



ANTI-MONEY LAUNDERING COUNCIL

AMLC REGULATORY ISSUANCE (ARI) A, B, and C No. 1 Series of 2021

Subject : **Amendments to Certain Provisions of the 2018 Implementing Rules and Regulations (IRR) of Republic Act No. 9160, as Amended**

By the authority vested in me by the Anti-Money Laundering Council (AMLC), pursuant to AMLC Resolution No. 27, Series of 2021, the following amendments to certain provisions of the 2018 Implementing Rules and Regulations (IRR) of Republic Act No. 9160, as amended, are hereby issued.

Section 1. Section 2 (c) of Rule 1 of the 2018 Implementing Rules and Regulations (IRR) is hereby amended to read as follows:

“RULE 1 – PURPOSE, POLICIES AND PRINCIPLES

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Section 2. State Policies on AML/CTF.

The provisions of this IRR are in line with the following State Policies:

(a) x x x

(c) To extend cooperation, consistent with Philippines’ foreign policy, 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 terrorism financing, pursuant to the resolutions of the United Nations Security Council.”

Section 2. Section 1 of Rule 2 is hereby amended by inserting new paragraphs and the remaining subparagraphs are alphabetically relettered accordingly:

“RULE 2 – DEFINITION OF TERMS

Section 1. Definitions.

For purposes of this IRR, the following terms are hereby defined as follows:

(a) x x x;

(w) **“Covered Transaction”** refers to:

- (1) A transaction in cash or other equivalent monetary instrument exceeding Five Hundred Thousand pesos (PHP500,000.00).

(2) A transaction with or involving jewelry dealers, dealers in precious metals and dealers in precious stones in cash or other equivalent monetary instrument exceeding One Million pesos (Php1,000,000.00).

(3) A casino cash transaction exceeding Five Million Pesos (PHP5,000,000.00) or its equivalent in other currency.

(4) A cash transaction with or involving real estate developers or brokers exceeding Seven Million Five Hundred Thousand Pesos (P7,500,000.00) or its equivalent in any other currency.

x x x

(nnn) **"Offshore Gaming Operator"** (OGO) refers to an entity engaged in offering online games of chance or sporting events via the internet using a network and software program, by themselves or through local service providers.

(ooo) **"Offshore Gaming Operator Service Provider"** (OGO-SP) refers to a duly constituted business corporation who provides components of offshore gaming operations to offshore gaming operators.

x x x

(eeee) **"Proliferation of Weapons of Mass Destruction"** refers to the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of weapons of mass destruction, in contravention of national laws or, where applicable, international obligations.

(ffff) **"Proliferation of Weapons of Mass Destruction Financing/Proliferation Financing"** (PF) refers when a person:

(1) makes available an asset; or

(2) provides a financial service; or

(3) conducts a financial transaction; and the person knows that, or is reckless as to whether, the asset, financial service or financial transaction is intended to, in whole or in part, facilitate proliferation of WMD in relation to UNSC Resolution Nos. 1718 of 2006 and 2231 of 2015.

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(kkkk) **"Real Estate"** refers to the land and all those items which are attached to the land. It is the physical, tangible entity, together with all the additions or improvements on, above or below the ground.

(llll) **"Real Estate Broker"** refers to a duly registered and licensed natural person who, for a professional fee, commission or other valuable consideration, acts as an 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 or joint venture, or other similar transactions on real estate or any interest therein.

X X X

(mmmm) **“Real Estate Developer”** refers to any natural or juridical person engaged in the business of developing real estate development project for his/her or its own account and offering them for sale or lease.

X X X

(ssss) **“Strategic Trade Management Act”** (STMA) refers to Republic Act No. 10697.

(tttt) **“Strategic Trade Management Office”** (STMO) refers to the bureau under the administrative supervision of the Department of Trade and Industry (DTI) which serves as the executive and technical agency of the national government for the establishment of the management systems for the trade in strategic goods.

X X X

(vvvvv) **“Weapons of Mass Destruction”** (WMD) refers to chemical, biological, radiological, or nuclear weapons which are capable of high order of destruction or causing mass casualties. It excludes the means of transporting or propelling the weapon where such means is a separable and divisible part from the weapon.

X X X

(lllll) **“Targeted Financial Sanctions”** (TFS) refer to both asset freezing and prohibition to prevent funds or other assets from being made available, directly or indirectly, for the benefit of any individual, natural or legal persons or entity designated pursuant to UNSC resolutions and its designation process.

X X X

(sssss) **“United Nations Security Council”** (UNSC) refers to the principal organ of the United Nations that has primary responsibility for the maintenance of international peace and security.

X X X”

Section 3. Section 1 of Rule 3 of the 2018 IRR is hereby amended to read as follows:

“RULE 3 – UNLAWFUL ACTIVITIES

Section 1. Unlawful Activities.

Unlawful activities refer to any act or omission, or series or combination thereof, involving or having direct relation, to the following:

(a) X X X

(hh) Violation of Section 19 (A)(3) of Republic Act No. 10697, otherwise known as **“The Strategic Trade Management Act”**, in relation to Proliferation of WMD and PF pursuant to UNSC Resolution Nos. 1718 of 2006 and 2231 of 2015;

(ii) Violations 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;

(jj) Felonies and Offenses of a similar nature that are punishable under the penal laws of other countries.

x x x"

Section 4. Section 1 (b) of Rule 4 of the 2018 IRR is hereby amended to read as follows:

"RULE 4 – COVERED PERSONS

Section 1. Covered Persons.

The following are the covered persons under the AMLA:

(a) The following financial institutions:

x x x

(b) The following DNFBPs:

(1) xxx

(6) Real Estate Brokers and Developers

(7) Offshore Gaming Operators, as well as their service providers, supervised, accredited or regulated by the Philippine Amusement and Gaming Corporation (PAGCOR) or any AGA, as herein defined."

Section 5. Section 1.3, Rule 5 of the IRR is hereby amended to read as follows:

"RULE 5 – ANTI-MONEY LAUNDERING COUNCIL

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1.3. Confidentiality and Security of Records and Premises.

1.3.1 The Council and the officers and staff of the AMLC shall securely protect information received or processed and shall not reveal, in any manner, any information known to them by reason of their office. This prohibition shall apply even after their separation from the AMLC.

1.3.2 The AMLC shall formulate rules governing information exchange and dissemination, the security and confidentiality of such information, including procedures for handling, storage, and protection of, as well as access to such information, office premises, records and information technology systems.”

Section 6. Section 1, Rule 6 of the 2018 IRR is hereby amended to read as follows:

“RULE 6 – POWERS AND FUNCTIONS OF THE AMLC

A. Central AML/CTF Authority.

x x x

B. Financial Intelligence Unit.

1.6. National Center for Receipt and Analysis of CTRs and STRs.

1.6.1. The AMLC shall require, receive and analyze CTRs and STRs from covered persons, in accordance with Rule 22 (Transaction Reporting) hereof.”

x x x

C. ML/TF Investigator.

1.9. Financial Investigator.

1.9.1. The AMLC shall investigate the following:

- (a) Suspicious transactions and covered transactions deemed suspicious after determination by the AMLC;
- (b) ML/TF activities;
- (c) Any property or funds that are in any way related to TF pursuant to the TFPSA;
- (d) Any property or funds that are in any way related to violations of Sections 4 (Terrorism), 5 (Threats to Commit Terrorism), 6 (Planning, Training, Preparing, and Facilitating the Commission of Terrorism), 7 (Conspiracy to Commit Terrorism), 8 (Proposal to Commit Terrorism), 9 (Inciting to Commit Terrorism), 10 (Recruitment to and Membership in a Terrorist Organization), 11 (Foreign Terrorist), or 12 (Providing Material Support to Terrorists) of the ATA;
- (e) Properties or funds of any person in relation to whom there is probable cause to believe that such person or persons are committing or attempting to commit or conspiring to commit, or participating in or facilitating TF and violations of Sections 4, 6, 7, 10, 11, or 12 of the ATA;

- (f) Other violations of the AMLA and TFPSA, their respective IRR, and other AMLC issuances.

x x x

1.9.4. In the exercise of its investigative functions, the AMLC may:

(a) xxx;

(e) apply for the issuance of a search and seizure order with any competent court; and

(f) apply for the issuance of subpoena ad testificandum and/or subpoena duces tecum with any competent court.

x x x

D. Government Representative in ML/TF Cases.

x x x

E. Implementor of Targeted Financial Sanctions.

1.13. *TFS Related to Proliferation of WMD and PF.*

The AMLC shall implement TFS in relation to proliferation of WMD and PF, including *ex parte* freeze, without delay, against all funds and other assets that are owned and controlled, directly or indirectly, including funds and assets derived or generated therefrom, by individuals or entities designated and listed under UNSC Resolution Nos. 1718 of 2006 and 2231 of 2015, and their successor resolutions, as well as any binding resolution of the UNSC.

F. Asset Management Unit.

1.14. *Asset Manager*

The AMLC shall preserve, manage or dispose assets subject of a freeze order, asset preservation order, and judgment of forfeiture. Pending the turnover to the National Government, all expenses incurred in relation to the duties herein mentioned shall be deducted from the amount to be turned over to the National Government.

For this purpose, the AMLC shall account for all expenses incurred that are related to the preservation of the value, management of funds, properties or monetary instruments and disposition of the same, and deduct these expenses from the gross value of the assets prior to turnover of the net value to the National Government in accordance with acceptable accounting standards.”

Section 7. Rule 10 of the 2018 IRR is hereby amended to read as follows:

“RULE 10 – FREEZE ORDER AND TARGETED FINANCIAL SANCTIONS

Section 5. TFS Related to PF.

5.1. Targeted Financial Sanctions.

The Council shall issue TFS to implement the relevant UNSC Resolution relating to the prevention, suppression and disruption of proliferation of WMD and PF.

5.2. Effect and Coverage of TFS.

5.2.1. Ex Parte Freeze without Delay.

The TFS shall require all persons and entities to freeze the following within a matter of hours from the time that the designation and the freeze order is published in the AMLC website:

(i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular act, plot or threat of proliferation of WMD and PF;

(ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;

(iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; and

(iv) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities.

5.2.2. Prohibition against Dealing.

The TFS shall prohibit any person or entity from making any funds or other assets available for the benefit of designated persons or entities, unless licensed, authorized or otherwise notified in accordance with the relevant UNSC Resolutions.

5.3. Effectivity of the TFS.

The TFS shall be effective until the basis for its issuance has been lifted.

5.4. Duties of Covered Persons and Other Individuals or Entities relating to TFS.

5.4.1 For covered persons and concerned government agencies:

(a) Immediately upon receipt or knowledge of the TFS issued by the AMLC, the relevant provisions of Rule 10, Section 4 (Duties of Covered Persons and Concerned Government Agencies) hereof shall be observed.

- (b) To report to the AMLC any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSC Resolutions, including attempted transactions.

5.4.2. For covered persons and other individuals or entities:

To permit the addition to the accounts frozen pursuant to UNSC Resolution Nos. 1718 (2006) or 2231 (2015) of interest or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of said resolutions. Provided, that any such interest, other earnings and payments continue to be subject to these provisions and are frozen.

5.5. *Authorizations to Make Payments Due Under Prior Contracts.*

5.5.1. Designated persons or entities may apply to the AMLC for an authorization to make payment due under a contract entered into prior to the listing of such person or entity.

5.5.2. The Council may grant an authorization to the designated persons or entities subject to the following conditions:

- (a) The STMO has determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in UNSC Resolution No. 2231 (2015) and any future successor resolutions;
- (b) The STMO has determined that the payment is not directly or indirectly received by a person or entity subject to the measures in paragraph 6 of Annex B (Statement) to UNSC Resolution No. 2231 (2015); and
- (c) The AMLC has submitted prior notification to the UNSC of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, ten (10) working days prior to such authorization.

5.6. *Remedy of the Aggrieved Party.*

During the effectivity of the TFS, the aggrieved party may, within twenty (20) days from issuance, file, before the Court of Appeals, a petition to determine the basis of the TFS, according to the Principle of Effective Judicial Protection; Provided, that the person whose property or funds have been frozen may withdraw such sums as the Council determines to be reasonably needed for monthly family needs and sustenance, including the services of counsel and the family medical needs of such person, and in compliance with the conditions set out in UNSC Resolution Nos. 1718 (2006) and 2231 (2015).

5.7. Lifting of the TFS Based on Mistaken Identity.

Any person whose property or funds have been subject of the TFS by reason of having a similar name as the subject of designation may apply for the lifting of the TFS with the AMLC by submitting relevant government-issued identification documents or other relevant documents that would show the true identity of the aggrieved party.

5.8. Civil Forfeiture of Assets related to PF.

The AMLC, if circumstances warrant, may initiate a civil forfeiture proceeding, in accordance with Rule 12 (Civil Forfeiture) hereof, to preserve the assets related to PF and to protect it from dissipation.

5.9. No Injunction against TFS.

No court shall issue a temporary restraining order or a writ of injunction against any TFS, except the Court of Appeals or the Supreme Court.

Section 6. Notice of Designation and De-listing Mechanism.

6.1. Request for Delisting.

6.1.1. The AMLC may motu proprio or upon request of a designated person file a petition for delisting with the appropriate UNSC committee.

6.1.2. The AMLC shall post the updated UNSC procedures for delisting and access to frozen funds setting forth the web links and addresses of the relevant UNSC Committee responsible for acting on delisting requests and access to frozen funds.

6.1.3. The petition for delisting may also be filed directly by the designated person pursuant to the rules established by the appropriate UNSC Committee.

6.2. Notice of Delisting.

Where persons, organizations, associations, or groups of persons are delisted by the UNSC or its appropriate sanctions committee, the AMLC shall post in its website a notice that the person, organization, association, or group of persons has been delisted.

6.3. Posting, Publication, Dissemination, and Notice of Designation

6.3.1. The AMLC shall publish and/or post a link to the specific list of designated persons or entities under UNSC Resolution Nos. 1718 (2006) and 2231 (2015) and their successor resolutions in the official website of the AMLC.

6.3.2. The AMLC shall adopt a mechanism for immediately communicating designations and provide clear guidance, to the

covered persons and other persons or entities that may be holding targeted funds or other assets, on their obligations in taking action under the TFS.

Section 7. Safe Harbor.

No administrative, criminal, or civil proceedings shall lie against any person or entity for acting in good faith when implementing the TFS as provided under pertinent UNSC Resolutions.

Section 8. TFS Guidelines.

The AMLC shall update or formulate the TFS guidelines to assist covered persons and other persons in implementing TFS related to proliferation of WMD and PF.”

Section 8. Section 1 of Rule 12 of the 2018 IRR is hereby amended to read as follows:

“Rule 12 - ASSET FORFEITURE

Section 1. General Rules on Asset Forfeiture.

The following rules shall be observed in asset forfeiture proceedings:

- (a) xxx
- (c) No court shall issue a temporary restraining order or a writ of injunction against any provisional asset preservation order or asset preservation order, except the Court of Appeals or the Supreme Court.”

Section 9. Section 6.5 of Rule 19 of the 2018 IRR is hereby amended to read as follows:

“Rule 19 - PREVENTIVE MEASURES FOR SPECIFIC TRANSACTIONS AND ACTIVITIES

Section 6. Wire Transfers.

6.1 x x x

6.5 Implementation of Targeted Financial Sanctions.

Covered persons shall comply with the obligations set out in the relevant United Nations Security Council Resolutions relating to the prevention and suppression of terrorism and TF, including the freezing and unfreezing actions as well as prohibitions from conducting transactions with designated persons and entities.”

Section 10. Section 5 of Rule 25 of the 2018 IRR is hereby amended to read as follows:

“Rule 25 - CRIMINAL SANCTIONS

Section 5. Penalties for Breach of Information Security and Confidentiality.

5.1. The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than five hundred thousand pesos (PHP500,000.00) but not more than one million pesos (PHP1,000,000.00), shall be imposed on a person convicted for a violation under Section 9(c) or Section 8-A on Information Security and Confidentiality of the AMLA. In case of a breach of confidentiality that is published or reported by the media, the responsible reporter, writer, president, publisher, manager and editor-in-chief shall be liable under the AMLA.

5.2. If the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer the penalty of perpetual or temporary absolute disqualification from public office, as the case may be.”

Section 11. Section 1.1 of Rule 31 of the 2018 IRR is hereby amended to read as follows:

“Rule 31 - OTHER FORMS OF INTERNATIONAL COOPERATION

Section 1. Assistance to International Organizations.

1.1. The AMLC shall cooperate and act in respect of conventions, resolutions and other directives, including the implementation of targeted financial sanctions, of the United Nations, United Nations Security Council, and other international organizations of which the Philippines is a member, that has relation to the following:

- (a) ML/TF and associated unlawful activities, and
- (b) Financing of proliferation of weapons of mass destruction.”

Section 12. Rule 33 of the 2018 IRR is hereby amended to read as follows:

“RULE 33 – NON-INTERVENTION IN THE OPERATIONS OF THE BUREAU OF INTERNAL REVENUE

Section 1. Non-intervention with BIR Operations.

The AMLC shall not intervene or participate in the operations of the Bureau of Internal Revenue.

Section 2. Coordination with BIR.

The AMLC may coordinate with the BIR on investigations in relation to Violations of Section 254 of the NIRC, as amended, as a predicate offense to money laundering.”

Section 13. Effectivity. – This Regulatory Issuance shall take effect immediately after the completion of its publication in a newspaper of general circulation.

Except as provided herein, all the other provisions of the 2018 IRR shall remain in full force and effect.

FOR THE AMLC:



MEL GEORGIE B. RACELA

Executive Director

AMLC Secretariat

30 January 2021