1 (d) NO, the accessing of financial disclosure information does not entail any costs.

Ans. for 6.1 (e) NO, it does not provide such feature.

Ans. for 6.1 (f) YES, it allows for a comparison of the targeted officials' assets and interests over a specific period.

Ans. for 6.1 (g) YES, there is. The account of the assets and liabilities, location of the immovable properties and documents pertaining thereto **shall NOT** specify the registration details of the assets, the photos of the assets or personal information unnecessarily or which may cause danger to the owner of the information. In this Regard, it shall be as prescribed by the NACC by publishing it during the clear time period.

/In the case...

In the case where the NACC is of the view that the disclosure of information under paragraph one may cause danger to the owner of information, the NACC shall delete or edit or conduct other acts which result in not disclosing such information before disclosing it to the public and shall notify the person submitting the account.

Ans. for 6.1 (h) Copies of the accounts of assets and liabilities shall be posted at the Headquarter of the NACC, or the NACC Regional Office, or the NACC Provincial Office, or other places which the NACC deems appropriate for the period of 30 days. In addition such information shall be disclosed in the NACC official website or other electronic media channels of the NACC for the period of 180 days. In this regard, to protect the abusive use of such information, Office of the NACC shall affix the seals/stamps specifying that those copies are from the disclosure process of the NACC.

6.2 Do the relevant competent national authorities (law enforcement, FIU, tax and customs authorities) have access to the financial disclosures?

Ans. YES. In this regard, the access shall be proceeded under the competent court or the NACC order.

7. Verification of financial disclosure information

7.1 Is the information disclosed verified?

Ans. YES

(a) Competent authority

The competent authority is the centralized agency, i.e. the NACC or delegated, i.e. a State agency to which such State official is attached, as the case may be. In this regard, please refer to the provisions of the OACC (2018) aforementioned.

(b) Frequency of the verifications

Mainly, the regularity is the systematic and routine under section 102, 103 and 105 of the OACC (2018); however, the NACC have the power to proceed the ad hoc verification in case of the inquiry to reach the decision on whether or not a person is usually wealthy. In this regard, please refer to section 116 of the OACC (2018) aforementioned

(c) Extent of verification

The completeness, the compliance with disclosure requirements and the content of the disclosures are verified. The NACC inspects the correctness and actual existence of assets and liabilities under the submitted account. In the subsequent submission the inspection shall include change of assets and liabilities. In case the result of inspection of change in assets and liabilities finds that there is a circumstance indicative of unusual wealth, the NACC shall conduct an inquiry for subsequent request for assets to become properties of the State. In this regard, please refer to section 110 and 113 of the OACC (2018) aforementioned.

/According ...

According to the NACC Regulation on the Inspection of the Assets and Liability of State Officials and Legal Proceedings related to the Submission of Account (2018), the inspection is categorized into 3 levels as follows:

1. Usual Inspection: is the initial inspecting process of all accounts submitted to the NACC.
2. Verification Inspection: after the preliminary inspection if it appears that there are reasonable grounds to suspect that the person submitting the account states incorrect, incomplete, or inaccurate information and in cases where the general public is a whistleblower on the declaration of assets and liabilities of high-ranking state officials
3. In-Depth Inspection: is the case where there is a whistleblowing which is related to a third party or it may affect the rights of a third party and there is a circumstance that the person submitting the account intentionally submits the account of assets and liabilities with false statement and there is the intention to conceal the source of assets or liabilities or there is reasonable doubt in connection with the acquisition of assets and liabilities of any item which is unlawful or there is a circumstance convincingly indicates of the possibility of the transfer, move, transformation or concealment of the assets or holding a possession of the assets on behalf of the person submitting the account with reasonable grounds to suspect unusual wealth or an unusual increase of assets.

(d) Verification processes and methodologies.

The verification processes and methodologies of the NACC shall be in accordance with the OACC (2018) and the NACC Regulation on the Inspection of the Assets and Liability of State Officials and Legal Proceedings related to the Submission of Account (2018). Besides the manual examination, electronic methods may be included in the usual inspection for all accounts submitted to the NACC. Regarding the check against databases or relevant information, the NACC has the power to order state agencies, financial institutions, or any relevant person to inspect the accuracy or actual existence as appeared in the account of assets and liabilities submitted to the NACC, or any asset or liability not listed in the account of assets and liabilities, and shall notify the result to the NACC within the time limit as prescribed by the NACC.

7.2 How does your country determine which disclosures to verify?

- ✓ Annual verification plan(s)
- ✓ Periodic mandatory verification
- ✓ Media reports and/or complaints from the public

7.3 Does the electronic financial disclosure mechanism allow for automated verification (cross checking) of information across various registers and databases held by the public and private entities?

Ans. Under the electronic methods of the account submission, the information obtained shall be verified with documents attached in such electronic submission. However, the system does not allow the automated cross-checking with databases held by the public and private entities as the prior request to connect databases is still required in order that relevant information could be submitted via the system to the NACC.

/7.4 Do the ...

7.4 Do the competent authorities have timely and direct access to databases and information necessary to verify information in the financial disclosure?

Ans. The NACC and the state agencies to which specific public officials are attached still do not have the power to access such databases and information. However, there are some specific positions of the NACC competent officials who can submit the application to obtain the right to access some specific types of information which may be useful for their performance in the account verification.

7.5 Do competent authorities have access to the information held by financial institutions, including bank account records?

Ans. According to section 112 of the OAC (2018), in inspection of assets and liabilities, the NACC shall have the power to order financial institutions or any relevant person to inspect the accuracy or actual existence as appeared in the account of assets and liabilities submitted to the NACC, or any asset or liability not listed in the account of assets and liabilities, and shall notify the result to the NACC within the time limit as prescribed by the NACC. Moreover, according to section 110 of the OAC (2018), for the purpose of inspection of assets and liabilities, the NACC shall have the following powers:

(1) To issue an order instructing government official, officer or employee of a government agency, state agency, state enterprise or local government agency to give statement or deliver relevant documents or evidence for the purpose of inquiry;

(2) To summon any person to give statement or to submit accounts, documents, or any evidence for the purpose of inquiry;

(3) To file a motion to competent court for issuance of a warrant permitting entry into dwelling-place, place of business or any other place including a vehicle of any person at any time from sunrise to sunset or during working hours for the purposes of inspecting, searching, seizing or freezing documents, property or other evidence related to the matter under inquiry; and if such action is not completed within such time, it may be continued further until completion;

(4) To issue an order requesting a government agency, state agency, state enterprise, local governmental agency, or private entity to clarify the fact, facilitate, or assist in the performance of duties of the NACC;

(5) To hire a consultant or expert in the search of information relating to assets or liabilities, and the proceedings of asset recovery in a foreign jurisdiction. The hiring shall be in accordance with the regulations as prescribed by the NACC

Moreover, in case the NACC conducts an inspection or inquiry so as to reach an opinion or decision in relation to an act of any person, and there is a necessity to obtain information relating to financial transaction of such person or relevant person, the NACC shall have the power to request such information from the Anti-Money Laundering Office as necessary, and the Anti-Money Laundering Office shall deliver such information to the NACC. Such delivery shall be deemed a lawful undertaking under the law on Anti-Money Laundering. (Section 34 and Section 38 of the OAC (2018) shall apply mutatis mutandis to the inspection of assets and liabilities)

/8. Sanctions...

8. Sanctions

8.1 Please provide an overview of sanctions for non-compliance with financial disclosure requirements.

Ans. Liabilities related to the submission/results of the account inspection

1. In case of failure to submit the account of assets and liabilities: This will lead to criminal penalties and non-criminal penalties such as the deprivation of political rights.
2. In case of intentional submission the account of assets and liabilities with the false statement or concealment of the fact which should be disclosed: This will lead to criminal penalties and non-criminal penalties such as the deprivation of political rights.
3. In case of unusual wealth: This will lead to a request the assets to become properties of the state

The overview of sanctions for non-compliance with financial disclosure requirements is provided in the section 109 and section 114 of the OAAC (2018) as follows:

Section 109. Any person having obligation to submit the account of assets and liabilities to the NACC who fails to submit the account of assets and liabilities under the prescribed time period, the Office shall notify such person in writing by registered mail or information technology system. Such notification shall include the extension of period not exceeding thirty days from the date of notification and, in case of necessity, it may be extended for no more than thirty days.

When it appears that the account of assets and liabilities or documents pertaining thereto obtained under paragraph one is incomplete or contains inaccurate information and there is no circumstance indicative of intention to conceal the assets or liabilities, the Secretary-General or the person entrusted by the Secretary-General shall notify such person to complete or correct within the time period as prescribed by the Secretary-General.

Upon the expiration of time period under paragraph one or paragraph two, if such person has not yet submitted the account of assets and liabilities, submits incomplete account or inaccurate information and there is a circumstance indicative of the intention to conceal the assets or liabilities, the Office shall submit the matter to the NACC to further proceeding under Section 114.

Section 114. When it appears that any person who has the duty to submit the account of assets and liabilities to the NACC intentionally fails to submit the account of assets and liabilities or intentionally submits the account of assets and liabilities with the false statement or conceals the fact which should have been disclosed and there is a reasonable circumstance to believe that there is an intention not to disclose the sources of such assets or liabilities, the NACC or competent official assigned shall inform such person of the charge and specify reasonable time period for such person to give explanation. In this regard, it shall be in accordance with the criteria and procedure as prescribed by the NACC and shall submit to the NACC for further consideration.

/In the case...

In the case under paragraph one if the NACC has the decision that any person intentionally fails to submit the account of assets and liabilities or intentionally submits the account of assets and liabilities with the false statement or conceals the fact which should have been disclosed and there is a reasonable circumstance to believe that there is an intention not to disclose the sources of such assets or liabilities, the NACC shall undertake the followings:

(1) in the case of person under section 102 (1), (2), (3) and (9), submit the matter to the Supreme Court Criminal Division for Persons Holding Political Positions for consideration. In this regard, the Supreme Court Criminal Division for Persons Holding Political Positions shall as well have the power to consider and adjudicate on cases of the persons under section 102 (9);

(2) in the case of a state official, except for the state officials under section 102(9), submit to the Criminal Court for Corruption and Misconduct Cases.

...=

8.2 Is there any applicable statute of limitations?

Ans. YES. The limitation is five years according to the following provisions:

Section 167 of the OAAC (2018) : Any person having the duty to submit the account of assets and liabilities as prescribed by the NACC under Section 28(3), Commissioners under Section 42 or competent officials under Section 158 who intentionally fails to submit the account of assets and liabilities and documents attached to the account to the NACC or the President of the Senate, as the case may be, within the time period as prescribed by this Organic Act, or intentionally submits the account of assets and liabilities with false statement or conceals fact which should have been disclosed and there is a circumstance that there is the intention to conceal the sources of assets or debts, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

Section 95 of the Criminal Code of Thailand: In a criminal case, if the offender is not prosecuted and brought to the Court within the following specified periods of time as from the date of the commission of the offence, the prosecution shall be precluded by prescription:

...

(4) Five years in case of offences punishable with imprisonment of over one month up to one year;

8.3 Please describe the powers available to the competent authority to impose and enforce the sanction describe above.

Ans. Please refer to the answers of No. 8.1 and 8.2

9. International cooperation and asset recover

The cooperation and the execution of requests regarding financial disclosure information with foreign States shall be in accordance with section 138 of the OAAC (2018) which provides that, in the undertakings related to foreign affairs for the prevention and suppression of corruption, the NACC shall have the duties and powers as follows:

(1) To be the competent authority for international cooperation under international obligations and agreements in anti-corruption;

(2) To execute in accordance with the request for assistance from foreign countries in corruption cases where the central authority under the law on mutual legal assistance in criminal matters submits the matters to the NACC to proceed, or to consider providing assistance to a foreign country in a corruption case which is not a request for assistance under the law on mutual legal assistance in criminal matters.

10. Good practices.

As the asset inspection is a measure to counter the abuse of power in office for undue advantage and to declare transparency and accountability of the state official. The Organic Act on Anti-Corruption B.E. 2561 (2018), Sections 102 – 114 prescribe a state official holding a high-ranking position to submit his or her account of assets and liabilities to the National Anti-Corruption Commission (NACC) in order to be inspected. Moreover, the NACC has also issued a number of comprehensive regulations and notifications related to the submission and the inspection of the accounts of assets and liabilities. One of the good practices in this mechanism is the “in-depth inspection” in the case where there is a whistleblowing which is related to a third party or it may affect the rights of a third party and there is a circumstance that the person submitting the account intentionally submits the account of assets and liabilities with false statement and there is the intention to conceal the source of assets or liabilities or there is reasonable doubt in connection with the acquisition of assets and liabilities of any item which is unlawful or there is a circumstance convincingly indicates of the possibility of the transfer, move, transformation or concealment of the assets or holding a possession of the assets on behalf of the person submitting the account with reasonable grounds to suspect unusual wealth or an unusual increase of assets. Furthermore, the NACC also has the power to disclose the declaration of assets and liabilities of high-ranking state officials which is submitted to the NACC and the inspection result to the public. This is one of the mechanisms in the inspection of assets and liabilities by civil society.

11. Challenges

The process of intensive inspection is time-consuming due to many reasons, such as a large number of documents and evidence, some evidences are in a foreign country causing limitations in obtaining information, and in access to the information of financial institutions in both Thailand and foreign country etc. In addition, such operations are complicated, specially, information related to third parties which have to be proved of the possession of the property.

/12. Follow-up...

12. Follow-up to the special session of the general assembly against corruption

According to paragraph 7 of the UNGASS 2021 political declaration which provides that States Parties will strengthen efforts to prevent, identify and manage conflicts of interest, including by assessing and mitigating corruption risks and through effective and transparent financial disclosure systems, with information disclosed by appropriate public officials made available as widely as possible, and we will use innovative and digital technology in this field, with due regard for data protection and privacy rights, the NACC, as competent authority, has placed importance in its task in the verification of assets and liabilities.

Recently, the NACC is prepared for Phase 2 of the Online Declaration System (ODS) which will upgrade the service for the online electronic filing of assets and liabilities accounts, following positive responses from nearly ten per cent of those who have filed in Phase 1 and remarked that it was easy, convenient and fast to use.

The NACC Office has launched the Online Declaration System via www.nacc.go.th and <https://asset.nacc.go.th/ods-app> for the conveniences of those who may be legally obliged to file assets and liabilities accounts to the NACC. (Previously, those who had filed assets and liabilities accounts had had documents enclosed and sent to the NACC Office at the headquarters or in the provinces.)

Phase 2 of the Online Declaration System will be ready on April 1, 2023, for those who may be legally obliged to file assets and liabilities accounts) including persons holding political position, justice of the Constitutional Court, person holding a position in an independent agency, judicial official under the law on regulations of judicial officials of the Court of Justice who is in the position of the Director-General and above, official of the Administrative Court under the law on establishment of Administrative Court and administrative case procedure who is in the position of the Director-General of the Administrative Court of First Instance and above, public prosecutors under the law on regulations of public prosecutors who is in the position of the Director-General and above, person holding a high-ranking position, and other positions as obliged by other laws to submit the account of assets and liabilities

Phase 3 of the Online Declaration System is scheduled to open on October 1, 2023, for those who may be legally obliged to file assets and liabilities accounts under Section 102 (9) including Local administrator, deputy local administrator, assistant local administrator and members of the local assembly as prescribed by the NACC.
