

CAPACITY BUILDING LEARNING MODULE

**Anti-Money Laundering/Counter-
Terrorism Financing (AML/CTF)
Handbook for Covered Persons**

*Fundamentals of Money Laundering
and Terrorism Financing and
Preventive Measures and Overview of
Risk Management System*



INTERNATIONAL
HEALTH GROUP



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DEFINITION OF MONEY LAUNDERING



Money Laundering is committed by any person who, **knowing** that any monetary instrument or property represents, involves, or relates to the proceeds of any unlawful activity:

- a) Transacts said monetary instrument or property;
- b) Converts, transfers, disposes of, moves, acquires, possesses or uses said monetary instrument or property;
- c) Conceals or disguises the true nature, source, location, disposition, movement or ownership of or rights with respect to said monetary instrument or property;
- d) Attempts or conspires to commit money laundering offenses referred to in paragraphs (a),(b) or (c);
- e) Aids, abets, assists in or counsels the commission of the money laundering offenses referred to in paragraphs (a), (b) or (c) above; and
- f) Performs or fails to perform any act as a result of which he facilitates the offenses of money laundering referred to in paragraphs (a), (b) or (c) above.

Money laundering is also committed by any covered person who, **knowing** that a **covered or suspicious transaction** is required under this Act to be reported to the Anti-Money Laundering Council (AMLC), **fails** to do so.

ELEMENTS OF MONEY LAUNDERING

Unlawful Activity

Must be related to any of the 36 enumerated predicate offenses under the AMLA, as amended

Dirty Money

Should always be the related to the proceeds of an unlawful activity



MONEY LAUNDERING



Circumstances related to ML

Usually related to the grounds for CTR/STR

Knowledge

If there is no knowledge, there is only civil liability

SIMPLE MONEY LAUNDERING SCENARIO



Predicate Offense (Unlawful Activity)



Jack kidnapped
the daughter of Jill

Criminal Proceeds (Monetary Instrument / Property)

Jack demanded and
received Php 5 Million
as ransom money



ML Act



Jack remitted the money in
smaller parts to his cohorts

Knowledge that the MI / Represents, involves, or
relates to the proceeds of the unlawful activity



WHY DO CRIMINALS NEED TO LAUNDER MONEY?

ARTICLE 45, REVISED PENAL CODE OF THE PHILIPPINES

“...proceeds and instruments or tools (for the commission of a felony or crime) shall be confiscated and forfeited in favor of the Government...”

STAGES OF MONEY LAUNDERING



Placement

The physical disposal of cash or other assets derived from criminal activity. During this phase, the money launderer introduces the illicit proceeds into the financial system. This is frequently done by distributing the money through official financial institutions, casinos, and other lawful local and international businesses.

Layering

The process of separating illegally obtained money from its source through multiple levels of financial transactions. This second stage involves converting the proceeds of the crime and building intricate layers of financial transaction in order to conceal the source and ownership of money.

Integration

Providing apparent legitimacy to unlawful wealth by returning the money into the economy through what seems to be normal business or personal interactions. In order to give transactions the appearance of legitimacy, this stage involves using laundered money.

COMMON METHODS OF MONEY LAUNDERING

Structuring and
Smurfing

Bulk Cash
Smuggling

Cash-intensive
Businesses

Shell or Shell
Corporations

Credit Card
Laundering

Gambling in
Casinos



WHAT IS TERRORIST FINANCING?

DEFINITION OF TERRORISM FINANCING

Section 4, R.A. No. 10168 (TFPSA of 2012)

Committed by any person who, directly or indirectly, willfully and without justification, owns, offers, collects, or uses money, property, or other resources, or otherwise makes them available through any means with the knowledge that they will be used, in whole or in part, for an illicit purpose.

- (a) to carry out or facilitate the commission of any terrorist act;
- (b) by a terrorist organization, association or group; or
- (c) by an individual terrorist

Committed by any person who organizes or directs others to commit financing of terrorism under the immediately preceding paragraph (of Section 4).

TERRORIST FINANCING AND MONEY LAUNDERING: DIFFERENCES AND SIMILARITIES



	Money Laundering	Terrorism Financing
Definition	<p>Making significant sums of money obtained through illicit activity, such as the support of terrorism or drug trafficking, appear to have originated from a lawful source</p> <ul style="list-style-type: none"> • Placement • Layering • Integration 	<p>The financial support, in any form, of terrorism or of those who encourage, plan, or engage in terrorism.</p>
Objective	To avoid detection	To avoid detection
Motivation	Lifestyle	Politics, religion, ideology
Amount of Funds	Usually large amounts	Does not usually involve large amounts
Sources of Funds	Criminal Activities	Criminal activities and legitimate sources
Uses of Funds	To gain wealth and assets	To execute terrorist activities



HOW TERRORISTS RAISE, MOVE AND STORE FUNDS

USE OF HAWALA AND OTHER INFORMAL VALUE TRANSFER SYSTEMS

Legal Sources

- Fundraising
- Funds through donors
- Family businesses

Illegal Sources

- Purchasing/providing goods or services for terrorism acts
- Procuring restricted materials/goods
- Funding from other terrorist groups
- Committing criminal acts

BREAKDOWN OF FUNDING

10% on operations
90% on organizational infrastructure (recruitment, communications, training, procurement, travel and transportation, facilities, support networks, protection, fundraising schemes)

FINANCIAL ACTION TASK FORCE (FATF)



The Financial Action Task Force (FATF) is a non-profit, intergovernmental organization that develops and advocates policies to safeguard the global financial system against money laundering, terrorism financing, and the financing of the spread of weapons of mass destruction.

The FATF Recommendations are recognized as the benchmark for global AML and CFT.

In its Forty (40) Recommendations, the Financial Action Task Force (FATF) demands that nations recognize, evaluate, and comprehend ML/TF risks and take action to mitigate risks.

FATF, an international standard-setting body, develops and promotes policies to protect the global financial system against money laundering, terrorist financing, and the financing of proliferation of weapons of mass destruction.

The 40 FATF Recommendations outline a thorough list of actions that nations ought to implement.

FINANCIAL ACTION TASK FORCE (FATF) - NON-COOPERATIVE COUNTRIES AND TERRITORIES

FATF has had a practice of "naming and shaming" countries that lack adequate anti-money laundering controls or are not cooperating in global AML/CFT efforts. It has developed a process to identify non-cooperative countries and territories (NCCTs) in the global fight against money laundering.

FATF began identifying jurisdictions with deficiencies in their AML/CFT regimes in response to the G-20 countries' efforts to identify high-risk jurisdictions and issue regular updates. Today, FATF identifies these jurisdictions in two public documents issued three times a year.

1. FATF's Public Statement

2. Improving Global AML/CFT Compliance: Ongoing Process

EVOLUTION OF THE ANTI-MONEYLAUNDERING ACT (AMLA)

17 Oct 2001

RA 9160

Only threshold reporting, AMLC's executive freeze

23 Mar 2003

RA 9194

Freezing power given to courts, STR now required

06 Jul 2012

RA 10167

Ex-parte petitions

29 Jan 2021

RA 11521

Inclusion of OGOs, Real Estate Developer and Brokers. Inclusion of tax crimes as a predicate offense

29 Jul 2017

RA 10927

Inclusion of casinos (internet and ship-based); single casino cash transaction in excess of Php5 million

07 Mar 2013

RA 10365

Expanded Covered Persons (CPs), additional predicate crimes

AMENDMENTS UNDER RA 11521

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to protect and preserve the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money laundering site for the proceeds of any unlawful activity. Consistent with its foreign policy, the State shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed, as well as in the implementation of targeted financial sanctions related to the financing of the proliferation of weapons of mass destruction terrorism, and financing of terrorism, pursuant to the resolutions of the United Nations Council.

SEC. 3. Definitions. –For purposes of this Act, the following terms are here by defined as follows:

(a) “Covered Persons”, natural or juridical, refer to:

- 9) Real estate developers and brokers; an
- 10) Offshore gaming operators, as well as their service providers, supervised, accredited or regulated by the Philippine Amusement and Gaming Corporation (PAGCOR) or any government agency.





AMENDMENTS UNDER RA 11521

Real Estate Developer	Real Estate Broker
<p>refers to any individual, whether natural or legal, who works to create real estate projects for the developer's benefit and offers them for purchase or rental.</p>	<p>refers to a duly registered and licensed natural person who works as the agent of a party in a real estate transaction to offer, advertise, solicit, list, promote, mediate, negotiate, or effect the meeting of the minds on the sale, purchase, exchange, mortgage, lease, joint venture, or other similar real estate transactions involving any interest therein.</p>

AMENDMENTS UNDER RA 11521

(i) “Unlawful activity” refers to any act or omission or series or combination thereof involving or having relation to the following:

(34) Violation of Section 19 (a) (3) of Republic Act No. 10697, otherwise known as the “**Strategic Trade Management Act**”, in relation to the proliferation of weapons of mass destruction and its financing pursuant to United Nations Security Council Resolution Numbers 1718 of 2006 and 2231 of 2015;

(35) Violation of Section 254 of Chapter II, Title X of the National Internal Revenue Code of 1997, as amended, where the deficiency basic tax due in the final assessment is in excess of **Twenty-five million pesos (P25,000,000.00)** per taxable year, for each tax type covered and there has been a finding of probable cause by the competent authority: Provided, further That there must be a finding of fraud, willful misrepresentation or malicious intent on the part of the taxpayer: Provided, finally, That in no case shall the AMLC institute forfeiture proceedings to recover monetary instruments, property or proceeds representing, involving, or relating to a tax crime, if the same has already been recovered or collected by the Bureau of Internal Revenue (BIR) in a separate proceeding;





THE ANTI- MONEY LAUNDERING COUNCIL (AMLC)

VISION

To be a world-class financial intelligence unit that will help establish and maintain an internationally compliant and effective anti-money laundering regime which will provide the Filipino people with a sound, dynamic, and strong financial system in an environment conducive to the promotion of social justice, political stability, and sustainable economic growth. Towards this goal, the AMLC shall, without fear or favor, investigate and cause the prosecution of money laundering offenses.

MISSION

- To protect and preserve the integrity and confidentiality of bank accounts
- To ensure that the Philippines shall not be used as a money laundering site for proceeds of any unlawful activity
- To extend cooperation in transnational investigation and prosecution of persons involved in money laundering activities, wherever committed

THE ANTI-MONEY LAUNDERING COUNCIL (AMLC)



**GOVERNOR
FELIPE M. MEDALLA**
Chairman



**Securities and
Exchange
Commission**
PHILIPPINES

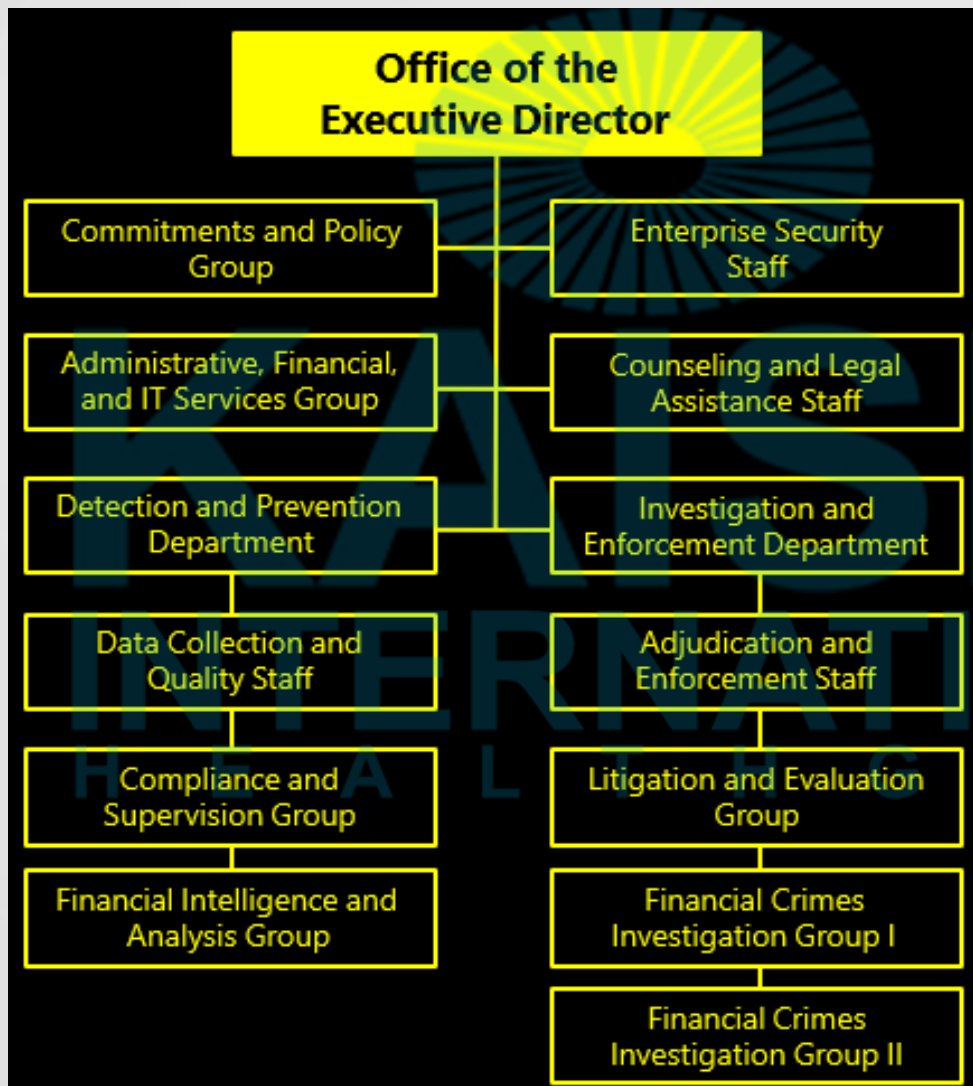
**CHAIRMAN
EMILIO B. AQUINO**
Member



**COMMISSIONER
DENNIS B. FUNA**
Member



THE ANTI-MONEY LAUNDERING COUNCIL (AMLC) SECRETARIAT



In organizing the Secretariat, the Council shall appoint from those who have served, continuously or cumulatively, for, at least, five (5) years either in the BSP, the SEC or the IC.

All members of the Secretariat shall be considered full-time, permanent employees of the BSP.

COVERED PERSONS



(a) Banks;
(b) Quasi-banks;
(c) Trust entities
(d) Pawnshops;
(e) Non-stock savings and loan associations;
(f) Other Non-bank financial institutions which under special laws are subject to BSP supervision and/or regulation;
(g) Electronic money issuers; and
(h) Foreign exchange dealers, money changers, and remittance and transfer companies.

(a) Insurance companies;
(b) Pre-need companies;
(c) Insurance agents;
(d) Insurance brokers;
(e) Professional reinsurers;
(f) Reinsurance brokers; (g) Holding companies; (h) Holding company systems;
(i) Mutual benefit associations; and
(j) All other persons and their subsidiaries and affiliates supervised or regulated by the IC.

(a) Securities dealers, brokers, salesmen, investment houses, and other similar persons managing securities or rendering services, such as investment agents, advisors, or consultants;
(b) mutual funds or open-end investment companies, close-end investment companies or issuers, and other similar entities; and
(c) other entities, administering or otherwise dealing in commodities, or financial derivatives based thereon, valuable objects, cash substitutes, and other similar monetary instruments or properties, supervised or regulated by the SEC

COVERED PERSONS - DNFBP

Jewelry Dealers

Dealers in Precious Metals and Precious Stones

Trust and Company Service Providers

Lawyers, accountants, and other professionals

Casinos

Real Estate Brokers and Developers

Offshore Gaming Operators, as well as their Service Providers

MI



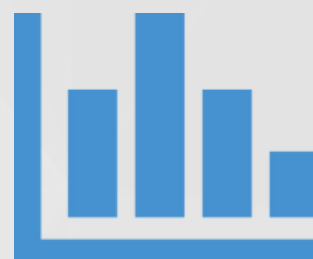
WHAT MONEY LAUNDERERS ARE LOOKING FOR?



1. Anonymity



2. "Paperless Transaction"



3. Non-reporting requirement

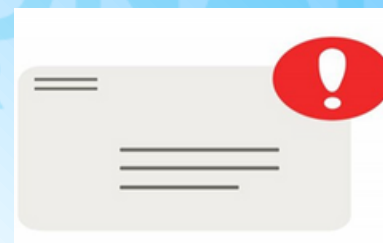
PREVENTIVE MEASURES (PH SETTING)



CUSTOMER DUE DILIGENCE



RECORD-KEEPING



TRANSACTION REPORTING

CUSTOMER DUE DILIGENCE (CDD) “KNOW-YOUR-CUSTOMER”

CDD Measures [Section 2.1, Rule 18, 2018 IRR]

- (a) Customer Identification Process (CIP)
- (b) Customer Verification Process (CVP)
- (c) Identification and Verification of Agents (IVA)
- (d) Beneficial Ownership Verification (BOV)
- (e) Determination of the Purpose of Relationship (DPR)
- (f) Ongoing Monitoring Process (OMP)

Timing [Section 2.2, Rule 18, 2018 IRR]

May be conducted **simultaneously, consecutively, or at such timing and frequency as the covered person may determine to be appropriate,** depending on the risks involved.

RISK MANAGEMENT

R-O-C-S-T-R

Risk
profiling/scoring
Ongoing
monitoring of
customers
CTR
STR
Trainning
programs
Record-keeping



PREVENTIVE MEASURES (PH SETTING)

Existing Customers [Section 1.3, Rule 18, 2018 IRR]

Apply CDD requirements to existing customers based on materiality and risk.

Customer Acceptance Policies [Section 2.4, Rule 18, 2018 IRR]

Have clear, written and graduated customer acceptance policies that will seek to prevent suspicious individuals or entities from transacting with, or establishing or maintaining business relationship.

Develop guidelines to protect business security and integrity.

PREVENTIVE MEASURES (PH SETTING)

CIP: To identify and record the true identity of their customers. [Section 3, Rule 18, 2018 IRR]

CLIENT INFORMATION			
NAME OF DEPOSITOR			
Last Name			
First Name			
Middle Name			
SALUTATION:	DATE OF BIRTH (DDMMYYYY)	PLACE OF BIRTH:	NATIONALITY:
<input type="checkbox"/> Ms/Mrs <input type="checkbox"/> Mr. <input type="checkbox"/> Others			GENDER: <input type="checkbox"/> Male <input type="checkbox"/> Female
TIN:	SSS (GDS) ID No:	CML STATUS:	MOTHER'S MARDEN NAME:
PRESENT ADDRESS:			TELEPHONE NO. (Include Area Code)
§.§§§§House No./ Unit No.	(Street)	(Subdivision)	(Town/City) (State/Province) (Country) (Zip Code)
PERMANENT ADDRESS:			TELEPHONE NO. (Include Area Code)
§.§§§§House No./ Unit No.	(Street)	(Subdivision)	(Town/City) (State/Province) (Country) (Zip Code)
NAME OF EMPLOYER/NATURE OF WORK:		OCCUPATION:	MOBILE NUMBER:
BUSINESS/EMPLOYER'S ADDRESS:		EMAIL ADDRESS:	TELEPHONE NO. (Include Area Code)
SPOUSE'S NAME:		SPOUSE'S OCCUPATION:	
I affirm that the information given by me in this application is true and correct. I, hereby, allow PNB to verify and investigate said information and/or secure such other information as may be required by PNB. I have read and accepted the applicable terms and conditions and other agreements executed between the BANK and the DEPOSITOR.			
SIGNATURE OF DEPOSITOR			
FOR PNB USE ONLY			
IDs Presented	SHORT NAME (20 chars. Max.)	CATEGORY:	CUSTOMER ID NUMBER:
	Recommended by: (Signature over Printed Name and Designation)	Processed by / Date:	Approved by / Date:

First Time Transactions:
[Section 3. 2, Rule 18, 2018 IRR]

- First time customers shall be required to **present** the original and **submit** a clear copy of, at least, one (1) ID.
- If the ID presented does not bear any photo of the customer, or the photo-bearing ID or a copy thereof does not clearly show the face of the customer, a covered person may utilize ICT or any other technology to take the photo of the customer.

PREVENTIVE MEASURES (PH SETTING)

Required Identification Information (Natural Persons) (Section 3.4, Rule 18, 2018 IRR)

- (1) Full name;
- (2) Date of birth;
- (3) Place of birth;
- (4) Sex;
- (5) Citizenship or nationality;
- (6) Address;
- (7) Contact number or information, if any; and
- (8) Specimen signatures or biometric information.

PREVENTIVE MEASURES (PH SETTING)

“Identification Document” [Section 1 (qq), Rule 2, 2018 IRR]

(1) **For Filipino citizens:** (a) PhillID; (b) other IDs issued by the government; and (c) other IDs that can be verified using reliable, independent source documents, data or information.

(2) **For foreign nationals:** (a) PhillID, for resident aliens; (b) Passport; (c) Alien Certificate of Registration; and (d) other IDs issued by the government.

(3) **For Filipino students:** (a) PhillID; (b) School ID signed by the school principal or head of the educational institution; and (c) Birth Certificate issued by the Philippine Statistics Authority; and;

(4) **For low risk customers:** Any document or information reduced in writing which the covered person deems sufficient to establish the client’s identity.



PREVENTIVE MEASURES (PH SETTING)

Required Identification Information (Juridical Persons) <i>(Section 3.4, Rule 18, 2018 IRR)</i>	Required Identification Documents (Juridical Persons) <i>(Section 3.4, Rule 18, 2018 IRR)</i>
<ul style="list-style-type: none"> (1) Full name; (2) Name of authorized representative, transactor or signer; (3) Current office address; (4) Contact number or information, if any; (5) Nature of business; and (6) Specimen signatures or biometric information of the authorized representative/transactor/signer. 	<ul style="list-style-type: none"> (1) DTI/BSP/AMLC Certificates of Registration, or Certificate of Incorporation or Partnership. (2) Articles of Incorporation/Partnership; (3) Registration Data Sheet/Latest General Information Sheet; (4) Secretary's Certificate (Re: Signing Authority); and (5) For entities registered outside of the Philippines, similar documents and /or information.

RISK-BASED APPROACH (RBA) TO CDD

[SECTION 9.1, RULE 18, 2018 IRR]

- In conducting CDD, a risk-based approach shall be undertaken.
- To assess customers to determine who are likely to pose low, normal, or high risk.
- To set the standards in applying RDD, ADD, and EDD, including a set of conditions for continuance or discontinuance of service, or business relationship.

Politically-Exposed Persons (PEPs)

- An individual who is or has been entrusted with prominent public position in (a) the Philippines with substantial authority over policy, operations or the user allocation of government-owned resources;
- (b) a foreign State; or (c) an international organization. [Section 1 (xxx), Rule 2, 2018 IRR]

IMMEDIATE
FAMILY



CLOSE
ASSOCIATES



PEP
POLITICALLY
EXPOSED PERSON

“Not all PEPs are high risk.”

SANCTIONS FREEZE ORDERS (SFO) PURSUANT TO ATC DESIGNATIONS

STEP 1- DESIGNATION BY THE ANTI-TERRORISM COUNCIL (ATC)

Legal Basis (Anti-Terrorism Act or ATA)

SEC. 25. Designation of Terrorist Individual, Groups of Persons, Organizations or Associations

The ATC may designate an individual, group of persons, organization, or association upon a finding of probable cause that they commit, attempt to commit, or conspire in the commission of acts defined and penalized by the Act.

STEP 2 - ANTI-MONEY LAUNDERING COUNCIL (AMLC) SANCTIONS FREEZE ORDER

Legal Basis (Anti-Terrorism Act or ATA)

SEC. 25. Designation of Terrorist Individual, Groups of Persons, Organizations or Associations

AMLC has authority to freeze assets of designated individuals, groups, organizations.

Section 36. Freeze Order (par. 3)

The AMLC is authorized to issue a freeze order to comply with UNSCR No. 1373, and an aggrieved party may file a petition to determine the basis of the freeze order.

SANCTIONS FREEZE ORDERS (SFO) PURSUANT TO ATC DESIGNATIONS

STEP 3 - PUBLICATION OF THE DESIGNATION AND NOTICE OF FREEZE ORDER

Legal Basis (Legal Basis (ATA IRR))

Rule 6.5. Posting, publication, dissemination, and notice of designation
ATC resolutions must be published/posted in public.

Rule 6.6. Effectivity of designation

Designations made under Rule 6.2 and Rule 6.3 are valid from publication.

Rule 8.8. Sanctions freeze order or targeted financial sanctions based on international obligations

AMLC to communicate sanctions freeze order to public, financial and non-financial sectors.

STEP 4 - AMLC ADVISORY

ATC Resolution on Designation

Names of designated individuals and entities.

AMLC Resolution with a directive to all covered persons and stakeholders to freeze/submit returns

Reminder/Warning against Dealing with a Designation Person or entity (liable for criminal prosecution under Section 8 of the Terrorism Financing Suppression and Prevention Act).

SANCTIONS FREEZE ORDERS (SFO) PURSUANT TO ATC DESIGNATIONS

STEP 5 - IMPLEMENTATION OF THE FREEZE ORDER

Freeze without delay

The Glossary of the FATF Recommendations defines without delay, with respect to the Al-Qaida/Taliban sanctions regimes, as ideally, within a matter of hours of a designation by the United Nations Security Council or its relevant Sanctions Committee (e.g. the 1267 Committee, or the 1988 Committee). For the purposes of resolution 1373 (2001), the term without delay means upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organisation. In both cases, the term without delay should be interpreted in the context of the need to prevent the flight or dissipation of funds or other assets which are linked to terrorists, terrorist organisations, and those who finance terrorism, and the need for global, concerted action to interdict and disrupt their flow swiftly. (2013 FATF International Best Practices [Recommendation 6], page 9)

STEP 6 - POTENTIAL TARGET MATCHES

Freeze of Target and Potential Target Matches

“Name Match” refers to an individual or entity whose name matches with a name in the UNSC Consolidated List and any list of designations made by the ATC under Section 25 of the ATA. “Potential Target Match” refers to an individual or entity whose identity matches most, but not all, of the identifier information provided in the UNSC Consolidated List and any list of designations made by the ATC under Section 25 of the ATA. “Target Match” refers to an individual or entity whose identity matches all the identifier information and is identified to be the designated person in the UNSC Consolidated List and any list of designations made by the ATC under Section 25 of the ATA. (ARI No. 2,s. 2021)

SANCTIONS FREEZE ORDERS (SFO) PURSUANT TO ATC DESIGNATIONS

STEP 7 - AMLC ACTION

Potential Target Matches and Request for Assistance

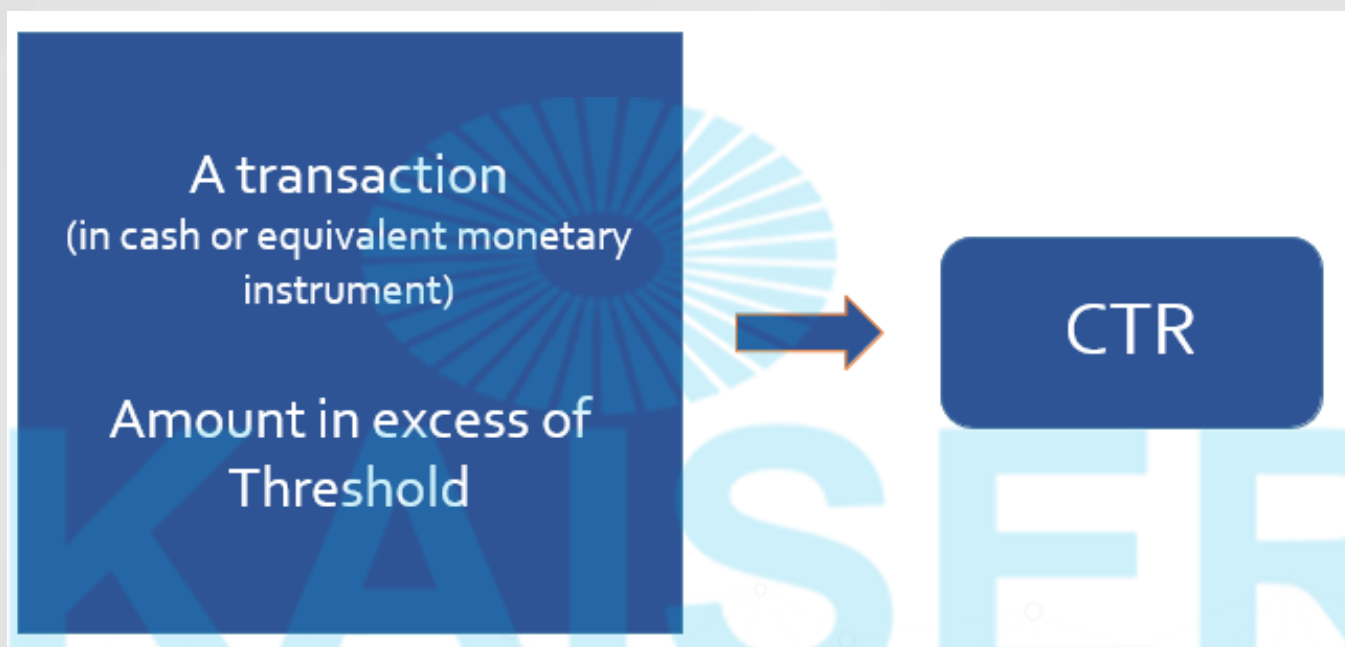
Apart from filing an STR, covered persons should, inform the AMLC on the same day the freeze is implemented, through email to the secretariat@amlc.gov.ph, copy furnish the Executive Director, that a freeze has been implemented pursuant to these guidelines.

The AMLC, within 36 hours from receipt of the information, shall confirm the propriety of the freeze. If no confirmation is received within the said 36-hour period, the freeze shall be automatically lifted.

CPs and stakeholders may contact the AMLC for assistance. Upon receipt of the request, the AMLC will provide the requested information while it investigates. In the meantime, the freeze will continue until the AMLC determines that there is NO MATCH.

PREVENTIVE MEASURES (PH SETTING) TRANSACTION REPORTING

Covered Transaction Report (CTR)



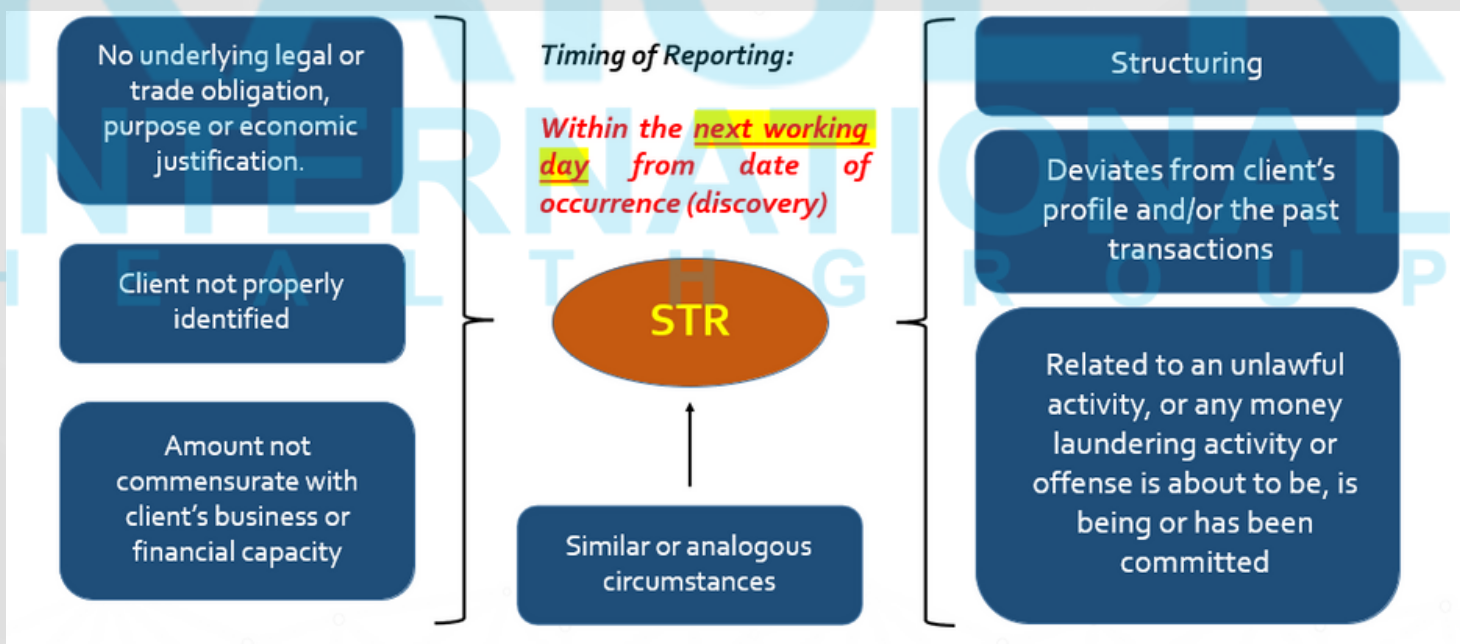
Timing of Reporting:

Within five (5) working days from the date of occurrence (unless the AMLC prescribes a different period not exceeding 15 working days).

THRESHOLD

Casinos	Single casino cash transaction in excess of Php 5 million or its equivalent in any other currency.
REDs and REBs	Single cash transaction in excess of Php 75 million or its equivalent in any other currency.
Other DNFBPs	Transaction in cash or other equivalent monetary instrument in excess of Php 500 thousand (Php 1 million for jewelry dealers in precious metals and stones).

Suspicious Transaction Report (STR)



PREVENTIVE MEASURES (PH SETTING)

Covered Transaction also a Suspicious Transaction

[Section 1.2, Rule 22, 2018 IRR]

In cases where the transaction breached the PHP 500,000.00 threshold and there are **suspicious circumstances**, report first as a CTR, subject to updating if it is finally confirmed to be reportable as STR.

Form and Quality of Report

[Section 3, Rule 22, 2018 IRR]

- Complete
- Accurate
- Timely

MALICIOUS REPORTING IS A CRIMINAL OFFENSE!

[6 months – 4 years imprisonment,
P100,000 – P500,000
No probation]

PREVENTIVE MEASURES (PH SETTING)

SAFE HARBOR PROVISION

No administrative, criminal or civil proceedings shall lie against any person for having made a CTR or an STR in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under the AMLA or any other Philippine law.

DO NOT BE AFRAID TO FILE CTR AND STR!

- Filing CTRs and STRs is an exception to the Data Privacy Act [Section 4 (f)].
- CTR and STR are not necessarily proof that the customer is involved in unlawful activity.
- CTR and STR are mere triggers for possible investigation.

NON-REPORTING OF CTR AND STR IS A CRIMINAL OFFENSE!

[6 month – 4 years
imprisonment, P100,000 –
P500,000 fine, or both]

PREVENTIVE MEASURES (PH SETTING)

CONFIDENTIALITY OF REPORTS

Covered persons and their officers/employees are prohibited from releasing information about CTR/STR filings to the media.

BREACH OF CONFIDENTIALITY IS A CRIMINAL OFFENSE!

[3 – 8 year imprisonment, P500,000 – P1,000,000]

REGISTRATION FOR PURPOSES OF REPORTING

SECTION 52. PERIOD OF REGISTRATION WITH THE AMLC.

For new covered persons and existing DNFBPs, as defined herein, who have not yet registered, they shall register with the AMLC within six (6) months from effectivity of these Guidelines. In the case of newly-established DNFBPs, registration must be done prior to commencement of its operation as a DNFBP. For more information visit: www.amlc.gov.ph

AMLC Advisory posted on the AMLC Website on 19 May 2019

Purpose:

To remind Covered Persons (CPs) dealing with customers who are DNFBPs*, to require the presentation of the Provisional Certificate of Registration (PCOR) and/or Certificate of Registration (COR) with the AMLC as part of its Customer Due Diligence (CDD) measures.



**CPs considered as DNFBPs are enumerated under Rule 4, Section 1 (b) of the 2018 Implementing Rules and Regulations (IRRs) of the Anti-Money Laundering Act, as amended.*

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RISK MANAGEMENT (PH SETTING)

MTTP: Continuing Education and Training Program

- Develop, or create opportunities for, continuing education and training programs to promote AML/CTF awareness and strong compliance culture. [Rule 16, Section 4.1, 2018 IRR]
- Refresher programs, at least, every three (3) years. [Rule 16, Section 4.4, 2018 IRR]



MTTP: Updating

- At least, once every two years.



RECORD-KEEPING

- To maintain and safely store for five (5) years **from the dates of transactions** all customer records and transaction documents. [Section 1, Rule 20, 2018 IRR]
- To keep all records obtained through CDD, account files and business correspondence, and the results of any analysis undertaken, for, at least, five (5) years **following the closure of account**, termination of the business or professional relationship or after the date of the occasional transaction. [Section 2, Rule 20, 2018 IRR]
- If a case has been filed in court involving the account, to retain and safely keep beyond the five (5)-year period, **until it is officially confirmed by the AMLC** that the case has been resolved, decided or terminated with finality. [Section 3, Rule 20, 2018 IRR]

FAILURE TO KEEP RECORDS IS A CRIMINAL OFFENSE!
(6 months – 1 year imprisonment, P100,000 – 500,000 fine,
or both)

GUIDELINES ON THE DIGITIZATION OF CUSTOMER RECORDS (DIGICUR)

- Digitize customer records, exclude closed accounts beyond 5-year retention period.
- Maintain a central database in head offices with direct access to compliance officers.
- Submissions to AMLC via FTRF or certified true copy.
- Quality is essential for AMLC investigations.
- Implementation – start within 6 months from effectivity (13 October 2018); within 2 years after the end of the 6-month period to implement, all customer records should be completely digitized.

PREVENTIVE MEASURES (PH SETTING)

GUIDELINES ON THE DIGITIZATION OF CUSTOMER RECORDS (DIGICUR)

Quality – complete, accurate, timely, and secured so as to be of use in AMLC investigations.

Final Deadline – 30 September 2022 covers all prior and subsequent requests for extensions.

Quarterly DIGICUR Status Report of Compliance (QUADSREC) – to be submitted within 15 calendar days after each quarter, except the first report shall be submitted on or before 31 October 2021.

➤ Failure to submit QUADSREC - Serious Violation under the Rules of Procedure in Administrative Cases (RPAC) with penalties from Php15,000 to Php150,000 per customer.

Non-Compliance with DIGICUR – Grave Violation under the RPAC with penalties from Php37,500 to Php375,000 per customer.

RISK MANAGEMENT (PH SETTING) PRIMARY DUTIES

Covered persons must comply with AMLA and TFP SA to protect businesses/professions from ML/TF activities.



INSTITUTIONAL RISK MANAGEMENT

The board of directors is responsible for managing and mitigating risks identified in the NRA, AMLC, SAs, or the covered person itself.

Covered persons shall develop sound risk management policies, controls and procedures (i.e. MTPP), which are approved by the board of directors to enable them to manage and mitigate the risks that have been identified in the NRA, or by the AMLC, SAs or the covered person itself. [Rule 15, Section 2.2 (a), 2018 IRR]

MONEY LAUNDERING/TERRORISM FINANCING PREVENTION PROGRAM (MTPP)

The MTPP shall be in writing and shall include, at the minimum, internal policies, controls and procedures on the following:

- (a) Risk management;**
- (b) Compliance management setup;**
- (c) Screening procedures to ensure high standards when hiring employees;**
- (d) Continuing education and training program;**
- (e) Independent audit function;**
- (f) Details of implementation of preventive measures;**
- (g) Compliance with freeze, bank inquiry and asset preservation orders, and all directives of the AMLC;**
- (h) Adequate safeguards on the confidentiality and use of information exchange;**
- (i) Cooperation with the AMLC and SAs [Rule 16, Section 1, 2018 IRR]**





LEGAL REMEDIES

PROSECUTION OF ML

Any person may be charged with and convicted of both the offense of money laundering (subject offense) and the unlawful activity (predicate offense).

Any proceeding relating to the unlawful activity shall be given precedence over the prosecution of any offense or violation under R.A. No. 9160 without prejudice to the freezing and other legal remedies.

BANK INQUIRY



No violation of:

- RA 1405 – Law on the Secrecy of Bank Deposits
- RA 6426 – Foreign Currency Deposit Unit (FCDU) Law
- RA 8791 – General Banking Law

APPLICATION FOR BANK INQUIRY (W/ COURT ORDER)



- AMLC files ex parte Application for Bank Inquiry with Court of Appeals (CA) for other Unlawful Activities
- CA has 24 hours to act on Application
- CA grants Application if it finds probable cause and issues Order of Bank Inquiry

BANK INQUIRY (W/O COURT ORDER)

Unlawful Activities:



Drugs



*Kidnapping
for Ransom
(KFR)*



*Acts of
Terrorism*



AMLC
Resolution
for Bank
Inquiry

- Covered person shall: - Immediately give full access to all information and documents
- Provide CTCs of the documents within 5 working days
- Keep confidentiality of the inquiry

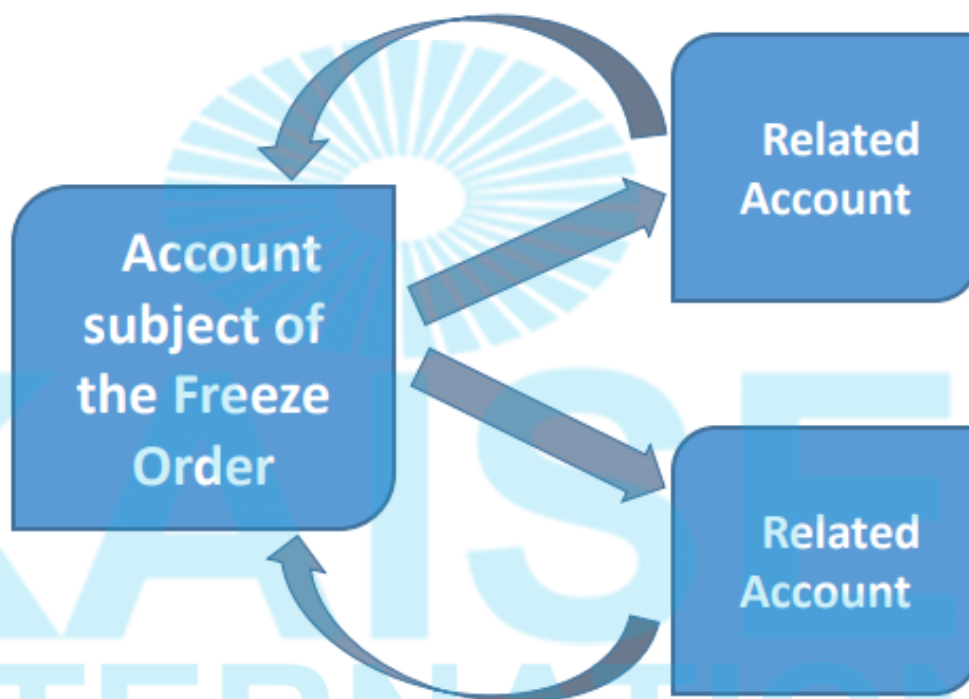
PETITION TO FREEZE (W/ COURT ORDER)



- AMLC files ex parte Petition to Freeze with CA.
- CA has 24 hours to act on Application.
- CA grants Petition if it finds probable cause and issues Freeze Order effective for 20 days. During 20-day period, CA will conduct a summary hearing to determine whether or not to lift the Freeze Order, or extend it to a total period of 6 months.
- Freeze Order effective immediately including Related Accounts.

RELATED ACCOUNTS

Funds originated from and/or Materially Linked



Freeze Order (FO)

- Period: Total not exceeding six (6) months
- No case filed = FO deemed ipso facto lifted
- Remedy of the Owner: File Motion to Lift
- No Temporary Restraining Order (TRO)
- Exception: issued by the Supreme Court (For TFS: CA or SC)

DUTIES OF COVERED PERSONS

- 1. Immediately freeze the monetary instrument or property and related accounts;**
- 2. Furnish copy of FO**
- 3. Within 24 hours, submit to the CA and the AMLC a detailed written return on the freeze order –**
 - Account numbers**
 - Name(s) of account holders**
 - Amount**
 - Other relevant information**
 - Date and Time when order was served**
- 4. File STR/s with the AMLC**

CIVIL FORFEITURE

- Tool for Asset Recovery
- Filed with the Regional Trial Court (RTC)
- Non-Conviction based Asset Forfeiture
- Preponderance of Evidence, not Proof Beyond Reasonable Doubt
- Judgment of Forfeiture
- Turned over to the National Gov't; or
- Returned to the victims

CIVIL FORFEITURE – PAPO & APO

- Provisional Asset Preservation Order (PAPO)
- Summary hearing within twenty (20) days
- Respondent may show good cause why PAPO should be lifted
- RTC shall determine whether PAPO should be modified/lifted or APO should be issued
- Status-quo until RTC decides
- Asset Preservation Order (APO)
- Effective until judgment

REMINDER

Covered persons are advised that failure to comply with the requirements of the 2018 implementing Rules and Regulations (IRR) shall be subject to applicable sanctions under Rule IV of the Rule of Procedure in Administrative Cases (RPAC).

