

904 DEFINITION OF TERMS

Except as otherwise defined herein, all terms used shall have the same meaning as those terms that are defined in the AMLA, as amended, and its RIRR.

a. *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:

- (1) transacts said monetary instrument or property;
- (2) converts, transfers, disposes of, moves, acquires, possesses or uses said monetary instrument or property;
- (3) conceals or disguises the true nature, source, location, disposition, movement or ownership of or rights with respect to said monetary instrument or property;
- (4) attempts or conspires to commit money laundering offenses referred to in Items "(1)", "(2)" or "(3)" above;
- (5) aids, abets, assists in or counsels the commission of the money laundering offenses referred to in Items "(1)", "(2)" or "(3)" above; and
- (6) performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in Items "(1)", "(2)" or "(3)" above.

Money laundering is also committed by any covered person who, knowing that a covered or suspicious transaction is required to be reported to the AMLC under any of the provisions of the AMLA, as amended, its RIRR, or this Part, fails to do so.

b. *Financing of terrorism* is a crime committed by a person who, directly or indirectly, willfully and without lawful excuse, possesses, provides, collects or uses property or funds or makes available property, funds or financial service or other related services, by any means, with the unlawful and willful intention that they should be used or with the knowledge that they are to be used, in full or in part: (1) to carry out or facilitate the commission of any terrorist act; (2) by a terrorist organization, association or group; or (3) by an individual terrorist.

c. *Covered transaction* (CT) refers to a transaction in cash or other equivalent monetary instrument exceeding P500,000.

d. *Suspicious transaction* (ST) refers to a transaction with a covered person, regardless of the amount involved, where any of the following circumstances exists:

- (1) There is no underlying legal or trade obligation, purpose or economic justification;
- (2) The client is not properly identified;

- (3) The amount involved is not commensurate with the business or financial capacity of the client;
- (4) Taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the AMLA, as amended;
- (5) Any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered person;
- (6) The transaction is in any way related to an unlawful activity or any money laundering activity or offense, that is about to be committed, is being or has been committed; or
- (7) Any transaction that is similar, analogous or identical to any of the foregoing.

Any unsuccessful attempt to transact with a covered person, the denial of which is based on any of the foregoing circumstances, shall likewise be considered as ST.

e. *Monetary instrument* shall include, but is not limited to the following:

- (1) Coins or currency of legal tender of the Philippines, or of any other country;
- (2) Credit instruments, including bank deposits, financial interest, royalties, commissions and other intangible property;
- (3) Drafts, checks, and notes;
- (4) Stocks or shares, participation or interest in a corporation or in a commercial enterprise or profit-making venture and evidenced by a certificate, contract, instrument, whether written or electronic in character including those enumerated in Section 3 of the Securities Regulation Code;
- (5) A participation or interest in any non-stock, non-profit corporation;
- (6) Securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and confirmations of sale or investments and money market instruments;
- (7) Contracts or policies of insurance, life or non-life, contracts of suretyship, pre-need plans and member certificates issued by mutual benefit association; and
- (8) Other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

f. *Unlawful activity* refers to any act or omission or series or combination thereof involving or having direct relation to the following:

- (1) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code (RPC), as amended;
- (2) Sections 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;
- (3) Section 3 paragraphs “B”, “C”, “E”, “G”, “H” and “I” of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;
- (4) Plunder under R.A. No. 7080, as amended;
- (5) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the RPC, as amended;
- (6) Jueteng and masiao punished as illegal gambling under P.D. No. 1602;
- (7) Piracy on the high seas under the RPC, as amended, and P.D. No. 532;
- (8) Qualified theft under Article 310 of the RPC, as amended;
- (9) Swindling under Article 315 and “Other Forms of Swindling” under Article 316 of the RPC, as amended;
- (10) Smuggling under R.A. Nos. 455 and 1937, as amended, otherwise known as the Tariff and Customs Code of the Philippines;
- (11) Violations under R.A. No. 8792, otherwise known as the Electronic Commerce Act of 2000;
- (12) Hijacking and other violations under R.A. No. 6235, otherwise known as the “Anti-Hijacking Law”; “Destructive Arson”; and “Murder”, as defined under the RPC, as amended;
- (13) Terrorism and conspiracy to commit terrorism as defined and penalized under Sections 3 and 4 of R.A. 9372;
- (14) Financing of terrorism under Section 4 and offenses punishable under Sections 5, 6, 7 and 8 of R.A. No. 10168, otherwise known as the Terrorism Financing Prevention and Suppression Act of 2012;
- (15) Bribery under Articles 210, 211 and 211-a of the RPC, as amended, and Corruption of Public Officers under Article 212 of the RPC, as amended;
- (16) Frauds and illegal exactions and transactions under Articles 213, 214, 215 and 216 of the RPC, as amended;
- (17) Malversation of public funds and property under Articles 217 and 222 of the RPC, as amended;
- (18) Forgeries and counterfeiting under Articles 163, 166, 167, 168, 169 and 176 of the RPC, as amended;
- (19) Violations Sections 4 to 6 of R.A. No. 9208, otherwise known as the Anti-trafficking in Persons Act of 2003, as amended;
- (20) Violations of Sections 78 to 79 of Chapter IV, of Presidential Decree No. 705, otherwise known as the Revised Forestry Code of the Philippines, as amended;
- (21) Violations of Sections 86 to 106 of Chapter IV, of R.A. No. 8550, otherwise known as the

Philippine Fisheries Code of 1998;

- (22) Violations of Sections 101 to 107, and 110 of R.A. No. 7942, otherwise known as the Philippine Mining Act of 1995;
- (23) Violations of Section 27(C), (E), (F), (G) and (I), of R.A. No. 9147, otherwise known as the Wildlife Resources Conservation and Protection Act;
- (24) Violation of Section 7(B) of R.A. No. 9072, otherwise known as the National Caves and Cave Resources Management Protection Act;
- (25) Violation of R.A. No. 6539, otherwise known as the Anti-Carnapping Act of 2002, as amended;
- (26) Violations of Sections 1, 3 and 5 of P.D. No. 1866, as amended, otherwise known as the Decree Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunition or Explosives;
- (27) Violation of P.D. No. 1612, otherwise known as the Anti-Fencing Law;
- (28) Violation of Section 6 of R.A. No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by R.A. No. 10022;
- (29) Violation of R.A. No. 8293, otherwise known as the Intellectual Property Code of the Philippines, as amended;
- (30) Violation of Section 4 of R.A. No. 9995, otherwise known as the Anti-photo and Video Voyeurism Act of 2009;
- (31) Violation of Section 4 R.A. No. 9775, otherwise known as the Anti-child Pornography Act of 2009;
- (32) Violations of Sections 5, 7, 8, 9, 10 (C), (D) and (E), 11, 12 and 14 of R.A. No. 7610, otherwise known as the Special Protection of Children against Abuse, Exploitation and Discrimination;
- (33) Fraudulent practices and other violations under R.A. No. 8799, otherwise known as the Securities Regulation Code of 2000; and
- (34) Felonies or offenses of a nature similar to the aforementioned unlawful activities that are punishable under the penal laws of other countries.

In determining whether or not a felony or offense punishable under the penal laws of other countries is “of similar nature”, as to constitute an unlawful activity under the AMLA, the nomenclature of said felony or offense need not be identical to any of the unlawful activities listed above.

g. *Transaction* refers to any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered person.

h. *Proceeds* refer to an amount derived or realized from any unlawful activity.

i. *Monetary instrument or property related to an unlawful activity* refers to:

- (1) All proceeds of an unlawful activity;
- (2) All monetary, financial or economic means, devices, accounts, documents, papers, items or things used in or having any relation to any unlawful activity;
- (3) All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing, operations, and maintenance of any unlawful activity; and
- (4) For purposes of freeze order and bank inquiry: related and materially-linked accounts.
 - (a) *“Related accounts”* refer to those accounts, the funds and sources of which originated from and/or are materially-linked to the monetary instruments or properties subject of the freeze order or an order of inquiry.
 - (b) *“Materially-linked accounts”* shall include the following:
 - (i) All accounts or monetary instruments under the name of the person whose accounts, monetary instruments, or properties are the subject of the freeze order or an order of inquiry;
 - (ii) All accounts or monetary instruments held, owned, or controlled by the owner or holder of the accounts, monetary instruments, or properties subject of the freeze order or order of inquiry, whether such accounts are held, owned or controlled singly or jointly with another person;
 - (iii) All *“In Trust For”* accounts where either the trustee or the trustor pertains to a person whose accounts, monetary instruments, or properties are the subject of the freeze order or order of inquiry;
 - (iv) All accounts held for the benefit or in the interest of the person whose accounts, monetary instruments, or properties are the subject of the freeze order or order of inquiry; and
 - (v) All other accounts, shares, units, or monetary instruments that are similar, analogous, or identical to any of the foregoing.

- j. *Client/Customer* refers to any person or entity who keeps an account, or otherwise transacts business with a covered person. It includes the following: (1) any person or entity on whose behalf an account is maintained or a transaction is conducted, as well as the beneficiary of said transactions; (2) beneficiary of a trust, an investment fund or a pension fund; (3) a company or person whose assets are managed by an asset manager; (4) a grantor of a trust; and (5) any insurance policy holder, whether actual or prospective.
- k. *Shell company* refers to a legal entity which has no business substance in its own right but through which financial transactions may be conducted.
- l. *Shell bank* refers to a shell company incorporated as a bank or made to appear to be incorporated as a bank but has no physical presence and no affiliation with a regulated financial group. It can also be a bank that (a) does not conduct business at a fixed address in a jurisdiction in which the shell bank is authorized to engage; (b) does not employ one (1) or more individuals on a full time basis at this fixed address; (c) does not maintain operating records at this address, and (d) is not subject to inspection by the authority that licensed it to conduct banking activities.
- m. *Beneficial Owner* refers to any natural person(s) who ultimately owns or controls a customer and/or on whose behalf a transaction is being conducted; or those who has ultimate effective control over a juridical person or legal arrangement.

Ultimate effective control refers to situation in which ownership/control is exercised through actual or a chain of ownership or by means other than direct control.

Beneficial owner shall be:

- (1) The natural persons, if any, who ultimately have controlling ownership interest in a juridical person.

A shareholding or ownership interest of at least twenty percent (20%) in the customer held by a natural person shall be an indication of direct ownership. A shareholding or ownership interest of at least twenty percent (20%) in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership.

- (2) The natural persons, if any, exercising control over the juridical person through other means, to the extent that there is a doubt under Item "(1)" above, as to whether the persons with the controlling ownership interest are the beneficial owners or where no natural person exerts control through ownership interests.

Control through other means, includes control exerted by means of trusts, agreements, arrangements, understandings, or practices, or when an individual can exercise control through making decisions about financial and operating policies. In addition, control also includes: (a) power to govern the financial and operating policies of the enterprise under statute or an agreement; (b) power to appoint or remove the majority of the members of the board of directors or equivalent governing body; (c) power to cast the majority votes at a meeting of the board of directors or equivalent governing body; or (d) any other arrangements similar to any of the above.

- (3) The natural person(s) who hold the position of senior managing official(s) or equivalent ranks, where no person under Items “(1)” and “(2)” is identified, or if there is any doubt that the person(s) identified are the beneficial owners(s).
- n. *Politically exposed person or PEP* refers to an individual who is or has been entrusted with prominent public position in (1) the Philippines with substantial authority over policy, operations or the use or allocation of government-owned resources; (2) a foreign state, or (3) an international organization.

The term *PEP* shall include immediate family members, and close relationships and associates that are reputedly known to have:

- (1) Joint beneficial ownership of a legal entity or legal arrangement with the main/principal PEP;
or
(2) Sole beneficial ownership of a legal entity or legal arrangement that is known to exist for the benefit of the main/principal PEP.

Immediate family members of PEPs refer to spouse or partner, children and their spouses, and parents and parents-in-law;

Close associates of PEPs refer to persons who are widely and publicly known to maintain a particularly close relationship with the PEP, and include persons who are in a position to conduct substantial domestic and international financial transactions on behalf of the PEP.

- o. *Correspondent banking* refers to the provision of banking services by one (1) bank (the “correspondent bank”) to another bank (the “respondent bank”).
- p. *Payable-through account* refers to a correspondent account that is used directly by third parties to transact business on their own behalf.

- q. *Fund/wire transfer* refers to any transaction carried out on behalf of an originator (both natural and juridical) through an FI (originating institution) by electronic means with a view to making an amount of money available to a beneficiary at another FI (beneficiary institution). The originator person and the beneficiary person may be the same person.
- r. *Cross border transfer* refers to any wire transfer where the originating and beneficiary institutions are located in different countries. It shall also refer to any chain of wire transfer that has at least one (1) cross border element.
- s. *Domestic transfer* refers to any wire transfer where the originating and beneficiary institutions are located in the same country. It shall refer to any chain of wire transfers that takes place entirely within the borders of a single country, even though the system used to effect the fund/wire transfer may be located in another country.
- t. *Originating financial institution* refers to the financial institution which initiates the wire transfer and transfers the funds upon receiving the request for a wire transfer on behalf of the originator.
- u. *Beneficiary financial institution* refers to the financial institution which receives the wire transfer from the originating financial institutions, directly or through an intermediary financial institution, and makes the funds available to the beneficiary.
- v. *Intermediary financial institution* refers to a financial institution in a serial or cover payment chain that receives and transmits a wire transfer on behalf of the originating financial institutions and the beneficiary financial institutions, or another intermediary financial institution.
- w. *Official document* refers to any of the following identification documents:
- (1) For Filipino citizens: Those issued by any of the following official authorities:
 - (a) Government of the Republic of the Philippines, including its political subdivisions, agencies, and instrumentalities;
 - (b) Government-Owned or -Controlled Corporations (GOCCs); or
 - (c) Covered persons registered with and supervised or regulated by the Bangko Sentral, SEC or IC;
 - (d) Philippine Statistics Authority (PSA) under the Philippine Identification System (PhilSys)
 - (2) For foreign nationals: Passport or Alien Certificate of Registration;
 - (3) For Filipino students: School ID signed by the school principal or head of the educational institution; 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.
 - (5) Other identification document that can be verified using reliable, independent source documents, data or information.
- x. Juridical person refers to an entity other than a natural person as defined under Chapter 3 of the Civil Code of the Philippines, that can establish a permanent customer relationship with any financial institution or otherwise own property.
- y. Money or Value Transfer Service (MVT) or Money Service Business (MSB) refers to financial services that involve the acceptance of cash, checks, other monetary instruments or other stores of value, and the payment of a corresponding sum in cash or other form to a beneficiary by means of a communication, message, transfer, or through a clearing network to which the service provider belongs.
- z. Originator refers to the account holder who allows the wire transfer from an account, or where there is no account, the person that places an order with originating financial institution to perform a wire transfer.
- aa. Philippine Identification Card (PhilID) refers to the non-transferrable identification card issued by the PSA to all citizens and resident aliens registered under the PhilSys, which serves as the official government issued identification document of cardholders in dealing with all government agencies, local government units, government and controlled corporations, government financial institutions, and all private sector entities.
- bb. Cover payment refers to a wire transfer that combines a payment message sent directly by the originating financial institutions to the beneficiary financial institutions with the routing of the funding instruction (the cover), from the originating financial institutions to the beneficiary financial institutions through one or more intermediary financial institutions.
- cc. Serial Payment refers to a direct sequential chain of payment where the wire transfer and accompanying payment message travel together from the originating financial institution to the beneficiary financial institution, directly or through one (1) or more intermediary financial institutions.
- dd. Settlor/Grantor/Trustor refers to a person who transfers ownership of his assets to trustees by means of a trust deed or similar arrangement.
- ee. Source of Fund refers to the origin of the funds or other monetary instrument that is the subject

of the transaction or business or professional relationship between a covered person and its customer, such as cash on hand, safety deposit box with a covered person, and a particular bank or investment account.

ff. Source of Wealth refers to the resource from which the customer's wealth including all monetary instruments and properties, came, comes, or will come from, such as employment, business, investments, foreign remittance, inheritance and donation

gg. Straight-through Processing refers to payment transactions that are conducted electronically without the need for manual intervention.

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