

RFBT 13 - BANKING LAWS

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Banking Laws

Secrecy Of Bank Deposits (Ra 1405, As Amended)

PURPOSE OF THE LAW: It hopes to discourage private hoarding and at the same time encourage the people to deposit their money in banking institutions, so that it may be utilized by way of authorized loans and thereby assist in economic development. PROHIBITED ACTS: It shall be unlawful: It boil down to confidentiality of deposits.

1. Bank (any official or employee or independent auditor of a bank) - to disclose to any person other than a bank director, official or employee authorized by the bank, any information concerning deposits.
2. Any person, including the government - to inquire, examine or look into bank deposits or bonds issued by the government.

Deposits Covered

1. All deposits of whatever nature with banks or banking institutions in the Philippines, including Trust Accounts.
2. Investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities.

EXCEPTIONS; Peso Deposits: (WIOBMU CARO TEA)

1. When there is a written permission of the depositor or investor.

Waiver. DOSRI accounts: Directors, officers, stockholders and related interests who contract a loan or any form of financial accommodation with their bank or related bank are required to execute a written waiver of secrecy of deposits pursuant to the New Central Bank Act. Taxpayer's application for compromise: A taxpayer who is applying for a compromise on the ground of clear inability to pay or financial incapacity, is likewise required to execute a waiver prior to the processing of his request.

2. Impeachment cases

Sui generis proceeding.

3. Upon the order of a competent court in cases:

Order - subpoena: (1) Duces Tecum - Documents (2) Ad Testificandum - To testify

- a. of bribery or dereliction of duty of public officials (including plunder)

Dereliction of duty - hindi ginawa ang trabaho mo related to the prosecution of offenses. Prosecutor hindi finile ang kaso sa court and police na hindi nag-file ng complaint. Bribery - crime applicable to the public official. Corruption of public officers - ikaw na nagbigay ng bribe. Kahit anong gawin mo pero ang amount na involved ay at least 50M, nagiging plunder na.

- b. Where the money deposited or invested is the subject of litigation.

- c. Involving unexplained wealth under RA 3019, or the Anti-Graft and Corrupt Practices Act.

4. Upon inquiry by the Commissioner of BIR for the purpose of determining the net estate of a deceased depositor.

5. Upon the order of a competent court or in proper cases by the AMLC where there is probable cause of money laundering and in some instances even without court order. As a general rule, kailangan ng court order pero may mga instances na hindi na kailangan

i.e., kapag kidnapping for ransom or drug-related cases, hijacking/ arson/ murder or terrorism

cases. Si AMLC ang pwede mag-inquire into the deposits hindi pwede ang PNP o NBI. It's only the AMLC ang allowed kapag ang probable cause ay related sa money laundering.

6. Reports:

a. Disclosure to the Treasurer of the Philippines for unclaimed balances under the

Unclaimed Balances Act (RA 3936) Kapag nagkakaroon na ng dormant account e.g., 10 years na walang deposit at 10 years na walang withdrawal.

b. Report of banks to AMLC of covered and/or suspicious transactions.

7. The Ombudsman has the power to issue subpoena and subpoena duces tecum, take

testimony in any investigation or inquiry, as well as examine and access bank accounts and records. The power of the Ombudsman to subpoena deposit information of a government official may be exercised when the following conditions concur: (1) there must be a case pending before a court of competent jurisdiction; (2) the account must be clearly identified; (3) the inspection must be limited to the subject matter of the pending case; and (4) the bank personnel and the account holder must be notified to be present during the inspection. Ombudsman - "Tanod-Bayan" - special prosecutor when it comes to crimes committed by the public officials. Ang normal na tao ay nag commit ng krimen, ifa-file sa fiscal o prosecutor

at siya na rin ang magiging abogado ng gobyerno para sa kaso na yan. Pero pag public official ang gumawa ng krimen, sa Sandigang Bayan finafle - specialized court for corruption itself; for public officials. Yung Ombudsman ang nagiging prosecutor.

8. Upon order of the CA, examination by law enforcement officers in terrorism cases under the

Human Security Act of 2007 (RA 9372) Court of Appeals lang pwedeng mag issue ng subpoena. Any law enforcement agency will be allowed to examine na i.e., PNP and NBI.

9. Examination is made:

a. In the course of a special or general examination of bank and is specifically authorized

by the Monetary Board (BSP) after being satisfied that there is reasonable ground to believe that a bank fraud or serious irregularity has been or is being committed and that is necessary to look into the deposit to establish such fraud or irregularity. Audit ng BSP.

b. By the Philippine Deposit Insurance Commission (PDIC) who may inquire into

bank deposits when there is a finding of unsafe or unsound banking practices. PDIC - ang concern nila ay kung nagkakaroon ng unsafe or unsound banking practices that can lead to the bank being insolvent.

c. By the Commission on Audit (COA) who is authorized to examine and audit

government deposits pertaining to the revenue and receipts of, and expenditures or uses of funds and properties, owned or held in trust by, or pertaining to, the Government or any of its subdivisions, agencies or instrumentalities, including government-owned and controlled corporations with original charters.

d. By the Presidential Commission on Good Government (PCGG) who, in the

conduct of its investigations to recover ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, may issue subpoenas requiring the attendance and testimony of witnesses and/or the production of books, papers, contracts, records, statement of accounts and other documents.

10. Examination is made by an independent auditor hired by the bank to conduct its regular

audit provided that the examination is for audit purposes only and the results thereof shall be for the exclusive use of the bank Pag ang client ay bank. One of the substantive procedures na ginagawa ng auditors in audit of financial statements is to confirm the completeness and the accuracy of the deposit liability account.

EXCEPTIONS for Foreign Currency Deposits (FOREIGN CURRENCY DEPOSIT ACT): foreign

currency deposits in banks are likewise absolutely confidential and cannot be disclosed, except:

1. When there is written consent of depositor under Section 8 of the Foreign Currency Deposits Act (RA 6426)

2. Under Section 11 of the Anti-Money Laundering Act (probable cause established that it is related to an unlawful activity as defined or money laundering)

3. Under Section 27 and 28 of the Human Security Act (existence of probable cause in anti-terrorism cases and those involving persons charged with or suspected of the crime of

terrorism or conspiracy to commit terrorism, judicially declared and outlawed terrorist organization, association, or group of persons, or member of such organization, association, or group of persons)

4. Examination by the BSP, PDIC, PCGG, COA and Independent Auditor.

GARNISHMENT: Bank accounts may be garnished by the creditors of the depositor. In garnishment, there is no violation of the bank secrecy law since the amount of the deposit is not actually disclosed. Pinagbabawalan lang ang banko na i-allow ang depositor na i-withdraw. Kaya parang naka-freeze rin sa bank. Hindi violation ng bank secrecy kasi wala namang disclosure ng kahit anong information ng deposit, not even the amount is disclosed. Talagang pinagbabawalan ang bank to allow the withdrawal. Deposits exempt from garnishment:

1. Foreign currency deposits, Section 8 of RA 6426 (except for transient foreigners)

2. Those exempt under Rules of Court

Penalties for violation
Peso Deposits Imprisonment Not to exceed 5 years
Foreign Currency Deposits 1 to 5 years
Fine Not to exceed Pesos 20,000
Pesos 5,000 to Pesos 25,000
Walang minimum sa fine, bahala na ang court kung magkano ang ii-impose.

Pdic Act (Ra 3591, As Amended)

Created the PDIC. Functions: to act as

1. Deposit Insurer - the PDIC shall promote and safeguard the interests of the depositing public

by way of providing permanent and continuing insurance coverage on all insured deposits. Ang nagbabayad ng premiums dito ay ang bank. Nagiging part ng cost ng bank kapag nag compute ng gross income. Pero ang insured dito ay yung mga depositors. Yung closure ng bank ang nagiging trigger event para makarecover.

2. Co-regulator of banks - as a bank regulator, the PDIC is empowered to examine and investigate banks.

3. Receiver and liquidator of closed banks - the PDIC as receiver shall control, manage and administer the affairs of the bank. Sa FRIA, you can recommend kung sino ang pwedeng maging receiver o liquidator, pero pag bank ang entity, automatic si PDIC yun (always).
INSURED DEPOSITS: Amount due to any bona fide depositor for legitimate deposits in an insured bank net of any obligation of the depositor to the insured bank as of the date of closure, but not to exceed Pesos 500,000. Starting March 15, 2025 - Pesos 1,000,000
Coverage: The deposit liabilities of any bank or banking institution, which is engaged in the business of receiving deposits as herein defined on the effective date of the PDIC Act, or which thereafter may engage in the business of receiving deposits, shall be insured with the PDIC.

Deposit accounts not entitled to payment: (SHA OU2

1)

1. Deposit products that resulted from splitting of deposit.

Splitting of Deposit - occurs whenever:

a. A deposit account with an outstanding balance more than Pesos 500,000 is broken down

and transferred to two or more accounts in the name of persons or entities who have no beneficial ownership in the transferred deposits in their names

b. within 120 days immediately preceding or during a bank-declared bank holiday or immediately preceding a closure order issued by the Monetary Board

c. for the purpose of availing the maximum deposit insurance coverage.

This is considered a criminal act punishable by imprisonment of not less than 6 years but not more than 12 years or a fine not less than Pesos 50,000 but not more than Pesos 10,000,000, or both, at the discretion of the court.

2. Deposit products or money placements by the head office of a foreign bank in its branch

in the Philippines because there is only one entity. Yung branch ang nagsara. Pero hindi binibigyan si head office ng insurance coverage dahil they are one and the same entity. Magkaiba ang setup kapag parent and subsidiary. If subsidiary

niya yung bank at may deposit siya, meyon pa ring deposit insurance.

3. Deposits that are determined to be the proceeds of an unlawful activity as defined under RA 9160 or the Anti-Money Laundering Act, as amended.

4. Deposits payable in a place outside the Philippines (like those in foreign branches).

5. Deposit accounts or transactions which are unfunded and that are fictitious or fraudulent.

6. Deposit accounts or transactions constituting and/or emanating from, unsafe and unsound

banking practice/s, as determined by PDIC, in consultation with BSP, after due notice and hearing, and publication of a cease and desist order issued by PDIC against such deposit accounts or transactions.

7. Investment products such as bonds and securities, trust accounts and other similar instruments.

Determination Of The Amount Due

Per Bank: the entitlement to deposit insurance is on a per bank basis. Such that if times has a deposit with A Bank and B Bank and both banks closed, times is entitled to Pesos 500,000 insurance coverage for each bank. Limit ■ 1M.

Per Depositor, Per Capacity Rule: all deposits in the bank maintained in the same right and capacity for his benefit either in his own name or in the name of others shall be added together in determining the insured amount, and regardless of the type of account. In the capacity of an owner ang hinahanap in determining who will be entitled to the deposit insurance. Accounts "By", "In Trust For (ITF)" or "For the Account of (FAO)" another person:

1. In a "By" account (Juan by Pedro) - Juan is the depositor.

2. In an "ITF" account (Juan ITF Pedro) - Pedro is the depositor.

3. In a "FAO" account (Juan FAO Pedro) - Pedro is the depositor.

Joint accounts: A joint account regardless of whether the conjunction "and", "or", "and/or" is used shall be insured separately from any individually-owned deposit account, provided that: Insured separately: Individual Acct - 1M; Joint Acct - 1M, separately It can be 2M max ang insurance. Each joint account may max lang din na 1M ang insurance.

1. If the account is held jointly by two or more natural persons, or by two or more juridical

persons or entities, the maximum insured deposit shall be divided into as many equal shares as there are individuals, juridical persons or entities, unless a different sharing is stipulated in the document of deposit, and

2. If the account is held by a juridical person or entity jointly with one or more natural

persons, the maximum insured deposit shall be presumed to belong entirely to such juridical person or entity.

2 Or More Natural Persons Equal 2 Or More Juridical Persons

Natural Person And Juridical Person Juridical Person Only

Example: A A

Share Insured Uninsured

A Savings 1.2M 1.2M 1M 200K A "or" B Time deposit 1.4M 700K 500K 200K A and C Corp. Checking 1M - - A &/or D Savings 1M 500K 500K - 2M A and E Savings 1M 500K - 500K

*A and C Corp - b/w NP and JP, JP only.

*Regardless of "or/and" and type of joint account and type of deposit account pareho lang ang mga rules.

*Maximum 2M ang pwedeng marecover dahil may 1M from individual account and from all joint accounts.

*Kaya if A and E, wala ng insured dahil na maximize na yung 1M.

*Kung hiwalay ang bank, hiwalay ang insurance ron kasi per bank ang application.

Provided, further, that the aggregate of the interest of each co-owner over several joint accounts, whether owned by the same or different combinations of individuals, juridical persons or entities, shall likewise be subject to the maximum insured deposit of Pesos 500,000.

Procedure For The Pdic

PDIC shall commence the determination of insured deposits due the depositors of a closed bank upon its actual takeover of the closed bank. PDIC shall give notice to the depositors of the closed bank of the insured deposits due them by whatever means deemed appropriate by the Board of Directors. PDIC shall publish the notice once a week for at least 3 consecutive weeks in a newspaper of general circulation or, when appropriate, in a newspaper circulated in the community or communities where the closed bank or its branches are located. Period for the depositor to file and enforce claim:

1. Period to file claim - 2 years from actual takeover of the closed bank;
2. Period to enforce claim - 2 years after the 2-year period to file a claim

Proof of claim: The PDIC, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the PDIC is not satisfied as to the validity of a claim, it may require final determination of a court of competent jurisdiction before paying such claim. Effects of non-filing or non-enforcement of claim within the periods above:

1. All rights of the depositor against the PDIC with respect to the insured deposit shall be barred, Wala nang karapatan against the PDIC.

2. All rights of the depositor against the closed bank and its shareholders or the receivership

estate to which have become subrogated, shall thereupon revert to the depositor. Recovery will be via the liquidation of the bank. Uninsured amount - claim against the closed bank. The recovery is not really the total amount anymore.

3. PDIC shall be discharged from any liability on the insured deposit.

Modes of payment: made as soon as possible either:

1. By cash.

2. By making available to each depositor a transferred deposit in another insured bank in an

amount equal to insured deposit of such depositor. Effect of payment: PDIC shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. Such subrogation shall include the right on the part of PDIC to receive the same dividends and payments from the proceeds of the assets of such closed bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposits, but such depositor shall retain his claim for any uninsured portion of his deposit. Under Section 21 of the PDIC Charter, payment of an insured deposit to any person by PDIC shall discharge the PDIC, and payment of transferred deposit to any person by the new bank or by an

insured bank in which a transferred deposit has been made available shall discharge PDIC and such new bank or other insured bank, to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit. Preference: All payments by PDIC of insured deposits in closed banks partake of the nature of public funds, and as such, must be considered a preferred credit similar to taxes due to the National Government in the order of preference under Article 2244(9) of NCC, provided further, that this preference shall be likewise effective upon liquidation proceedings already commenced and pending as of the approval of PDIC Act, where no distribution of assets has been made.

Period for the PDIC to settle claim: 6 months from the date of filing of the claim. Failure to settle the claim within 6 months from the date of filing of claim for insured deposit, where such failure was due to grave abuse of discretion, gross negligence, bad faith or malice, shall upon conviction, subject the directors, officers or employees of PDIC responsible for the delay, to imprisonment from 6 months to one year. Except: that the period shall not apply if the validity of the claim requires the resolution of issues of facts and/or law by another office, body or agency.

Truth In Lending Act

(RA No. 3765, AN ACT TO REQUIRE THE DISCLOSURE OF FINANCE CHARGES IN

Connection With Extensions Of Credit)

DECLARATION OF POLICY: It is hereby declared to be the policy of the State to protect its citizens from a lack of awareness of the true cost of credit to the user by assuring a full disclosure of such cost with a view of preventing the

uninformed use of credit to the detriment of the national economy. Under BSP Circular No. 755 Series of 2012, it is provided that the objective of transparent pricing is not to set limits on rates, but rather to make such rates more understandable, comparable and known to the client. Transparent pricing will facilitate healthy competition among credit providers as clients are better able to compare products and services.

Ang gusto rito ay aware ang mga nangungutang with regard to the true cost of credit. Ang idea rito meyrong mga required information to be disclosed to the borrowers bago pa ma-consummate o ma-enter yung contract of loan para makapag-decide sila with regard whether they will be accepting this particular loan or sa kabilang bank. This is to facilitate competition not really to set the allowable rates with regard to loan transaction. The parties are still free to stipulate kung anong interest rate ang gusto nila. The BSP just wants them to be registered - yung mga nagpapautang/ lenders. Para nagkakaroon point of comparison yung mga prospective borrowers.

REQUIRED INFORMATION: Any creditor shall furnish to each person to whom credit is extended, prior to the consummation of the transaction, a clear statement in writing setting forth, to the extent applicable and in accordance with rules and regulations prescribed by the Board, the following information: Disclosure statement bago pautangin.

1. the cash price or delivered price of the property or service to be acquired;
2. the amounts, if any, to be credited as down payment and/or trade-in;
3. the difference between the amounts set forth under clauses (1) and (2);
4. the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;
5. the total amount to be financed;
6. the finance charge expressed in terms of pesos and centavos; and
7. the percentage that the finance charge bears to the total amount to be financed expressed

as a simple annual rate on the outstanding unpaid balance of the obligation. Sa rules ng BSP pwedeng Effective Interest Rate. Under Section 5 of BSP Circular No. 755, Series of 2012, the following are the required information to be disclosed:

- a. the total amount to be financed;
- b. the finance charge expressed in terms of pesos and centavos
- c. the net proceeds of the loan; and
- d. the percentage that the finance charge bears to the total amount to be financed expressed

as a simple annual rate or an effective annual interest rate (EIR). EIR may also be quoted as a monthly rate in parallel with the quotation of the contractual rate. All registered CGEs shall furnish each borrower with a copy of the disclosure statement, prior to the consummation of the transaction. The goal is for them to be comparable. The disclosure statement shall be a required attachment to the loan contract and the customer has a right to demand a copy of such disclosure.

Loan Documents and Marketing Materials: All loan-related documents shall show repayment schedules in a manner consistent with BSP Circular No. 755, Series of 2012. Marketing materials

and presentations shall likewise be consistent with the said circular. **Posters:** In BSP Circular 730, Series of 2011, it provides that Banks shall post in conspicuous places in their principal place of business and branches, the information contained in the revised format of disclosure statement. The posters shall include an explicit notification that the disclosure statement is a required attachment to the loan contract and the customer has a right to demand a copy of such disclosure. (Section 4)

Penalties

Civil in character. Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this Act or any regulation issued thereunder shall be liable to such person whichever is greater between:

- i. in the amount of Pesos 100 or
- ii. in an amount equal to twice the finance charged required by such creditor in connection with such transaction, upto a maximum of Pesos 2,000 on any credit transaction). No effect to the validity of transaction. Prescriptive period: Action to recover such penalty may be brought by such person within one year from the date of the occurrence of the violation, in any court of competent jurisdiction. **Costs:** In any action under this subsection in which any person is entitled to a recovery, the creditor shall be liable for reasonable attorney's fees and court costs as determined by the court.

Except as specified in subsection (a) above, nothing contained in this Act or any regulation contained in this Act or any regulation thereunder shall affect the validity or enforceability of any contract or transactions.

b. Any person who willfully violates any provision of this Act or any regulation issued thereunder

shall be subject to a

i. Fine of not less than Pesos 1,000 or more than Pesos 5,000 or

ii. Imprisonment for not less than 6 months, nor more than one year or both. No punishment or penalty provided by this Act shall apply to the Philippine Government or any agency or any political subdivision thereof. A final judgment hereafter rendered in any criminal proceeding under this Act to the effect that a defendant has willfully violated this Act shall be prima facie evidence against such defendant in an action or proceeding brought by any other party against such defendant under this Act as to all matters respecting which said judgment would be an estoppel as between the parties thereto.

ANTI-MONEY LAUNDERING ACT (RA 9160, AS AMENDED BY RA 9194, 10365 and 11521)

Two schools of thought (Money Laundering) - Ang process dito ay ang pera madumi dahil galling sa masamang activity pero ginagamit siya mainstream economy as if clean money siya. Kaya yung money laundering will be the process the parang nililinis yung pera. At dahil sa mga cartels sa South America. Pinagmumukha na yung pera na galing sa droga ay galing sa laundry business. International Watchdog - Financial Action Task Force (FATF). MONEY LAUNDERING: a crime committed by any person knowing that any monetary instrument or property represents, involves or relates to, the proceeds of any unlawful activity:

1. Transacts or attempts to transact 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 above;

5. Aids, abets, assists in or counsels the commission of the money laundering offenses referred to above (1 to 3)

6. Performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to above (1 to 3);

7. Those committed by failure to report to the Anti-Money Laundering Council (AMLC) by

any covered person knowing that a covered or suspicious transaction is required under the Anti-Money Laundering Law to be reported thereto.

Stages Of Money Laundering:

1. Placement - The launderer inserts dirty money into a legitimate financial institution.

Nilalagay yung pera sa mga financial institutions.

2. Layering - Involves sending money through various financial transactions to change its form and make it more difficult to follow. Maraming transactions na pinagdadaanan that converts the form of the money laundered.

3. Integration - At this stage the money re-enters mainstream economy in legitimate-looking form, appearing to have come from legitimate transaction. Ginagamit na yung pera sa mainstream economy. UNLAWFUL ACTIVITIES: Any act or omission or series or combination thereof involving or having relation to the following:

1. Kidnapping for ransom under Article 267 of RPC.

If kidnapping per se, not unlawful. Dapat may hininging pera for it to be unlawful.

2. Sections 4, 5, 7, 8, 9, 10, 12, 13, 14, 15 and 16 of Comprehensive Dangerous Drugs Act (RA 9165) Hindi kailangan na kumita. Possession in itself is an unlawful activity.

a. Importation of prohibited drugs

- b. Sale of prohibited drugs
- c. Administration of prohibited drugs
- d. Distribution of prohibited drugs
- e. Transportation of prohibited drugs
- f. Maintenance of a den, dive, or resort for prohibited users
- g. Manufacture of prohibited drugs
- h. Possession of prohibited drugs
- i. Use of prohibited drugs
- j. Cultivation of plants which are sources of prohibited drugs
- k. Culture of plants which are sources of prohibited drugs

3. Section 3, paragraphs B, C E, G, H and I of RA 3019, or the Anti-Graft and Corrupt Practices Act.

- a. Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit for himself or for any other person in connection with contract or transaction between the Government and any party, wherein the public officer in his official capacity has to intervene under the law
- b. Directly or indirectly requesting or receiving any gift, present, or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license, in consideration for the help given or to be given
- c. Causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage, or preference in the discharge of his official, administrative, or judicial functions through manifest partiality, evident bad faith, or gross inexcusable negligence
- d. Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby
- e. Directly or indirectly having financial or pecuniary interest in any business contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest
- f. Directly or indirectly becoming interested, for personal gain, or having material interest in any transaction or act requiring the approval of a board, panel, or group of which he is a member, and which exercise of discretion in such approval, even if he votes against the same or he does not participate in the action of the board, committee, panel, group

4. Plunder under RA 7080.

Plunder - committed by a public official where the amount involved is at least 50M.

5. Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of RPC

- a. Robbery with violence or intimidation of persons
- b. Robbery with physical injuries, committed in an uninhabited place and by a band, or with use of firearms on a street, road, or alley
- c. Robbery in an uninhabited house or public building or edifice devoted to worship

Robbery - Taking of property and intent to gain with intimidation and violence. (Unlawful) Theft - No intimidation and violence. (Not unlawful) Qualified Theft - mail, with abuse of confidence, automobile, coconut/ fish. (Unlawful) Violation of Anti-Fencing Law - when you profit from the crimes of either robbery or theft. Note: Theft, or the taking of personal property with intent to gain but without violence or intimidation of persons or force upon things, is not an unlawful activity under the AMLA. Unless what was stolen are coconuts in a coconut farm, fish in a fish pond, mail matter, vehicle or cattle, or the

crime was committed with abuse of confidence - in which cases, it

will be Qualified Theft, which is covered as an unlawful act; or if the thing stolen was sold, in which case a violation of the AntiFencing Law is committed, which is likewise covered as an unlawful activity.

6. Jueteng and masiao under PD 1602

7. Piracy on the high seas under RPC and PD 532

a. Piracy on the high seas

b. Piracy in inland Philippine waters

c. Aiding and abetting pirates and brigands

8. Qualified theft under Article 310 of RPC

9. Swindling (or Estafa) under Article 315 of RPC

Estafa is governed by Art. 315 of the RPC and it will be any case na may panloloko (deceit) that involves economic damage involved. For AMLA purposes, any kind of Estafa.

10. Smuggling under RA 455 and RA 1937

Bringing the goods into the PH without the proper authority and nonpayment of applicable duties and taxes.

11. Violations of Electronic Commerce Act (RA 8792)

Bangladesh Heist.

12. Hijacking and other violations under RA 6235

Hijacking is taking over any vehicles.

13. Destructive arson and murder as defined under RPC

Arson - may sinunog na Real Property except Locomotive arson pa rin. Murder - may mga qualifier: With payment of money (money laundering), by poison, explosion, or treachery. Pero kunwari nagsuntukan at nauntog kaya namatay, homicide siya. Hindi covered dito ang homicide, murder lang.

14. Terrorism and conspiracy to commit terrorism as defined and penalized under Sections

3 and 4 of Republic Act No. 9372

15. Financing of terrorism under Section 4 and offenses punishable under Sections 5, 6, 7 and

8 of Republic Act No. 10168, otherwise known as the Terrorism Financing Prevention and Suppression Act of 2012

16. Bribery under Articles 210, 211 and 211-A of the Revised Penal Code, as amended, and

Corruption of Public Officers under Article 212 of the Revised Penal Code, as amended

17. Frauds and Illegal Exactions and Transactions under Articles 213, 214, 215 and 216 of the Revised Penal Code, as amended

18. Malversation of Public Funds and Property under Articles 217 and 222 of the Revised

Penal Code, as amended May pondo ng gobyerno na hindi ginamit sa tama.

19. Forgeries and Counterfeiting under Articles 163, 166, 167, 168, 169 and 176 of the Revised Penal Code, as amended Fake bills (money).

20. Violations of Sections 4 to 6 of Republic Act No. 9208, otherwise known as the Anti-Trafficking in Persons Act of 2003

21. 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

22. Violations of Sections 86 to 106 of Chapter VI, of Republic Act No. 8550, otherwise known as the Philippine Fisheries Code of 1998

23. Violations of Sections 101 to 107, and 110 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995

24. Violations of Section 27(c), (e), (f), (g) and (i), of Republic Act No. 9147, otherwise known as the Wildlife Resources Conservation and Protection Act
25. Violation of Section 7(b) of Republic Act No. 9072, otherwise known as the National Caves and Cave Resources Management Protection Act
26. Violation of Republic Act No. 6539, otherwise known as the Anti-Carnapping Act of 2002, as amended
27. Violations of Sections 1, 3 and 5 of Presidential Decree 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
28. Violation of Presidential Decree No. 1612, otherwise known as the Anti-Fencing Law
29. Violation of Section 6 of Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022
30. Violation of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines
31. Violation of Section 4 of Republic Act No. 9995, otherwise known as the Anti-Photo and Video Voyeurism Act of 2009 Voyeurism - pangbubuso.
32. Violation of Section 4 of Republic Act No. 9775, otherwise known as the Anti-Child Pornography Act of 2009 The possession of a child pornography is a crime in itself.
33. Violations of Sections 5, 7, 8, 9, 10(c), (d) and (e), 11, 12 and 14 of Republic Act No. 7610, otherwise known as the Special Protection of Children Against Abuse, Exploitation and Discrimination
34. Fraudulent practices and other violations under Republic Act No. 8799, otherwise known as the Securities Regulation Code of 2000;
35. Violation of Sec. 19(a)(3) of RA No. 10697 (Strategic Trade Management Act) To engage in any activity prohibited by, or in contravention of, any orders or regulations issued by the NSC-STMCom to implement the provisions of this Act] (as amended by RA No. 11521, effective January 31, 2021)
36. Violations of Section 254 of Chapter II of Title times of the NIRC (Tax Evasion), where the basic tax in the final assessment is in excess of Pesos 25M per taxable year for each tax type with finding of probable cause; willful misrepresentation or malicious intent; AMLC cannot institute forfeiture proceedings if the same has been recovered by the BIR (as amended by RA No. 11521, effective January 31, 2021)
37. Felonies or offenses of a similar nature that are punishable under the penal laws of other countries. (as amended by RA No. 10365)

Covered Entities

1. Banks, offshore banking units, quasi-banks, trust entities, non-stock savings and loan associations, pawnshops, and all other institutions and their subsidiaries and affiliates supervised and/or regulated by the BSP
2. Other entities administering or otherwise dealing in currency, commodities, or financial derivatives based thereon, valuable objects, cash substitutes, and other similar monetary instruments or property supervised and/or regulated by the SEC
3. Insurance companies, insurance agents, insurance brokers, professional reinsurers, reinsurance brokers, holding companies, holding company systems, and all other persons and entities supervised and/or regulation by the Insurance Commission

4. Securities dealers, brokers, salesmen, associated persons of brokers or dealers, investment houses, investment agents and consultants, trading advisors, and other entities managing securities or rendering similar services
5. Mutual funds or open-end investment companies or issuers and other similar entities
6. Jewelry dealers in precious metals/stones, who as, a business, trade in precious metals/stones, for transactions in excess of Pesos 1M
7. Foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities
8. Casinos, including internet and ship-based casinos with respect to their casino cash transactions related to their gaming operations. (as amended by RA No. 10927)
9. Company service providers to 3rd parties including CPAs and Lawyers
 - a. acting as a formation agent of juridical persons;
 - b. acting as (or arranging for another person to act as) a director or corporate secretary of a company, a partner of a partnership, or a similar position in relation to other juridical persons;
 - c. providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; and
 - d. acting as (or arranging for another person to act as) a nominee shareholder for another person.
10. Person providing the following services including CPAs and lawyers
 - a. managing of client money, securities or other assets;
 - b. management of bank, savings or securities accounts;
 - c. organization of contributions for the creation, operation or management of companies;and
 - d. creation, operation or management of juridical persons or arrangements, and buying and selling business entities.
11. Real Estate Developers and Brokers (as amended by RA No. 11521, effective January 31, 2021)
12. Offshore Gaming Operators and their Service Providers (as amended by RA No. 11521, effective January 31, 2021) Lawyers and accountants: acting as independent legal professionals are NOT covered with respect to privileged information covered by confidentiality and attorney-client relationship. Obligations of covered institutions:
 1. Customer identification: Covered institutions shall establish and record the true identity of its clients based on official documents. KYC - know your client
 2. Record keeping: All records of all transactions of covered institutions shall be maintained and safely stored for 5 years from the date of transactions.

3. Reportorial Requirements:

- a. Covered Transactions - covered institutions shall report to the AMLC all covered transactions within 5 working days from occurrence thereof, unless the AMLC prescribes a longer period not exceeding 15 working days. Conviction of the unlawful activity is not necessary before a report is made. COVERED TRANSACTION: a transaction in cash or other equivalent monetary instrument involving a total amount in excess of Pesos 500,000 within one banking day. For casinos, a single casino cash transaction in excess of Pesos 5,000,000 or its equivalent in any other

currency. (as amended by RA No. 10927) For real estate developers/brokers, a single cash transaction involving an amount in excess of Pesos 7,500,000 or its equivalent in any other currency. (as amended by RA

No. 11521, effective January 31, 2021)

b. Suspicious Transactions - covered persons to promptly file suspicious transaction

reports within the next working day from occurrence thereof, which for purposes of the Rule, shall be the date of establishment of suspicion or determination of the suspicious nature of the transaction. (as amended by Sec. 9 of 2020 IRR amending Sec. 2.2 of 2018 IRR, which originally provided: 5 working days from occurrence as well, "Occurrence" meaning the time the covered entity has determined that the transaction is suspicious, which should not exceed 10 days from the date of the transaction). SUSPICIOUS TRANSACTION: a transaction with covered institutions, regardless of the amount involved, where any of the following circumstances exist:

i. There is no underlying legal or trade obligation, purpose or economic

justification ii. The client is not properly identified iii. The amount involved is not commensurate with the business or financial capacity of the client iv. 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 Act

v. Any circumstances 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 institution vi. The transaction is in any way related to an unlawful activity or offense under this Act that is about to be, is being or has been committed vii. Any transaction that is similar or analogous to any of the foregoing • "Occurrence" meaning the time the covered entity has determined that the transaction is suspicious, which should not exceed 10 days from the date of transaction. • Should a transaction be determined to be both a covered and a suspicious transaction, it shall be reported as a suspicious transaction. • When reporting, it shall not be considered a violation of bank secrecy laws and similar

laws. It shall be prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered or suspicious transaction report was made, the content thereof, or any other information in relation thereto. Safe Harbor: No administrative, criminal, or civil proceedings, shall lie against any person for having made a transaction report in the regular performance of his duties and in good faith, whether or not such results in any criminal prosecution under Philippine laws. When in doubt, report. ANTI-MONEY LAUNDERING COUNCIL: composed of:

1. Chairman: BSP Governor

2. Members:

a) Commissioner of Insurance Commission

b) Chairman of SEC

Freezing of Monetary Instrument or Property: The Court of Appeals, upon application ex parte by AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity, may issue a freeze order which shall be effective immediately (unless extended by the Court. Maximum period is 6 months) Considering the intricate and diverse web of related and interlocking accounts pertaining to the monetary instruments or properties that any person may create in the different covered institutions, their branches and/or other units, AMLC may apply to freeze monetary instruments or properties in

the names of the reported owners/holders, and monetary instruments or properties named in the application of the AMLC, including all other related web of accounts. Related Web of Accounts are 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 orders.

Authority to inquire into bank deposits: The AMLC may inquire into deposits upon order of the court when there is probable cause that the deposits are related to the crime or unlawful activities. However, a court order is not necessary when the offense or unlawful activity involved is any of the following:

1. Kidnapping for ransom

2. Sections 4, 5, 7, 8, 9, 10, 12, 13, 14, 15 and 16 of Comprehensive Dangerous Drugs Act (RA 9165)

3. Hijacking and other violations under RA 6235, destructive arson and murder, including those perpetrated by terrorists against non-combatant persons and similar targets

4. Terrorism and conspiracy to commit terrorism as defined under the Human Security Act.

Inquiry into deposits may be availed of even in the absence of a pre-existing criminal case under the same law. However, the order authorizing bank inquiry cannot be issued ex parte.