

[BSP CIRCULAR NO. 333, MAY 30, 2002, May 30, 2002]

ANTI-MONEY LAUNDERING

Pursuant to Monetary Board Resolution No. 809 dated May 30, 2002, the following rules and regulations for banks, offshore banking units, quasi-banks, trust entities, non-stock savings and loan associations, pawnshops and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the Bangko Sentral ng Pilipinas (BSP), otherwise known as "Covered Institutions" are hereby issued:

SECTION 1. All covered institutions enumerated above shall comply with the provisions of R.A. No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001" (AMLA) and its Implementing Rules and Regulations (IRRs). (copies attached)

SECTION 2. The second paragraph of item No. 6 of Circular No. 251 dated 7 July 2000 is hereby amended to read as follows:

"If there is reasonable ground to believe that the funds are proceeds of an unlawful activity as defined under R.A. No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001" (AMLA) and/or its Implementing Rules and Regulations (IRRs), the transactions involving such funds or attempts to transact the same, should be reported to the Anti-Money Laundering Council (AMLC) in accordance with Rules 5.2 and 5.3 of the AMLA IRRs."

SECTION 3. The opening paragraph of Section 1 of Circular No. 253 dated 31 July 2000 is hereby amended to read as follows:

"Banks and non-bank financial institutions (NBFIs) shall report covered transactions and suspicious transactions, as defined in Rules 5.2 and 5.3 of the AMLA IRRs, to the AMLC using the forms prescribed by the AMLC. Reportable transactions shall include the following:

xxx"

SECTION 4. The first sentence in paragraph No. 1 of the Reporting Procedure in the BSP Anti-Money Laundering Model Operating Manual for Banks and Other Covered Institutions is hereby amended to read as follows:

"All covered transactions and suspicious transactions should be reported by the staff to the Branch Manager or to the staff's superior officer using the forms prescribed by the AMLC. x x x"

SECTION 5. Paragraph No. 3 of the Reporting Procedure in the BSP Anti-Money Laundering Model Operating Manual for Banks and Other Covered Institutions is

hereby amended to read as follows:

"If the Money Laundering Committee decides that there is reasonable basis for considering a covered transaction or suspicious transaction or any other unlawful activity, the appropriate report must be made to the AMLC using its prescribed forms."

SECTION 6. Appendix G and Appendix H of the BSP Anti-Money Laundering Model Operating Manual for Banks and Other Covered Institutions are hereby revised by the report forms shown in Annexes "A" and "B".

SECTION 7. Paragraph No. 4 of the Reporting Procedure in the BSP Anti-Money Laundering Model Operating Manual for Banks and Other Covered Institutions is hereby amended to read as follows:

"If applicable, a covered transaction or a suspicious transaction or any other illegal activity should also be reported to the Regional Head of Investigations. The report should be made in the forms prescribed by the AMLC. The report should be given to the local Head of Investigation, if there is one. If there is no local Head of Investigations, the report to the Regional Head of Investigations should be made by the Compliance Officer."

SECTION 8. Repealing Clause. — Item No. 7 of Circular No. 251 dated 7 July 2000, Section 2 of Circular No. 253 dated 31 July 2000, Circular-Letter dated 2 January 2001, Paragraph No. 5 of the Reporting Procedure in the BSP Anti-Money Laundering Model Operating Manual for Banks and Other Covered Institutions and all other provisions of BSP circulars, circular-letters, office orders and other issuances inconsistent with the provisions of this Circular, R.A. No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001" (AMLA) or its Implementing Rules and Regulations (IRRs), are hereby repealed.

This Circular shall take effect immediately.

Adopted: 30 May 2002

(SGD.) RAFAEL B. BUENAVENTURA
Governor

Implementing Rules and Regulations Republic Act No. 9160 Anti-Money Laundering Act of 2001

RULE 1
Title

RULE 1.a. Title. — These Rules shall be known and cited as the "Rules and Regulations Implementing Republic Act No. 9160", the Anti-Money Laundering Act of 2001 (AMLA).

RULE 1.b. Purpose. — These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the AMLA, taking into account R.A. 9160 and related laws of the Philippines for a comprehensive anti-money laundering regime.

RULE 2
Declaration of Policy

RULE 2. Declaration of Policy. — It is hereby declared the policy of the State to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money-laundering site for the proceeds of any unlawful activity. Consistent with its foreign policy, the Philippines shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed.

RULE 3
Definitions

RULE 3. Definitions. — For purposes of the Act, the following terms are hereby defined as follows:

RULE 3.a- "Covered Institution" refers to:

RULE 3.a.1. Banks, offshore banking units, quasi-banks, trust entities, non-stock savings and loan associations, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the Bangko Sentral ng Pilipinas (BSP).

a. A subsidiary means an entity more than fifty percent (50%) of the outstanding voting stock of which is owned by a bank, quasi-bank, trust entity or any other institution supervised or regulated by the BSP.

b. An affiliate means an entity at least twenty percent (20%) but not exceeding fifty percent (50%) of the voting stock of which is owned by a bank, quasi-bank, trust entity, or any other institution supervised and/or regulated by the BSP.

RULE 3.a.2. Insurance companies, insurance agents; insurance brokers, professional reinsurers, reinsurance brokers, holding companies, holding company systems and all other persons and entities supervised and/or regulated by the Insurance Commission (IC).

a. An insurance company includes those entities authorized to transact insurance business in the Philippines, whether life or non-life and whether domestic, domestically incorporated or branch of a foreign entity. A contract of insurance is an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event. Transacting insurance business includes making or proposing to make, as insurer, any insurance contract, or as surety, any contract of suretyship as a vocation and not as merely incidental to any other legitimate business or activity of the surety, doing any kind of business specifically recognized as constituting the doing of an insurance business within the meaning of Presidential Decree (P.D.) No. 612, as amended, including a reinsurance business and doing or proposing to do any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of P.D. No. 612, as amended.

b. An insurance agent includes any person who solicits or obtains insurance on behalf of any insurance company or transmits for a person other than himself an

application for a policy or contract of insurance to or from such company or offers or assumes to act in the negotiation of such insurance.

c. An insurance broker includes any person who acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risk or taking out insurance, on behalf of an insured other than himself.

d. A professional reinsurer includes any person, partnership, association or corporation that transacts solely and exclusively reinsurance business in the Philippines, whether domestic, domestically incorporated or a branch of a foreign entity. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

e. A reinsurance broker includes any person who, not being a duly authorized agent, employee or officer of an insurer in which any reinsurance is effected, acts or aids in any manner in negotiating contracts of reinsurance or placing risks of effecting reinsurance, for any insurance company authorized to do business in the Philippines.

f. A holding company includes any person who directly or indirectly controls any authorized insurer. A holding company system includes a holding company together with its controlled insurers and controlled persons.

RULE 3.a.3. (i) 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, (ii) mutual funds or open-end investment companies, close-end investment companies, common trust funds, pre-need companies or issuers and other similar entities; (iii) foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities, and (iv) 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 Securities and Exchange Commission (SEC).

a. A securities broker includes a person engaged in the business of buying and selling securities for the account of others.

b. A securities dealer includes any person who buys and sells securities for his/her account in the ordinary course of business.

c. A securities salesman includes a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

d. An associated person of a broker or dealer includes an employee thereof who directly exercises control or supervisory authority, but does not include a salesman, or an agent or a person whose functions are solely clerical or ministerial.

e. An investment house includes an enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the underwriting of securities of another person or enterprise, including securities of the Government and its instrumentalities,

f. A mutual fund or an open-end investment company includes an investment company which is offering for sale or has outstanding, any redeemable security of which it is the issuer.

g. A closed-end investment company includes an investment company other than open-end investment company.

h. A common trust fund includes a fund maintained by an entity authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money representing, participation in the plan received by it in its capacity as trustee, for the purpose of administration, holding or management of such funds and/or properties for the use, benefit or advantage of the trustor or of others known as beneficiaries.

i. A pre-need company or issuer includes any corporation supervised and/or regulated, by the SEC and is authorized or licensed to sell or offer for sale pre-need plans. Pre-need plans are contracts which provide for the performance of future service(s) or payment of future monetary consideration at the time of actual need, payable either in cash or installment by the planholder at prices stated in the contract with or without interest or insurance coverage and includes life, pension, education; internment and other plans, which the Commission may, from time to time, approve.

j. A foreign exchange corporation includes any enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the sale and purchase of foreign currency notes-and such other foreign-currency denominated non-bank deposit transactions as may be authorized under its articles of incorporation.

k. Investment Advisor/Agent/Consultant shall refer to any person:

1. who for an advisory fee is engaged in the business of advising others, either directly or through circulars, reports, publications or writings, as to the value of any security and as to the advisability of trading in any security; or

2. who for compensation and as part of a regular business, issues or promulgates, analyzes reports concerning the capital market, except:

a. any bank or trust company;

b. any journalist, reporter, columnist, editor, lawyer, accountant, teacher;

c. the publisher of any bona fide newspaper, news, business or financial publication of general and regular circulation, including their employees;

d. any contract market;

e. such other person not within the intent of this definition, provided that the furnishing of such service by the foregoing persons is solely incidental to the conduct of their business or profession.

3. any person who undertakes the management of portfolio securities of investment companies, including the arrangement of purchases, sales or exchanges of