

923 ADDITIONAL PREVENTIVE MEASURES FOR SPECIFIC CUSTOMERS AND ACTIVITIES

Private banking/wealth management operations. These services, which by their nature involve high measure of client confidentiality, are more open to the elements of reputational risk especially if the customer identification process is not diligently followed. Covered persons shall therefore establish and record the true and full identify and take reasonable measures to establish the source of wealth and source of funds, of the customer and beneficial owners, if any, and establish a policy on what standard of due diligence will apply to them. They shall also require approval by a senior officer other than the private banking/wealth management/similar activity relationship officer or the like for acceptance of customers of private banking, wealth management and similar activities.

PEP. Covered persons shall establish and record the true and full identity of PEPs, as well as their immediate family members and entities related to them.

a. In case of domestic PEPs or persons who have been entrusted with a prominent function by an international organization, or their immediate family members or close associates, in addition to performing the applicable due diligence measures, covered persons shall:

- (1) Take reasonable measures to determine whether a customer or the beneficial owner is a PEP; and
- (2) In cases when there is a higher risk business relationship, adopt measures under paragraphs "b(2)" to "b(4)" below.

b. In relation to foreign PEPs or their immediate family members or close associates, in addition to performing the applicable customer due diligence measures, covered persons shall:

- (1) Put in place risk management systems to determine whether a customer or the beneficial owner is a PEP;
- (2) Obtain senior management approval before establishing (or continuing, for existing customers) such business relationship;
- (3) Take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs; and
- (4) Conduct enhanced ongoing monitoring on that relationship.

Correspondent banking. Covered persons shall adopt policies and procedures to prevent correspondent banking activities from being utilized for ML/TF activities, and designate an officer responsible in ensuring compliance with these regulations and the covered person's policies and procedures.

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A covered person may rely on the customer identification process undertaken by the respondent bank and apply the rules on third party reliance under Sec. 921 (*Customer identification*), treating the respondent bank as the third party. The correspondent bank shall

a. In relation to cross border correspondent banking and other similar relationship:

- (1) Gather sufficient information about the respondent institution to understand fully the nature of the respondent's business, and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to ML/TF investigation or regulatory action;
- (2) Assess the respondent institution's AML/CFT controls;
- (3) Obtain approval from senior management before establishing new correspondent relationships; and
- (4) Clearly understand and document the respective AML/CFT responsibilities of each institution.

b. With respect to "*payable-through accounts*," satisfy themselves that the respondent bank:

- (1) Has performed customer due diligence obligations on its customers that have direct access to the accounts of the correspondent bank; and
- (2) Is able to provide relevant customer due diligence information upon request to the correspondent bank.

Covered persons are prohibited from entering into, or continuing, correspondent banking relationships with shell banks and should have measures to satisfy themselves that respondent financial institutions do not permit their accounts to be used by shell banks.

Fund/Wire transfer. Because of the risk associated with dealing with fund/wire transfers, where a covered person may unknowingly transmit proceeds of unlawful activities or funds intended to finance terrorist activities, it shall establish policies and procedures designed to prevent it from being utilized for that purpose which shall include, but not limited to, the following:

a. Originating financial institution:

- (1) Shall not accept instructions to fund/wire transfer from a non-customer originator, for occasional transactions exceeding the set threshold as defined in this Part, unless it has conducted the necessary CDD to establish the true and full identity and existence of said

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originator;

(2) Shall ensure that all wire transfers are always accompanied by the required information such that:

(a) Cross border and domestic fund/wire transfers and related message not exceeding P50,000.00 or its equivalent in foreign currency, shall include accurate and meaningful originator and beneficiary information. The following information shall remain with the transfer or related message through the payment chain:

- (i) Name of the originator;
- (ii) Name of the beneficiary; and
- (iii) Account number of the originator and beneficiary, or in its absence, a unique reference number.

(b) For cross border and domestic fund/wire transfers and related message amounting to P50,000.00 or more, or its equivalent in foreign currency, the following information shall be obtained and accompany the wire transfer:

- (i) Name of the originator;
- (ii) Originator account number where such an account is used to process the transaction or a unique transaction reference number which permits traceability of the transaction;
- (iii) Originator's address, or national identity number, or customer identification number, or date and place of birth;
- (iv) Name of the beneficiary; and
- (v) Beneficiary account number where such an account is used to process the transaction, or unique transaction reference number which permits traceability of the transaction.

For domestic wire transfers, the originating institution should ensure that the required information accompanies the wire transfers, unless this information can be made available to the beneficiary institution and relevant authorities by other effective means. In the latter case, the originating institution shall include only the account number or a unique identifier within the message or payment form which will allow the transaction to be traced back to the originator or beneficiary. Originating institutions are required to provide the information within three (3) working days from receiving the request either from the beneficiary institution or from relevant authorities or agencies.

(3) May be exempted from the requirements of Item "(2)" above in respect of originator

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information, where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries: *Provided*, That it includes the originator's account number or unique transaction reference number and that the batch file contains the required and accurate originator information, and full beneficiary information, that is fully traceable within the beneficiary country;

- (4) Need not verify for accuracy the information mentioned in Item "(2)(a)" hereof. However, the originating financial institution shall verify the information pertaining to its customer where there is a suspicion of ML/TF;
- (5) Shall ensure that, for domestic wire transfers, the information accompanying the wire transfer includes originator information as indicated for cross-border wire transfers, unless this information can be made available to the beneficiary financial institution and relevant authorities by other effective means.
- (6) Shall only include the account number or a unique transaction reference number, where the information accompanying the domestic wire transfer can be made available to the beneficiary financial institution and appropriate authorities by other effective means: *Provided*, That this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. The information shall be made available within three (3) working days from receipt of the request either from the beneficiary financial institution or from appropriate authorities;
- (7) Shall maintain all originator and beneficiary information collected, in accordance with Sec. 924 (*Record Keeping*); and
- (8) Should not execute the wire transfer if the requirements under Item "a" of this Section (*Fund/wire Transfer*), as applicable, are not complied with.

b. Intermediary financial Institution shall:

- (1) Ensure that, for cross-border wire transfers, all originator and beneficiary information that accompany a wire transfer are retained in the payment message.

Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, intermediary financial institution should keep a record of all the information received from the originating financial institution or another intermediary financial institution for at least five (5) years;

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- (2) Take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or required beneficiary information;
 - (3) Conduct transactional sanction screening on the payment parties, both for the originator and beneficiary;
 - (4) Adopt risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.
- c. Beneficiary financial institution shall:
- (1) Verify the identity of the beneficiary, if the identity has not been previously verified and maintain this information in accordance with Sec. 924 (*Record Keeping*). Should the originator and beneficiary be the same person, the beneficiary institution may rely on the customer due diligence conducted by the originating institution provided the rules on third party reliance under Sec. 921 (*Customer identification*) are met, treating the originating institution as third party as therein defined;
 - (2) Take reasonable measures, which may include post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator or beneficiary information, as applicable; and
 - (3) Adopt risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or beneficiary information, as applicable; and (b) the appropriate follow-up action.
- d. In case a Money or Value Transfer Service (MVTs) provider controls both the originating and the beneficiary side of a wire transfer, it shall:
- (1) consider all the information from both the originating and beneficiary sides in order to determine whether an STR has to be filed; and
 - (2) file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the AMLC.

Buyers of cashier's, manager's or certified checks. A covered person may sell cashier's, manager's or certified checks only to its existing customers and shall maintain a register of said checks indicating

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the following information:

- a. True and full name of the buyer or the applicant if buying on behalf of an entity;
- b. Account number;
- c. Date of issuance and the number of the check;
- d. Name of the payee;
- e. Amount; and
- f. Purpose of such transaction.

Buyers of cashier's, manager's or certified checks other than its existing customer. Where an individual or an entity other than an existing customer applies for the issuance of cashier's, manager's or certified checks, the covered person shall, in addition to the information required in Sec. 921 (*Customer identification*), obtain all the identification documents and minimum information required under this Part to establish the true and full identity and existence of the applicant. In no case shall reduced due diligence be applied to the applicant and, where circumstances warrant, enhanced due diligence should be applied.

Buyers of cashier's, manager's or certified checks in blank or payable to cash, bearer or numbered account. A covered person may issue cashier's, manager's or certified checks or other similar instruments in blank or payable to cash, bearer or numbered account subject to the following conditions:

- a. The amount of each check shall not exceed P10,000;
- b. The buyer of the check is properly identified in accordance with its customer acceptance and identification policies and as required under Sec. 921;
- c. A register of said checks indicating all the information required under Sec. 921;
- d. A covered person which issues as well as those which accepts as deposits, said cashier's, manager's or certified checks or other similar instruments issued in blank or payable to cash, bearer or numbered account shall take such measure(s) as may be necessary to ensure that said instruments are not being used/resorted to by the buyer or depositor in furtherance of an ML activity;
- e. The deposit of said instruments shall be subject to the same requirements of scrutiny applicable to cash deposits; and
- f. Transactions involving said instruments should be accordingly reported to the AMLC if there is

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reasonable ground to suspect that said transactions are being used to launder funds of illegitimate origin.

Second-endorsed checks. A covered person shall enforce stricter guidelines in the acceptance of second-endorsed checks including the application of enhanced due diligence to ensure that they are not being used as instruments for money laundering or other illegal activities.

For this purpose, a covered person shall limit the acceptance of second-endorsed checks from properly identified customers and only after establishing that the nature of the business of said customer justifies, or at least makes practical, the deposit of second-endorsed check. In case of isolated transactions involving deposits of second-endorsed checks by customer who are not engaged in trade or business, the true and full identity of the first endorser shall be established and the record of the identification shall also be kept for five (5) years.

Foreign exchange dealers/money changers/remittance and transfer companies. A covered person shall require its customers who are remittance and transfer companies, foreign exchange dealers and money changers to submit proof of registration with the Bangko Sentral as part of their customer identification document, and shall only deal with these entities if they are duly registered as such. Also, these customers shall be required to use company accounts for their remitting, foreign exchange dealing and money changing business.

Remittance and transfer companies, foreign exchange dealers and money changers presenting greater risk shall be subject to enhanced due diligence, which includes, among others, requiring proof of registration with the AMLC, reviewing and assessing their AML/CFT program to have reasonable assurance on their AML compliance, obtaining additional information and securing senior management approval for establishing business relationship.

Other high risk customer, jurisdiction or geographic location. A customer from a foreign jurisdiction that is recognized as having inadequate internationally accepted AML standards, or presents greater risk for ML/TF or its associated unlawful activities, shall be subject to enhanced customer due diligence. Information relative to these are available from publicly available information such as the websites of FATF, FATF Style Regional Bodies (FSRB) like the Asia Pacific Group on Money Laundering and the Egmont Group, national authorities like the OFAC of the U.S. Department of the Treasury, or other reliable third parties such as regulators or exchanges, which shall be a component of a covered person's customer identification process.

Covered persons shall apply countermeasures (such as conduct of enhanced due diligence, limit business relationship or financial transactions with the identified country or persons in that country) proportionate to the risks when called upon to do so by the FATF, or independently of any call by the

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FATF to do so, when warranted.

Shell company/shell bank/bearer share entities. A covered person shall undertake banking relationship with a shell company with extreme caution and always apply enhanced due diligence on both the entity and its beneficial owner/s.

No shell bank shall be allowed to operate or be established in the Philippines. Covered persons shall refuse to deal, enter into, or continue, correspondent banking relationship with shell banks. They shall likewise guard against establishing relations with foreign financial institutions that permit their accounts to be used by shell banks.

Bearer share entities refer to those juridical entities where the ownership is accorded to those who possess the bearer share certificate. A covered person dealing with bearer share entities shall conduct enhanced due diligence on said entities and their existing stockholders and/or beneficial owners at the time of opening of the account. These entities shall be subject to ongoing monitoring at all times and the list of stockholders and/or beneficial owners shall be updated within thirty (30) days after every transfer of ownership and the appropriate enhanced due diligence shall be applied to the new stockholders and/or beneficial owners.

Numbered accounts. No peso and foreign currency non-checking numbered accounts shall be allowed without establishing the true and full identity and existence of customers and applying enhanced due diligence in accordance with Sec. 921 (*Customer identification and identification policy*).

Peso and foreign currency non-checking numbered accounts existing prior to 17 October 2001 shall continue to exist but the covered person shall establish the true and full identity and existence of the beneficial owners of such accounts and apply enhanced due diligence in accordance with Sec. 921 (*Customer acceptance and identification policy*).

Compliance with United Nations Security Council Resolutions (UNSCR): As part of CDD process, covered persons shall adopt appropriate policies and procedures:

- a. To implement targeted financial sanctions without delay to comply with UNSCR, adopted under Chapter VII of the Charter of the United Nations, relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing;
- b. To ensure that individuals/entities be prohibited from making any types of transactions or services for the benefit of designated persons and entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities pursuant to relevant UNSCR such as 1267 (L999)

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and its successor resolutions, and 1373 (2001); and

- c. To report to AMLC the actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions.

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