

ANTI-MONEY LAUNDERING ACT (AMLA)

Clean TTS Copy - source wording and sequence preserved; visual layout linearized for listening.

REGULATORY FRAMEWORK FOR Stages of Money Laundering

BUSINESS TRANSACTIONS (RFBT) 1. Placement o Launderer inserts dirty money into a legitimate CPALE Concept Notes financial institution

ANTI-MONEY LAUNDERING ACT (AMLA) 2. Layering o Sending the money through various financial transactions Source: REO Live (Atty. Kris), ReSA Lecture (Atty. Nicko), and CPAR Lecture (Atty. Kid) to change its form and more difficult to follow Topics Covered:

8. Law on Other Business Transactions

3. Integration

8.4. AMLA Law o Money re-enters mainstream economy in legitimate-

8.4.1. Purpose, Policies, and Principles looking form

8.4.2. Definition of Terms

8.4.3. Unlawful Activities

8.4.4. Covered Persons Punishable Acts under AMLA

8.4.5. Money Laundering, Terrorism and Financing, and 1. ACTUAL OR PROPER MONEY LAUNDERING

Asset Forfeiture

8.4.6. Preventive Measures and Obligations of Covered Persons Requisites:

8.4.7. Beneficial Ownership

8.4.8. Record-keeping Requirements A. Involves Any Monetary instrument or Property

8.4.9. Safe Harbor

B. Relates to Proceeds of Any Unlawful Activity (Predicate Crimes)

Anti-Money Laundering Council (AMLC) o Kidnapping for ransom Members of the AMLC o Violation of: All members must act unanimously to carry out its functions Anti-Carnapping Act Chairman: BSP Governor Comprehensive Dangerous Drugs Act Members: Anti-Graft and Corrupt Practices Act o SEC Chairperson o Bribery o IC Commissioner o Fraud and Illegal Exactions and Transactions Key Functions of the AMLC o Malversation of Public Funds and Property

1. Investigate covered and suspicious transactions o Forgeries and Counterfeiting

2. To avail of the following Legal Remedies o Plunder

o Robbery and Extortion (must be with violence or intimidation) a. File a Criminal Case o Qualified Theft (not ordinary theft) o To the Regional Trial Court (RTC) o Jueteng and Masiao

Exception:

o Swindling (or Estafa) To the Sandiganbayan if a Public Official with SG 27 and above o Smuggling o Violation of Anti-Fencing Law b. Civil Forfeiture o Piracy on the High Seas o To the Regional Trial Court (RTC) o Hijacking o Turned over to the national government, net of related expenses o Destructive Arson and Murder o Terrorism and Conspiracy to Commit Terrorism c. Bank Examination Order o Financing of Terrorism o To the Court of Appeals (CA) o Violation of: Must establish probable cause Illegal or Unlawful Possession, Manufacture, o CA must act on the petition within 24 hours Acquisition of Firearms, Ammunition, or Explosives

o Once approved, effective for 120 days, extendible Anti-Trafficking in Persons Act for the same period for good cause Migrant Workers and Overseas Filipinos Act o Not necessary if unlawful activity relates to: Revised Forestry Code Kidnapping for Ransom Philippine Fisheries Code Comprehensive Dangerous Drugs Act Terrorism and Conspiracy to Commit Terrorism Philippine Mining Act Hijacking, Destructive Arson, Murder Wildlife Resources Conservation and Protection Act National Caves and Cave Resources d. Bank Freeze Order Management Protection Act o To the Court of Appeals (CA) upon ex parte application

o Applies to bank accounts and financial instruments Anti-Photo and Video Voyeurism Act Anti-Child Pornography Act Must also establish probable cause Special Protection of Children Against Abuse, o CA must act on the petition within 24

hours Exploitation, and Discrimination o A Preliminary Freeze Order is effective immediately for 20 days, which is then lifted (ipso facto lifted) E-Commerce Act if not extended for a maximum of 6 months Intellectual Property Code e. Asset Preservation Order Securities Regulation Code (SRC) o To the Regional Trial Court (RTC) Strategic Trade Management Act (Any activity in violation of NSC-STMCom Orders or Regulations)

o Effective until judgment o Applies even to other assets than money Tax Evasion where Basic Tax is in excess of 25 million per taxable year Money Laundering (malicious intent or willful misrepresentation)

Money Laundering - a crime committed by any person knowing that any o Felonies or offenses of similar nature punishable monetary instrument or property represents, involves, or relates to the under penal laws of other countries proceeds of any unlawful activity and performed consummating acts

C. Having Knowledge Thereof, and Covered Transactions

D. Performed Consummating Acts Covered entities must report to the AMLC within 5 working days

from occurrence, extendable up to 15 working days o Transacts or Converts or Conceals (TCC) the monetary instrument or property Required Amount (Threshold) to be a Covered Transaction o Attempts or Conspires to Commit TCC o Aids or Abets or Assists to TCC General Rule In excess of 500,000 o Performs or Fails to Perform but Facilitates the TCC As to Jewelry Dealers In excess of 1,000,000 As to Casinos In excess of 5,000,000

2. Failure To Report Covered And Suspicious

As to Real Estate In excess of 7,500,000 TRANSACTIONS TO THE AMLC BY COVERED ENTITIES Developers or Brokers Covered Entities: BSP-supervised and/or regulated Banks Suspicious Transactions (Includes Quasi-banks, Trust entities, OBUs, Pawnshops, Money Covered entities must report to the AMLC within the next Changers, Non-stock Savings and Loan Associations, etc.) working day from occurrence - the date of determination that a transaction is suspicious, which should not exceed 10 calendar SEC-regulated entities dealing with currency, commodities, days from date of transaction (previously 5 working days)

financial derivatives and other similar monetary instruments Example: IC-regulated Insurance Companies (Includes Insurance Agents, Brokers, Professional Reinsurers, Mutual A client deposited 100,000 in one day, which is not Benefit Associations, and Holding Companies and Company System) commensurate to his capacity as a balut vendor. The bank is given a maximum of 10 calendar days from such deposit to Securities dealers, brokers, salesmen determine if a transaction is suspicious, and from thereon is (Includes those managing securities or rendering similar services) given the next working day to report such transaction.

Mutual Funds or Open-end Investment Companies or Issuers Foreign Exchange Corporation Regardless of amount, it includes the following: (Includes Money Changer, Money Payment or Electronic Money o Not properly identified client Issuers, and Remittance and Transfer Companies) o Amount is not commensurate with client's business Casinos or financial capacity Real Estate Developers and Brokers o No underlying legal or trade obligation, purpose, Offshore Gaming Operators and their Service Providers or economic justification Company service providers to third parties, o Deviates from client's profile and/or past

including CPAs and Lawyers transactions with the entity o Acting as formation agent of juridical persons o Transactions perceived to be done to avoid being o Acting as director or corporate secretary of a subject to reporting requirements company, or a partner of a partnership o Acting as a nominee shareholder for another person o Transactions related to any unlawful activity o Providing a registered office, business or administrative o Any similar or analogous transaction address for any legal person or arrangement Persons providing the following services, Principle of Safe Harbor including CPAs and Lawyers

No administrative, criminal, or civil proceedings for a o Managing client's money, securities, or other assets transaction report by any person in the regular performance o Management of bank, savings, or securities accounts of his duties and in good faith o Organization of contribution for the creation, operation, or management of companies o Creation, operation, or management of juridical persons or arrangements

Exception for CPAs and Lawyers:

If acting as independent legal professionals, CPAs and Lawyers are not covered with respect to the privileged information covered by the confidentiality and attorney-client relationship

Obligations of Covered Entities

A. Customer Identification

B. Record Keeping

Maintained and safely stored for 5 years from the date of transaction, or the date the account is closed

C. Transaction Reporting

If transaction falls into both covered and suspicious, the transaction is reported as a suspicious transaction