REPUBLIC OF THE PHILIPPINES
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
City of Mandaluyong, Metro Manila

SEC MEMORANDUM CIRCULAR NO. 2
Series of 2010

TO : ALL SEC COVERED INSTITUTIONS

RE : REVISED GUIDELINES IN THE PREPARATION OF THE ANTI-MONEY LAUNDERING OPERATING MANUAL FOR SEC COVERED INSTITUTIONS

The Securities and Exchange Commission (the "Commission"), in conformity with the provisions of Republic Act No. 9194, amending Republic Act No. 9160 (also known as the "Anti-Money Laundering Act of 2001") and taking into consideration international best practices in the implementation and enforcement of the anti-money laundering regime and the combating of terrorist financing, hereby issues this "Revised Guidelines in the Preparation of the Anti-Money Laundering Operating Manual for SEC Covered Institutions" (the "Revised Guidelines").

SECTION 1. All covered institutions as defined in this Revised Guidelines are required to amend their respective Anti-Money Laundering Operating Manual to conform to the attached Revised Guidelines. Covered institutions which have not submitted their respective manuals shall submit theirs in conformity to the Revised Guidelines.

SECTION 2. All covered institutions shall submit their revised Anti-Money Laundering Operating Manual on or before September 8, 2010 to the Commission.

SECTION 3. The attached Revised Guidelines do not serve as an Operating Manual itself but as a guide to covered institutions in revising and reformulating their own Anti-Money Laundering Operating Manual, taking into consideration their respective corporate structure. Therefore, all covered institutions are directed to revise their Anti-Money Laundering Operating Manual and to provide therein specific procedures and policies that would achieve the ends prescribed in the Revised Guidelines.

Published:
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Manila Standard Today, May 25, 2010

SECTION 4. A covered institution which fails to submit a revised Anti-Money Laundering Operating Manual on the aforesaid date shall be subject to a penalty of Five Hundred Pesos (P500.00) per every day of delay, and which penalty shall continue until the revised Anti-Money Laundering Operating Manual has been submitted to the Commission.

SECTION 5. This Memorandum Circular shall take effect 15 days after its publication in two (2) national newspapers of general circulation and posting the same in the Commission's website.

Mandaluyong City, 20 May 2010

FOR THE COMMISSION:

MA. JUANITA E. CUETO
OIC-Commissioner

REVISED GUIDELINES IN THE PREPARATION OF THE ANTI-MONEY LAUNDERING OPERATING MANUAL FOR SEC COVERED INSTITUTIONS

CHAPTER 1

INTRODUCTION

Section 1.1 The Securities and Exchange Commission ("Commission") hereby issues these Guidelines in the preparation of the respective Anti-Money Laundering Operating Manual for its covered institutions pursuant to the authority granted to it under the Anti-Money Laundering Act (Republic Act (RA) No. 9160), as amended by RA 9194) and its regulatory and supervisory powers under the Securities Regulation Code ("SRC") (RA 8799), the Corporation Code of the Philippines (Batas Pambansa (BP) Blg. 68), the Presidential Decree 902-A, as amended, the Investment Houses Law (Presidential Decree (PD) No. 129), the Investment Company Act (RA 2629), the Financing Company Act of 1998 (RA 8556), the Lending Company Regulation Act of 2007 (RA 9474) and other *pertinent laws, rules and regulations administered and enforced* by the Commission.

Section 1.2 Except as otherwise defined herein, all terms used shall have the same meaning as those terms that are defined in the Republic Act No. 9160 otherwise as the Anti-Money Laundering Act of 2001 (AMLA), as amended.

Section 1.3 The term "covered institutions" shall refer to persons regulated by the Commission under the Securities Regulation Code, the Investment Houses Law (P.D. 129), the Investment Company Act (RA 2629), the Financing Company Act of 1998, The Lending Company Regulation Act of 2007 (RA 9474) other laws and regulations implemented by the Commission, and the Anti-Money Laundering Act of 2001, as amended. The covered institutions are as follows:

1.3.1 Securities Brokers, Dealers and Salesmen, Associated Person of a Broker or Dealer;

1.3.2 Investment Houses and other similar entities managing securities or rendering services as Investment Agent, Advisor or Consultant;

1.3.3 Mutual Fund companies, Closed-End Investment Companies;

1.3.4 Financing Companies and Lending Companies, both with more than 40% foreign participation in its voting stock or with paid-up capital of Php10 Million or more;

1.3.5 Other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, cash substitutes and other similar monetary instruments or property, supervised or regulated by the Commission.

1.4. The following definitions shall apply to the foregoing covered institutions:

1.4.1 ***"Securities broker"*** *is a person engaged in the business of buying* and selling securities for the account of others.

1.4.2 ***"Securities dealer"*** means any person who buys and sells securities for his/her own account in the ordinary course of business.

1.4.3 ***"Securities salesman"*** is a natural person hired to buy and sell securities on a salary or commission basis properly endorsed to the Commission by the employing Broker Dealer.

1.4.4 ***"Associated person of a broker of dealer"*** is any person employed full time by the Broker Dealer whose responsibilities include internal control supervision of other employees, agents, salesmen, officers, directors, clerks and stockholders of such Broker Dealer for compliance with the SRC and rules and regulations adopted thereunder.

1.4.5 ***"Investment House"*** means any enterprise which primarily engages, 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.

1.4.6 ***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, publication 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 or teacher;

c) the publisher of any bonafide 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 exchange of securities.

1.4.7 ***"Investment company"*** is any issuer which is, or holds itself out as being, engaged primarily, or proposed to engage primarily, in the business of investing, reinvesting or trading in securities.

1.4.8 **"Open-End investment company"** is an investment company which is offering for sale or has outstanding, any redeemable security of which it is the issuer. Also referred to as Mutual Fund.

1.4.9 **"Closed-end investment company"** refers to an investment company other than open-end investment company.

1.4.10 ***"Financing Companies"*** *are* corporations which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property. The same does not include banks, investment houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws.

1.4.11 ***"Lending Company"*** shall refer to a corporation engaged in granting loans from its own capital funds or from funds sourced

from not more than nineteen (19) persons. It shall not be deemed to include banking institutions, investment houses, savings and loan associations, financing companies, pawnshops, insurance companies, cooperatives and other credit institutions already regulated by law. The term shall be synonymous with lending investors.

1.4.12 ***"Beneficial owner"*** or *beneficial ownership* means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise has or shares: voting power, which includes the power to vote, or to direct the voting of, such security; and/or investment returns or power, which includes the power to dispose of, or to direct, the disposition of such security; *provided,* a person shall be deemed to have an indirect beneficial ownership interest in any security which is:

a. held by members of his immediate family sharing the same household;

b. held by a partnership in which he is a general partner;

c. held by a corporation of which he is a controlling shareholder; or

d. subject to any contract, arrangement or understanding which gives him voting power or investment power with respect to such securities: *Provided however,* the following persons or institutions shall not be deemed to be beneficial owners of securities held by them for the benefit of third parties or in customer or fiduciary accounts in the ordinary course of business, so long as such shares were acquired by such person or institution without the purpose or effect of changing or influencing control of the issuer:

    i. A Broker Dealer;

    ii. An investment house registered under the Investment Houses Law;

    iii. A bank authorized to operate as such by the Bangko Sentral ng Pilipinas;

    iv. An insurance company or pre-need company subject to the supervision of the Office of the Insurance Commission;

    v. An investment company registered under the Investment Company Act;

vi. A pension plan subject to regulation and supervision by the Bureau of Internal Revenue and/or the Office of the Insurance Commission or relevant authority; and

vii. A group in which all of the members are persons specified above.

All securities of the same class beneficially owned by a person, regardless of the form such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person.

A person shall be deemed to be the beneficial owner of a security if that person has the right to acquire beneficial ownership within thirty (30) days, including, but not limited to, any right to acquire; through the exercise of any option, warrant or right; through the conversion of any security; pursuant to the power to revoke a trust, discretionary account or similar arrangement; or pursuant to automatic termination of a trust, discretionary account or similar arrangement.

Section 1.5 The Commission, as the Supervising Authority of the covered institutions as enumerated under Section 3(a)(3) of the AMLA, as amended, and where its supervision applies only to the incorporation of the covered institution, shall have the authority to require and ask assistance from the government agency having regulatory power and/or licensing authority over said covered institution for the implementation and enforcement of the AMLA, as amended, and its Implementing Rules and Regulations.

CHAPTER 2

DESCRIPTION OF MONEY LAUNDERING

Section 2.1 Money laundering is the processing of the proceeds of a crime to disguise their origin. It is a process intended to mask the benefits derived from serious offenses or criminal conduct as described under the Act, so that they appear to have originated from a legitimate source.

Section 2.2 The process of money laundering generally comprises three (3) stages during which there may be numerous transactions that could alert a covered institution to the money laundering activity:

2.2.1 Placement – the physical disposal of cash proceeds derived from illegal activity.

2.2.2 Layering – separating the illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity or to obscure the source of the funds.

2.2.3 Integration – provides appearance of legitimacy to criminally-derived wealth. If the layering process has succeeded, the integration schemes place the laundered proceeds back into the economy in such a way that they re-enter the financial system appearing to be normal business funds.

Section 2.3 Because of the nature of the business relationships entered into and among clients and the covered institutions, which are no longer predominantly cash-based, they are less conducive to the initial placement of criminally derived funds other than financial industries such as banking. Most payments are made by way of checks from another financial institution; hence, it can be assumed that the first stage of money laundering has already been achieved. Nevertheless, the purchases by cash are not unknown and the risk of the business being used at the placement stage cannot be ignored. The businesses of these covered institutions are most likely to be used at the second stage of money laundering, i.e., the layering process, as they provide a potential avenue which may allow a dramatic alteration of the form of funds – from cash on hand to securities such as stock certificates, investment contracts, evidences of indebtedness, bearer and other negotiable instruments. Investment transactions incorporate an added attraction to the money launderer in that the alternative asset is normally highly liquid. The ability to liquidate investment portfolios containing both lawful and illicit proceeds, whilst concealing the criminal source of the latter, combined with the huge variety of investments available, and the ease of transfer between them, offers the sophisticated criminal launderer an ideal route to effective integration into the legitimate economy. Due diligence must, therefore, be exercised to prevent the use of these covered institutions as instruments for money laundering.

CHAPTER 3

BASIC PRINCIPLES AND POLICIES TO COMBAT MONEY LAUNDERING

Section 3.1 The Commission, in furtherance of its directive to combat money laundering, requires covered institutions to apply the following principles:

3.1.1 Know your customer: Covered institutions shall obtain competent evidence of the customer's identity, and have effective procedures for verifying the bona fide identity of new customers, including their beneficial owners, if applicable.

3.1.2 Compliance with laws: Covered institutions shall ensure that business is conducted in conformity with high ethical standards, that laws and regulations are adhered to, and that service is not provided where there is good reason to believe that transactions are associated with money laundering activities.

3.1.3 Cooperation with law enforcement agencies: Covered institutions shall cooperate fully with law enforcement agencies. Disclosure of information by covered institutions for the purposes of the Act regarding covered transactions and suspicious transactions shall be made to the Office of the Executive Director, Anti-Money Laundering Council Secretariat, 5/F EDPC Building, Bangko Sentral ng Pilipinas.

3.1.4 Policies, procedures and training: Each covered institution shall adopt policies consistent with the principles set out in this guidelines, and ensure that its directors, officers and employees wherever located, are informed of these policies and adequately trained in matters covered herein. To promote adherence to these principles, covered institutions shall implement specific procedures for customer identification (Chapter 4), record keeping and retention of transaction documents (Chapter 5), and reporting of covered and suspicious transactions (Chapter 6).

CHAPTER 4

CUSTOMER IDENTIFICATION

A. General

Section 4.A.1. Covered institutions must develop a clear written client-acceptance policies and procedures in offering its products or services.

Section 4.A.2. Know your customer measures of the covered institution should include conducting continuing due diligence on the business relationship to ensure that the transactions being conducted are consistent with the covered institution's knowledge of the customer and/or beneficial owner, their business profile, including, where necessary, the source of its funds.

Section 4.A.3. Covered institutions shall obtain and record competent evidence of the true and full identity, representative capacity, domicile, legal capacity, occupation or business purposes of clients, as well as other identifying information on those clients, whether they be occasional or usual, through the use of documents such as, but not limited to:

4.A.3.1 Identity documents, such as passports, birth certificates, driver's licenses, and other similar identity documents, which are verifiable from the institution issuing the same;

The identifying documents should provide evidence of complete name or names used, residential address, date of birth, nationality, office address and contact details. They should include at least one (1) identifying document bearing the photograph and signature of the client. The identifying documents which are considered most reliable are official identity cards and passports. While identification documents that are easily obtained in any name e.g. medical cards, credit cards and student identification cards, may be used, they should not be accepted as the sole means of identification.

Clients engaging in transactions with covered institutions shall present one (1) original official identity card with photo and signature. For this purpose, the term "official identity card" shall refer to those issued by any of the following: the National Government of the Republic of the Philippines, its political subdivisions or instrumentalities, or government owned and controlled corporations.

Passports issued by foreign governments shall be considered as prima facie identification documents of persons engaging in transactions with the covered institutions

4.A.3.2 Incorporation and partnership papers, for corporate and partnership accounts. These documents should be certified as true copies from the issuing government agency;

4.A.3.3 Special authorizations for representatives, which must be duly notarized;

Section 4.A.4. Clients should be made aware of the covered institutions' explicit policy that business transactions will not be conducted with applicants who fail to provide competent evidence of their identity, but without derogating from the covered institutions' obligation to report suspicious transactions. Where initial verification fails to identify the applicant, or gives rise to suspicion/s that the information provided is false, additional verification measures should be undertaken to determine whether to proceed with the business and/or make a suspicious transaction report if circumstances under Section 3(b-1) of the AMLA, as amended, would apply. Details of the additional verification are to be recorded in writing and be made available for inspection by the Commission or appropriate authorities

Section 4.A.5. Covered institutions shall ensure that they know their customers well, and accordingly, shall keep current and accurate all material information with respect to their customers by regularly conducting verification and an update thereof.

Section 4.A.6. A covered institution should pay special attention to all unusually large transactions or unusual patterns of transactions. This requirement applies both to the establishment of a business relationship and to ongoing due diligence. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities.

Section 4.A.7. When a covered institution acquires the business of another covered institution, either in whole or as a product portfolio, it is not necessary for the identity of all existing customers to be re-identified, provided that:

4.A.7.1 All customer account records are acquired with the business; and

4.A.7.2 Due diligence inquiries do not raise any doubt as to whether the anti-money laundering procedures previously adopted by the acquired business have satisfied Philippine requirements.

Section 4.A.8. If during the business relationship, the covered institution has reason to doubt:

4.A.8.1 The accuracy of the information relating to the customer's identity;

4.A.8.2 That the customer is the beneficial owner; or

4.A.8.3 The customer's declaration of beneficial ownership

said covered institution shall take further measures to verify the identity of the customer or the beneficial owner, as applicable.

Section 4.A.9. The covered institution's policies and procedures must include procedures for responding to circumstances in which the covered institution cannot form a reasonable belief that it knows the true identity of a customer or when the covered institution is unable to comply with paragraphs (a) to (c) of Section 4.A.2 hereof. These procedures should include, among others, the following:

4.A.9.1 When the covered institution should not open the account or commence business relations or perform the transaction;

4.A.9.2 The terms under which a customer may conduct transactions while the covered institution attempts to verify the customer's identity;

4.A.9.3 When the covered institution should close an account or terminate business relationship after attempts to verify customer's identify fail; and

4.A.9.4 Should consider filing a Suspicious Transaction Report with the Anti-Money Laundering Council.

Section 4.A.10. The policies and procedures must include procedures for providing customers with adequate notice that the covered institution is requesting information to verify their identities. If appropriate, the covered institution may use the following sample language to provide notice to its customers:

IMPORTANT INFORMATION ABOUT PROCEDURES
FOR OPENING A NEW ACCOUNT

To help the government fight money laundering activities, the Anti-Money Laundering Act, as amended, requires all covered institutions to obtain, verify and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, business, TIN, SSS or GSIS Nos. and other information that will allow us to identify you. We may also ask to see your driver's license, passport or other competent evidence of identity bearing your photograph and signature.

Section 4.A.11. The covered institution's policies and procedures may include procedure specifying reliance on an intermediary or third party for its know your customer or customer due diligence requirements as long as the intermediary or third party relied upon are considered as covered institution as defined under this guidelines or any other guidelines or rules issued by the Bangko Sentral ng Pilipinas or the Insurance Commission, or as defined and identified by foreign jurisdictions in so far as covered institutions in their respective jurisdictions are concerned.

It is understood that the Commission reserves the right to disapprove arrangements of covered institutions with intermediaries or third parties when it has been proven to have been abused by covered institutions.

Section 4.A.12. Where such reliance is permitted, the following criteria should be met:

4.A.12.1 The covered institution, relying on the intermediary or third party, should immediately take adequate steps to satisfy itself that copies of identification data and other relevant documentation relating to the customer due diligence requirements will be made available from the intermediaries and third parties upon request without delay. The covered institution should be satisfied with the quality of the due diligence undertaken by the intermediaries and third parties.

4.A.12.2 The covered institution should satisfy itself that the intermediaries and third parties are regulated and supervised, and have measures in place to comply with customer due diligence requirements.

4.A.12.3 The customer identification program of the third party intermediary is similar to or is equivalent to the customer identification program of the covered institution;

4.A.12.4 Ultimate responsibility for customer and/or beneficial owner identification and verification remains with the covered institution relying on intermediaries or third parties.

Section 4.A.13. Covered institutions shall maintain customer accounts only in the name of the account holder. They shall not open or keep anonymous accounts, fictitious name accounts, incorrect name accounts, and similar accounts.

Rule 52.1 (6)(G) (Customer Account Information Rule) of the Amended Implementing Rules and Regulations of the Securities Regulation Code which allows numbered accounts for clients of securities brokers dealers who wish to

keep his/her name confidential, continues to remain in full force and effect as long as there is a way of identifying the beneficial owner of this numbered accounts, and can immediately be disclosed to the regulator or appropriate law enforcement agency concerned conducting the investigation thereon.

Section 4.A.14 In general, the full range of customer due diligence measures should be applied. However, if the risk of money laundering or the financing of terrorism is lower based on the covered institution's assessment, and if information on the identity of the customer and the beneficial owner is publicly available, or adequate checks and controls exist elsewhere in national systems, it could be reasonable for covered institutions to apply simplified or reduced customer due diligence measures when identifying and verifying the identity of the customer, the beneficial owner and other parties to the business relationship. Examples of customers where simplified or reduced customer due diligence measures could apply are:

4.A.14.1 Financial institutions where they are subject to requirements to combat money laundering and the financing of terrorism consistent with the FATF Recommendations, and are supervised for compliance with those controls;

4.A.14.2 Public companies that are subject to regulatory disclosure requirements;

4.A.14.3 Government institutions and its instrumentalities.

B. Personal Customers

Section 4.B.1. Covered institutions shall obtain from all individual clients the following information:

4.B.1.1 complete name and names used;
4.B.1.2 present address;
4.B.1.3 permanent address;
4.B.1.4 mailing address;
4.B.1.5 date and place of birth;
4.B.1.6 nationality;
4.B.1.7 contact details (avoid pre-paid cellular phone numbers)
4.B.1.8 nature of work, name of employer or nature of self-employment or business;
4.B.1.9 Tax Identification Number, Social Securities number or Government Service and Insurance System number;
4.B.1.10 specimen signature;
4.B.1.11 sources of funds, whenever necessary;

4.B.1.12 names of beneficial owner or beneficiaries, if applicable;
4.B.1.13 complete name, address and contact information of beneficial owner, if applicable.

Section 4.B.2. Covered institutions shall request individual clients who present only photocopies of identification card and other documents to produce the original documents thereof for verification purposes.

Section 4.B.3. Covered institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favor anonymity, and take measures, if needed, to prevent their use in money laundering schemes. In particular, covered institutions should have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions.

Section 4.B.4. In accepting businesses from non-face-to-face customers, a covered institution should use equally effective identification procedures as those available for face-to-face customer acceptance, supplemented with specific and adequate measures to mitigate the higher risk. Such risk mitigating measures may include:

4.B.4.1 Certification by appropriate authorities and professionals of the documents provided;

4.B.4.2 Requisition of additional documents to complement those which are required for face-to-face customers;

4.B.4.3 Independent contact with the customer by the covered institution;

4.B.4.4 Third party introduction, e.g. by an intermediary subject to the provisions of Sections 4.A.12 and 4.A.13 hereof;

4.B.4.5 Requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar customer due diligence standards.

Section 4.B.5. Verification without face-to-face contact. –

4.B.5.1 Whenever possible, prospective clients should be interviewed personally.

4.B.5.2 Covered institution shall take particular care in opening accounts via the Internet, post, or telephone, or other such instances which may give rise to verification without face-to-face contact. Covered institutions shall apply the provisions

of Section 4.A.2 on customer due diligence and other pertinent provisions hereof.

4.B.5.3 The customer identification procedures for non-face-to-face verification should be as stringent as those for face-to-face verification. Covered institutions are duty-bound to inform such clients that identity verification measures apply as well to them.

4.B.5.4 The following are a number of checks which can be used by covered institutions to verify identity of prospective clients where there is no face-to-face contact:

i. Barangay certification;

ii. Telephone contact with the applicant at an independently verified home or business number;

iii. Subject to the applicant's consent, telephone confirmation of the applicant's employment with the employer's personnel department at a listed business number;

iv. Income or salary details appearing on recent bank statements, income tax returns, or any other document evidencing income or compensation;

v. Confirmation of the address through an exchange of correspondence or by other appropriate methods.

vi. An initial deposit check drawn on another financial institution regulated by the Bangko Sentral ng Pilipinas will provide additional assurance as to identity.

4.B.5.5 For non-Philippine residents who wish to open accounts without face-to-face contact, documents as enumerated in Section 4.A.3 issued by foreign authorities may be submitted, duly authenticated by the Philippine Consulate where such foreign authorities are located. Covered institutions shall, however, inform the clients of the provisions of Section 4.A.3.

4.B.5.6 Except in cases where no face-to-fact contact is prohibited under existing laws, rules and regulations, no new accounts shall be opened and created without face-to-face contact unless full compliance with the requirements of Section 4.B.1 and 4.B.2 are met.

C. High Risk Customers

Section 4.C.1 Covered institutions should give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities. Where such a country continues not to apply or insufficiently applies the FATF Recommendations, countries should be able to apply appropriate countermeasures.

Section 4.C.2. Covered institutions should ensure that the principles applicable to covered institutions are also applied to branches and majority owned subsidiaries located abroad, especially in countries which do not or insufficiently apply the anti-money laundering measures implemented in the Philippines, to the extent that local applicable laws and regulations permit. When local applicable laws and regulations of the foreign branch or subsidiary prohibit such implementation, the Commission should be informed by the covered institutions that they cannot apply the anti-money laundering measures of the Philippines.

Section 4.C.3. Customers from countries that do not have or insufficiently apply anti-money laundering measures are considered higher risk customers. In addition to the requirements under Section 4.A.2 hereof, covered institutions are required to establish the source of wealth of higher risk customers. Decisions on business relations with higher risk customers must be taken by its senior management.

D. Single Proprietorships, Corporations, Stock or Non-Stock and Partnerships

Section 4.D.1. Before establishing a business relationship, a company search and/or other commercial inquiries shall be made to ensure that the corporate/other business applicant has not been, or is not in the process of being dissolved, struck off, wound-up or terminated. In case of doubt as to the veracity of the corporation or identity of its directors and/or officers, or of the business or its partners, a search or inquiry with the Commission or the relevant Supervising Authority/Regulatory Agency shall be made.

Section 4.D.2. The following relevant documents shall be obtained in respect of corporate/other business applicants that are regulated in the Philippines:

4.D.2.1 Copies of the Certificate of Registration issued by the Department of Trade and Industry, for single proprietors, or by the Securities and Exchange Commission, for corporations and partnerships, including the Articles of Incorporation or Certificate of Partnership, as appropriate; copies of the By-Laws of the corporation; the latest General Information Sheet, which lists the names of *directors/trustees/partners and principal stockholders*; and secondary licenses, if any; and other documents such as but not limited to clearance/certification from the Commission that the company is active and compliant with the reportorial requirements.

The original or certified true copies of any or all the foregoing documents, where required, should be produced for comparison and verification.

4.D.2.2 Appropriate board resolutions and signed application forms *or account opening authority* containing specimen signatures;

4.D.2.3 Where necessary and reasonable, covered institutions may also require additional information about the nature of the business of clients, copies of identification documents of shareholders, directors, officers and all authorized signatories.

4.D.2.4 Sworn statement as to the existence or non-existence of beneficial owners.

The type of measures that would normally be needed to satisfactorily perform identification of beneficial owners would require identifying the natural persons with a controlling interest and identifying the natural persons who comprise the management of the legal person or arrangement. Where the customer or owner of the controlling interest is a public company that is subject to regulatory disclosure requirements, *it is not necessary to seek to identify and* verify the identity of any shareholder of that company.

Section 4.D.3. For companies, businesses or partnerships registered outside the Philippines, comparable documents are to be obtained, duly authenticated by the Philippine Consulate where said entities are located.

Section 4.D.4. If significant changes to the company structure or ownership occur subsequently, or suspicions arise as a result of a change in the payment profile as reflected in a company account, further checks are to be made on the identities of the new owners.

E. Shell Companies

Section 4.E.1. Shell companies are legal entities which have no business substance in their own right but through which financial transactions may be conducted. Covered institutions should note that shell companies may be abused by money launderers and therefore be cautious in their dealings with them.

Section 4.E.2. In addition to the requirement under Section 4.D.2, covered institutions should also obtain a Board of Directors' Certification as to the purposes of the owners/stockholders in acquiring the shell company. There must likewise be satisfactory evidence of the identities of the beneficial owners, bearing in mind the "Know-Your-Customer" principle.

F. Trust, Nominee and Fiduciary Accounts

Section 4.F.1. Covered institutions shall establish whether the applicant for business relationship is acting on behalf of another person as a trustee, nominee or agent. Covered institutions should obtain competent evidence of the identity of such agents and authorized signatories, and the nature of their trustee or nominee capacity and duties.

Section 4.F.2. Where the covered institution entertains doubts as to whether the trustee, nominee or agent is being used as a dummy in circumvention of existing laws, it shall immediately make further inquiries to verify the status of the business relationship between the parties. If satisfactory evidence of the beneficial owners cannot be obtained, covered institutions shall consider whether to proceed with the business, bearing in mind the "Know-Your-Customer" principle. If the covered institutions decide to proceed, they are to record any misgivings and give extra attention to monitoring the account in question.

Section 4.F.3. Where the account is opened by a firm of lawyers or accountants, the covered institutions should make reasonable inquiries about transactions passing through the subject accounts that give cause for concern, or from reporting those transactions if any suspicion is aroused. If a money laundering Suspicious Transaction Report is made to the Anti-Money Laundering Council ("Council") in respect of such client's account/s, the Council will seek information directly from the lawyers or accountants as to the identity of its client

and the nature of the relevant transaction, in accordance with the powers granted to it under the AMLA, as amended, and other pertinent laws.

G. Transactions Undertaken on Behalf of Account Holders or Non-Account Holders

Section 4.G.1. Where transactions are undertaken on behalf of account holders of a covered institution, particular care shall be taken to ensure that the person giving instructions is authorized to do so by the account holder.

Section 4.G.2. Transactions undertaken for non-account holders demand *special care and vigilance*. Where the transaction involves significant amounts, the customer should be asked to produce competent evidence of identity including nationality, especially in cases where the client is not a Filipino, the purposes of the transaction, and the sources of the funds.

CHAPTER 5

RECORD KEEPING

Section 5.1. The covered institutions' policies and procedures as described in Chapter 4 hereof, must include procedures for making and maintaining a record of all customer relationships and transactions, including customer identification and verification, such that:

5.1.1 Requirements of the AMLA, as amended, are fully met;

5.1.2 Any transaction effected via the covered institution can be reconstructed and from which the AMLC, and/or the courts will be able to compile an audit trail for suspected money laundering, when such report is made to it;

5.1.3 The covered institution can satisfy within a reasonable time any inquiry or order from the AMLC as to disclosure of information, including without limitation, whether a particular person is the customer or beneficial owner of transactions conducted through the covered institutions.

Section 5.2. The following document retention periods shall be followed:

5.2.1 All records of all transactions of covered institutions, especially customer identification records, shall be maintained and safely stored in an easily accessible place for five (5) years from the dates of transactions.

5.2.2 With respect to closed accounts, the records on customer identification, account files and business correspondence, shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

5.2.3 SRC Rule 52.1 (1) (Books and Records Keeping Rule) and Rule 52.1(2) (Records Retention Rule) of the Amended Implementing Rules and Regulations of the Securities Regulation Code continue to be in full force and effect.

Section 5.3. Transaction documents may be retained as originals or copies, on *microfilm*, provided that such forms are admissible in court, pursuant to the Revised Rules of Court and the E-Commerce Act and its Implementing Rules and Regulations.

Section 5.4. Notwithstanding Section 5.2 hereof, if the records relate to on-going *investigations or transactions* that have been the subject of a disclosure, they shall be retained beyond the stipulated retention period until it is confirmed that the case has been closed and terminated.

Section 5.5. The covered institution shall designate at least two (2) persons *responsible in the safekeeping of all records* and report to the Commission any change in the person/s responsible.

CHAPTER 6

COVERED AND SUSPICIOUS TRANSACTIONS

Section 6.1. Covered institutions shall file Covered Transaction Report ("CTR") (**Annex "A"**) within ten (10) working days from occurrence thereof before the Anti-Money Laundering Council for transactions in cash or other equivalent monetary instrument involving a total amount in excess of the threshold of P500,000.00 within one (1) banking day.

Section 6.2. Covered institution shall file Suspicious Transaction Report ("STR") **(Annex "B")** before the Anti-Money Laundering Council within ten (10) working days from occurrence thereof. Suspicious transactions are transactions with covered institutions, regardless of the amount of the transaction where any of the following circumstances exists:

6.2.1 there is no underlying *legal or trade obligation, purpose or* economic justification;

6.2.2 the client is not properly identified;

6.2.3 the amount involved is not commensurate with the business or financial capacity of the client;

6.2.4 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;

6.2.5 any circumstance relating to the transaction which is observed to deviate from the file of the client and/or the client's past transactions with the covered institution;

6.2.6 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; or

6.2.7 any transaction that is similar or analogous to any of the foregoing.

In this regard, the covered institution should exercise due diligence by implementing adequate systems for identifying and detecting suspicious transactions.

Section 6.3 Should a transaction be determined to be both a covered and a suspicious transaction, the covered institution shall report the same as a suspicious transaction.

Section 6.4. Suspicious transactions are likely to involve a number of factors which together raise a suspicion in the mind of the covered institution that the transaction may be connected with any unlawful activity. A list of examples of suspicious transactions is attached as **"Annex C".**

The list is not intended to be exhaustive and only provided examples of the most basic ways in which money may be laundered. Identification of any of the transactions listed should prompt initial enquiries and, if necessary, further investigations on the source of funds.

CHAPTER 7

REPORTORIAL REQUIREMENTS

Section 7.1 Each covered institution shall institute a system for the mandatory reporting of covered transactions and suspicious transactions pursuant to Chapter 6.

The system shall be described in detail in the operating manual of the covered institutions.

Section 7.2 Each covered institution shall designate a Compliance Officer as defined in Section 9.2 hereof, at management level who will be in charge of the implementation of its Operating Manual and the application of the internal programs and procedures, including customer identification policies and procedures, proper maintenance of records, reporting of covered and suspicious transactions to the AMLC, internal audits and training of employees.

Section 7.3 Covered institutions, their directors, officers and employees, shall not warn their customers that information relating to them has been reported or is in the process of being reported to the AMLC, or communicate, directly or indirectly, such information to any person other than the AMLC. Any violation of this confidentiality provision shall render them liable for criminal, civil and administrative sanctions under the AMLA.

Section 7.4 Where any employee or personnel, director or officer of the covered institution knows that the client has engaged in any of the unlawful activities under the AMLA, the matter must be promptly reported to its Compliance Officer who, in turn, must immediately report the details to the AMLC.

If there is reasonable ground to suspect that the customer has engaged in an unlawful activity, the Compliance Officer, on receiving such a report, must promptly evaluate whether there are reasonable grounds for such belief and must then immediately report the case to the AMLC, unless he considers, and records an opinion, that such reasonable grounds do not exist.

Section 7.5 Each covered institution shall maintain a register of all suspicious transactions that have been brought to the attention of its Compliance Officer, including transactions that are not reported to the AMLC.

Section 7.6 Each covered institution shall likewise maintain a register of all covered transactions which are not reported to the AMLC pursuant to AMLC Resolution No. 292, Series of 2003.

Section 7.7 The registers shall contain details of the date on which the report is made, the person who made the report to its Compliance Officer, and information sufficient to identify the relevant papers related to said reports.

Section 7.8 No administrative, criminal or civil proceedings shall lie against any person for having made a suspicious or covered transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under the AMLA or any other Philippine law. Covered institutions, its directors and employees shall likewise not be liable for any loss arising our to such disclosure, or any act or omission, in relation to the fund, property or investment in consequence of the disclosure, where such is made in good faith and in the regular performance of their duties under the Act.

CHAPTER 8

INTERNAL CONTROL AND PROCEDURES

Section 8.1. Covered institutions are required to establish and implement internal control and procedures aimed at preventing and impeding money laundering. Such procedures shall, among other things, ensure that such covered institutions and their employees are aware of the provisions of the AMLA, its implementing rules and regulations, as well as all reportorial and compliance control and procedures that shall be established by the AMLC, the Supervising Authority and each covered institution.

Section 8.2. Covered institutions shall see to it that their respective policies and procedures for dealing with money laundering, reflecting the requirements under the AMLA and its implementing rules and regulations, are clearly set out and reflected in their Operating Manual.

Section 8.3. Policies and procedures should cover, among others:

8.3.1 Communications of firm policies relating to money laundering, including timely disclosure of information and internal audits to ensure compliance with policies, procedures and controls relating to money laundering;

8.3.2 Account opening and customer identification, including requirements for proper identification;

8.3.3 Maintenance of records;

8.3.4 Compliance with the requirement of the AMLA, as amended, its Revised Implementing Rules and Regulations, and all Circulars issued by the Commission and the Anti-Money Laundering Council;

8.3.5 Cooperation with the Commission and other relevant Authorities.

Section 8.4. Covered institutions shall establish written internal reporting procedures which shall:

8.4.1 Enable all its directors, officers, employees, and all key staff to know to whom they should report any knowledge or suspicion of money laundering activity;

8.4.2 Ensure that there is a clear reporting chain under which suspicions of money laundering activity will be passed to the

Compliance Officer, in accordance with the reporting procedures of the covered institution;

8.4.3 Require the Compliance Officer to consider any report in the light of all relevant information available for the purpose of determining whether or not it gives rise to a knowledge or suspicion of money laundering;

8.4.4 Ensure that the Compliance Officer has reasonable access to any other information which may be of assistance in the determination as to whether or not a suspicious transaction report is to be filed;

8.4.5 Require that, upon determination of the suspicious nature of the report, the information contained therein is disclosed promptly to the AMLC;

8.4.6 Maintain a register of all reports pursuant to Section 7.6, 7.7 and Section 7.8 above.

CHAPTER 9

COMPLIANCE

Section 9.1. Each covered institution shall appoint one or more senior persons, or an appropriate unit, to advise its management and staff on the issuance and enforcement of in-house instructions to promote adherence to the AMLA, as amended, the Implementing Rules and Regulations of the AMLA, its Operating Manual, including personnel training, reporting of covered and suspicious transactions, and generally, all matters relating to the prevention of money laundering.

Section 9.2. Each covered institution shall appoint a senior officer as the Compliance Officer. Unless otherwise provided in its Operating Manual, the registered Associated Person of covered institution covered by the SRC shall also be the Compliance officer as contemplated herein. A Compliance Officer shall be:

9.2.1 A senior officer with relevant qualifications and experience to enable him to respond sufficiently well to inquiries relating to the relevant person and the conduct of its business;

9.2.2 Responsible for establishing and maintaining a manual of compliance procedures in relation to the business of the covered institution;

9.2.3 Responsible for ensuring compliance by the staff of the covered institution with the provisions of the AMLA, as amended, its Implementing Rules and Regulations, and the covered institution's manual of compliance Procedures established under Section 9.2 (b);

9.2.4 Responsible for disseminating to its board, officers and all employees *memorandum circulars, resolutions, instructions,* and policies issued by the AMLC and by the Commission in all matters relating to the prevention of money laundering;

9.2.5 The liaison between covered institution and the AMLC in matters relating to compliance with the provisions of the AMLA and its Implementing Rules and Regulations;

9.2.6 Responsible for the preparation and submission to the AMLC written reports on the covered institutions' compliance with the provisions of the AMLA and its Implementing Rules and Regulations, in such form as the AMLC may determine, and within such period as the Commission may allow in accordance with the AMLA, as amended.

Section 9.3. Notwithstanding the duties of the Compliance Officer, the ultimate responsibility for proper supervision, reporting and compliance under the AMLA, as amended, its Implementing Rules and Regulations shall rest with the covered institution and its board of directors.

CHAPTER 10

TRAINING

Section 10.1. The covered institution shall provide education and continuing training for all its staff and personnel, including directors and officers, to ensure that they are fully aware of their personal obligations and responsibilities in combating money laundering and to be familiar with its system for reporting and investigating suspicious matters.

Section 10.2. A covered institution may, due to the scale and nature of their operations, assign the internal audit or training functions to another person (e.g. professional association, parent company or external auditors). Where a covered institution delegates its responsibilities for audit and training, due diligence is to be exercised to ensure that the persons appointed are able to perform these functions effectively and the fact of such appointment must be relayed in writing to the Commission or to AMLC.

Section 10.3. Timing and content of training for various sectors of staff will need to be adapted by the covered institution to its own needs. The following training programs are recommended:

10.3.1 New Staff

A general appreciation of the background to money laundering, the need to be able to identify suspicious transactions and report such transactions to the appropriate designated point within the covered institution. This training shall be provided to all new employees, regardless of level of seniority.

10.3.2 Cashiers/Dealers' Representatives or Investment Representatives/Advisory Staff

Personnel who deal directly with the clients are the first point of contact with potential money launderers. Their efforts are therefore vital to the covered institutions' reporting system for such transactions. They should be trained to identify suspicious transactions and on the procedure to be adopted when a transaction is deemed to be suspicious. "Front-line" staff should be made aware of the covered institution's policy for dealing with non-regular customers particularly where large cash transactions are involved, and the need for extra vigilance in cases under suspicious circumstances.

10.3.3 Supervisors and Managers

A higher level of instruction covering all aspects of money laundering procedures should be provided to supervisors and managers. This will include the offences and penalties arising from the AMLA, procedures relating to service of production and restraint orders, internal reporting procedures, and the requirements for verification of identity and the retention of records.

Section 10.4 Covered institutions shall, at least once a year, make arrangements for refresher training to remind key staff of their responsibilities and to make them aware of any changes in the laws and rules relating to money laundering, as well as the internal procedures of the covered institution.