

# IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10168

## RULE 1

### Title

**Rule 1.a. Title.** – These Rules shall be known and cited as the Implementing Rules and Regulations of Republic No. 10168, otherwise known as “The Terrorism Financing Prevention and Suppression Act of 2012”, hereafter referred to as the “TF Suppression Act.”

**Rule 1.b. Purpose.** – These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the TF Suppression Act.

## RULE 2

### Declaration of Policy

**Rule 2.a Declaration of Policy.** – It is the policy of the State to protect life, liberty, and property from acts of terrorism and to condemn terrorism and those who support and finance it and to recognize it as inimical and dangerous to national security and the welfare of the people, and to make the financing of terrorism a crime against the Filipino people, against humanity, and against the law of nations.

The State, likewise, recognizes and adheres to international commitments to combat the financing of terrorism specifically to the International Convention for the Suppression of the Financing of Terrorism, as well as other binding terrorism-related resolutions of the United Nations Security Council pursuant to Chapter 7 of the United Nations Charter.

Towards this end, the State shall reinforce its fight against terrorism by criminalizing the financing of terrorism related offenses, and by preventing and suppressing the commission of said offenses through freezing and forfeiture of property or funds while protecting human rights.

## RULE 3

### Definition of Terms

**Rule. 3.a Definition of Terms.** - As used in the TF Suppression Act and in these Rules:

**Rule 3.a.1. “Anti-Money Laundering Council (AMLC)”** - refers to the Council created by virtue of Republic Act 9160, otherwise known as the “Anti-Money Laundering Act of 2001, as amended” (AMLA, as amended);

**Rule 3.a.2. “Anti-Terrorism Council (ATC)”** - refers to the Council created by virtue of Republic Act no. 9502 otherwise known as the “Human Security Act” (HSA) of 2007;

**Rule 3.a.3. “Covered institutions”** - refers to those institutions defined under Section 3 (a) (1) (2) and (3) of the AMLA as amended;

**Rule. 3.a.4. “Dealing, with regard to property or funds”** - refers to receiving, acquiring, transacting, representing, concealing, disposing, converting, transferring or moving, using as security or providing financial services.

**Rule 3.a.5. “Designated persons”** - refers to:

(a) Any person or entity designated as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable United Nations Security Council Resolution or by another jurisdiction or supra-national jurisdiction;

(c) Any person, organization, association, or group of persons whose property or funds, based on probable cause, are subject to seizure and sequestration under Section 39 of the HSA of 2007.

**Rule 3.a.6. “Designation” or “Listing”** - refers to the identification of a person, organization, association or group of persons that is subject to targeted financial sanctions pursuant to the applicable United Nations Security Council Resolutions.

**Rule 3.a.7. “Forfeiture”** - refers to a court order transferring in favor of the government, after due process, ownership of property or funds representing, involving, or relating to financing of terrorism as defined in Section 4 or an offense under Sections 5, 6, 7, 8, or 9 of the TF Suppression Act.

**Rule 3.a.8. “Freeze”** - refers to the blocking or restraining of specific property or funds from being transferred, converted, concealed, moved, or disposed of without affecting the ownership thereof.

**Rule 3.a.9. “Probable cause”** - refers to a reasonable ground of suspicion supported by circumstances warranting a cautious person to believe that property or funds are in any way related to terrorism financing, acts of terrorism, or other violations under the TF Suppression Act.

**Rule 3.a.10. “Property or funds”** - refers to financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credit, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and interest, dividends, or other income on or value accruing from or generated by such funds or other assets.

**Rule 3.a.11. “Terrorist”** - refers to any natural person who: (a) commits, or attempts, or conspires to commit terrorist acts by any means, directly or indirectly, unlawfully, and willfully; (b) participates, as a principal, or as an accomplice, in terrorist acts; (c) organizes or directs others to commit terrorist acts; or (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist acts or with the knowledge of the intention of the group to commit terrorist acts.

**Rule 3.a.12. “Terrorist acts”** - refers to the following:

(a) Any act in violation of Section 3 or 4 of the HSA of 2007.

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature and context, is to intimidate a population, or to compel a government or an international organization to do or abstain from doing any act.

(c) Any act which constitutes an offense that is within the scope of any of the following treaties to which the Republic of the Philippines is a State party:

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970;
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971;
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;

Nations on 17 December 1979;

5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;

6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation done at Montreal on 24 February 1988;

7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988; or

9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

**Rule 3.a.13. "Terrorist Organization, Association or Group of Persons"** - refers to any entity owned or controlled by any terrorist or group of terrorists that: (1) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully; (2) participates as an accomplice in terrorist acts; (3) organizes or directs others to commit terrorist acts; or (4) contributes to the commission of terrorist acts by a group of persons acting with the common purpose of furthering the terrorist acts where the contribution is made intentionally and with the aim of furthering the terrorist acts or with the knowledge of the intention of the group to commit terrorist acts.

**Rule 3.a.14. "Related Accounts"** - refers to accounts the funds and sources of which originated from and/or are materially linked to the property or funds subject of the freeze order.

**Rule 3.a.15. "Suspicious transaction"** - refers to a transaction with a covered institution, regardless of the amount involved that is, in any way, related to terrorism financing or terrorist acts.

It includes attempted transactions made by suspected or designated terrorist individuals, organizations, associations or groups of persons.

In determining whether a transaction is suspicious, covered institutions should consider the following circumstances:

- (1) Wire transfers between accounts, without visible legal, economic or business purpose, especially if the transfers are effected through countries which are identified or connected with terrorist activities;
- (2) Sources and/or beneficiaries of wire transfers are citizens of countries which are identified or connected with terrorist activities;
- (3) Repetitive deposits or withdrawals that cannot be satisfactorily explained or do not make economic or business sense;
- (4) Value of the transaction is grossly over and above what the client is capable of earning;
- (5) Client is conducting a transaction that is out of the ordinary for his known business interests;
- (6) Deposits by individuals who have no known connection or relation with the account holder;
- (7) Client is receiving remittances from a country where none of his family members is working or residing;
- (8) Client was reported and/or mentioned in the news to be involved in terrorist activities;

- (9) Client is under investigation by law enforcement agencies for possible involvement in terrorist activities;
- (10) Transactions of individuals, companies or Non-Government Organizations (NGOs)/Non-Profit Organizations (NPOs) that are affiliated or related to people suspected of having connection with a terrorist individual, organization, association or group of persons;
- (11) Transactions of individuals, companies or NGOs/NPOs that are suspected of being used to pay or receive funds from a terrorist individual, organization, association or group of persons;
- (12) The NGO/NPO does not appear to have expenses normally related to relief or humanitarian efforts;
- (13) The absence of contributions from donors located within the country of origin of the NGO/NPO;
- (14) The volume and frequency of transactions of the NGO/NPO are not commensurate with its stated purpose and activity; and
- (15) Any other transaction that is similar, identical or analogous to any of the foregoing.

#### **RULE 4**

##### **Terrorism Financing Offenses**

**Rule 4. Financing of Terrorism.** - Any person who, directly or indirectly, willfully and without lawful excuse possesses, provides, collects, or uses property or funds or makes available property, funds or financial services or other related services, by any means, with the unlawful and willful intention that they should be used or with knowledge that they are to be used, in full or in part: (a) to carry out or facilitate the commission of any terrorist act by a terrorist organization, association, or group; or (c) by an individual terrorist, shall be guilty of the crime of financing of terrorism and shall suffer the penalty of *reclusion temporal* in its maximum period to *reclusion perpetua* and a fine not less than Five Hundred Thousand Pesos (Php 500,000.00) nor more than One Million Pesos (Php1,000,000.00).

Any person who organizes or directs others to commit financing of terrorism under the immediately preceding paragraph shall likewise be guilty of an offense and shall suffer the same penalty as herein prescribed.

For purposes of the TF Suppression Act, knowledge or intent may be established by direct evidence or inferred from the attendant circumstances.

For an act to constitute a crime under the TF Suppression Act, it shall not be necessary that the property or funds were actually used to carry out terrorist acts as defined herein.

#### **RULE 5**

##### **Attempt or Conspiracy to Commit Terrorism Financing Offense and Dealing with Property or Funds**

**Rule 5. Attempt or Conspiracy to Commit the Crimes of Financing of Terrorism and Dealing with Property or Funds of Designated Persons.** - Any attempt to commit any crime under Section 4 or Section 8 of the TF Suppression Act shall be penalized by a penalty two degrees lower than that prescribed for the commission of the same as provided under the TF Suppression Act.

Any conspiracy to commit any crime under Section 4 or 8 of the TF Suppression Act shall be penalized by the same penalty prescribed for the commission of such crime under the said sections.

There is conspiracy to commit the offenses punishable under Sections 4 and 8 of the TF Suppression Act when two or more persons come to an agreement concerning the commission of such offenses and decided to commit it.

## RULE 6

### Accomplice to Terrorism Financing Offense

**Rule 6. Accomplice.** - Any person who, not being a principal under Article 17 of the Revised Penal Code conspirator as defined in Section 5 of the TF Suppression Act, cooperates in the execution of either the crime of financing of terrorism or conspiracy to commit the crime of financing of terrorism by previous or simultaneous acts shall suffer the penalty one degree lower than that prescribed for the conspirator.

## RULE 7

### Accessory to Terrorism Financing Offense

**Rule 7. Accessory.** -Any person who, having knowledge of the commission of the crime of financing of terrorism without having participated therein as a principal, takes part subsequent to its commission, by profiting from it or assisting the principal or principals to profit by the effects of the crime, or by concealing or destroying the effects of the crime in order to prevent its discovery, or by harboring, concealing or assisting in the escape of the principal or principals in the crime shall be guilty as an accessory to the crime of financing of terrorism and shall be imposed a penalty one degree lower than that prescribed for principals in the crime of financing terrorism.

## RULE 8

### Dealings with Property or Funds of Designated Persons

**Rule 8.a. Prohibition Against Dealing with Property or Funds of Designated Persons.** - Any person who, being an accomplice as defined under Section 6 of the TF Suppression Act in relation to any property or funds:

(i) deals directly or indirectly, in any way and by any means, with any property or funds that he knows or has reasonable ground to believe is owned or controlled by a designated person, organization, association or group of persons, including funds derived or generated from property or funds owned or controlled, directly or indirectly, by a designated person, organization, association or group of persons; or

(ii) makes available any property or funds, or financial services or other related services to a designated person, organization, association or group of persons,

shall suffer the penalty of *reclusion temporal* in its maximum period to *reclusion perpetua* and a fine of not less than Five Hundred Thousand Pesos (Php500,000.00) nor more than One Million Pesos (Php1,000,000.00).

For purposes of this Rule, ***“making available property or funds, financial services or other related services to designated persons, organizations, associations or groups of persons”*** shall mean making or capacitating designated persons, organizations, associations or groups of persons to obtain benefit or benefits from property or funds, or financial services or other related services. ***“Financial benefit”*** includes, but is not limited to, the discharge of a financial obligation of such designated persons, organizations, associations or groups of persons.

**Rule 8.b. Authorized Dealings.** - Subject to the procedure as hereafter provided, the prohibition against dealing with property or funds under Section 8 of the TF Suppression Act shall not apply to the following:

i) Payments falling under humanitarian exemptions, as provided for under Section 13 of the TF Suppression Act

ii) Payments necessary to satisfy a judicial, administrative or arbitral judgment rendered or lien encumbered, to the date of designation or listing of the designated persons, organizations, associations or groups of persons

iii) Payments of (a) interest or other earnings due on frozen deposit accounts or other assets, Provided that interest or other earnings due thereon shall similarly be frozen once received; or (b) obligations under a

designation.

## **RULE 9**

### **Offense Committed by a Juridical Person, Corporate Body or Alien**

**Rule 9. Offense by a Juridical Person, Corporate Body or Alien.** - If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or who allowed by their gross negligence, the commission of the crime or who shall knowingly permitted or failed to prevent its commission. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, the alien shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed.

## **RULE 10**

### **Authority to Investigate Terrorism Financing And Inquire into Bank Deposits and Investments**

**Rule 10.a Authority to Investigate Terrorism Financing.** - The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to investigate: (a) any property or funds that are in any way related to financing of terrorism or terrorist acts; (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of terrorism or terrorist acts as defined in the TF Suppression Act.

The AMLC may also enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and-controlled corporations, in undertaking measures, including information exchange, to prevent and suppress the financing of terrorism, which may include the use of its personnel, facilities and resources.

For purposes of this Section and notwithstanding the provisions of Republic Act No. 1405, otherwise known as the "Law on Secrecy of Bank Deposits", as amended; Republic Act No. 6426, otherwise known as the "Foreign Currency Deposit Act of the Philippines", as amended; Republic Act No. 8791, otherwise known as "The General Banking Law of 2000"; and other laws, the AMLC is hereby authorized to inquire into or examine deposits and investments with any banking institution or non-bank financial institution, and their subsidiaries and affiliates, with a court order.

**Rule 10.b. Procedure for Bank Inquiry or Examination.** - Upon determination that probable cause exists that deposits and investments (a) are in any way related to terrorism financing or terrorist acts, or (b) belongs to a person, organization, association or group of persons who is committing or attempting or conspiring to commit, or participating in or facilitating the financing of terrorism or terrorist acts, the AMLC, through its Secretariat, may inquire into or examine bank deposits and investments, including related accounts, with such banking institution or non-bank financial institution and its subsidiaries and affiliates.

The banking institution or non-bank financial institution and its subsidiaries and affiliates shall promptly give the AMLC or its Secretariat full access to, and submit copies of, all transaction records and documents pertaining to the deposits and investment accounts, including the related accounts subject of the inquiry or examination.

## **RULE 11**

### **Authority to Freeze**

**Rule 11.a. Authority to Freeze.** - The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to issue, ex parte, an order to freeze without delay: (a) property or funds that are in any way related to the financing of terrorism or terrorist acts; or (b) property or funds of any person, terrorist organization, association or group of persons who is committing or attempting or conspiring to commit, or participating in or facilitating the financing of terrorism or terrorist acts.

to commit, or participating in or facilitating the commission of financing of terrorism or terrorist acts.

The freeze order shall be effective for a period not exceeding twenty (20) days. Upon a petition filed by the A before the expiration of the period, the effectivity of the freeze order may be extended up to a period not exceed six (6) months upon order of the Court of Appeals: Provided, That the twenty-day period shall be tolled upon filing petition to extend the effectivity of the freeze order.

Notwithstanding the preceding paragraphs, the AMLC, consistent with the Philippines' international obligation authorized to issue, *ex-parte*, a freeze order with respect to property or funds of designated persons, organizations, associations, or groups of persons, based on binding terrorism-related Resolutions including Resolution No. 137 the United Nations Security Council pursuant to Article 41 of the United Nations Charter. The freeze order shall be effective until the basis for its issuance shall have been lifted. During the effectivity of the freeze order, the aggrieved party may, within twenty (20) days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection.

However, if the property or funds subject of the freeze order under the immediately preceding paragraph are found to be in any way related to financing of terrorism or terrorist acts committed within the jurisdiction of the Philippines, the property or funds shall be the subject of civil forfeiture proceedings as hereafter provided.

**Rule 11.b. Mistaken Identity; Safe Harbor Provision.** - In case a freeze has been effected based on mistaken identity, no administrative, criminal or civil proceedings shall lie against any person or entity, including covered institutions and relevant government agencies, for effecting a freeze on the property or funds in the absence of fraud, faith, gross negligence or malice.

## **RULE 12**

### **Exceptions for Investigative Requirements**

**Rule 12. Exceptions for Investigative Requirements.** - Notwithstanding Section 11 of the TF Suppression Act, the AMLC may defer the issuance of a freeze order for as long as necessary for any specific investigative/prosecution purposes.

## **RULE 13**

### **Humanitarian Exemptions; Procedure for Claiming**

**Rule 13.a. Filing of Petition to Withdraw with the Court of Appeals.** - The person whose property or funds have been frozen under Section 11, paragraph 1, of the TF Suppression Act may withdraw such sums as the Court determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person.

**Rule 13.a.1.** - The person affected by the freeze referred to in the immediately preceding paragraph who seeks to withdraw an amount to shoulder basic and necessary expenses, including those covered by authorized dealings under Rule 8.b of these Rules, may file a verified petition before the Court of Appeals for an order allowing such withdrawal.

**Rule 13.b. Filing of Petition to Withdraw with the AMLC and Referral to the United Nations.** - The person whose property or funds have been frozen under Section 11, paragraph 3, of the TF Suppression Act may withdraw such sums as the AMLC determines to be reasonably needed for monthly family needs including the services of counsel and the family medical needs of such person and/or the authorized dealings as provided under Rule 8.b. of these Rules.

**Rule 13.b.1.** - The person affected by the freeze referred to in the immediately preceding paragraph who seeks

AMLC which shall act thereon within five (5) working days from filing. Should the AMLC find merit in the petition, it shall notify the appropriate United Nations Security Council Sanctions Committee of its intention to authorize, where appropriate, the requested exemptions, and seek said Committee's recommendation on the matter.

In the absence of a negative recommendation from the appropriate United Nations Security Council Sanctions Committee within three (3) working days from notification, the AMLC shall grant the petition for withdrawal of sums as determined to be reasonably needed by the petitioner.

Petitions to withdraw sums for extraordinary expenses shall only be granted by the AMLC upon prior written approval of the appropriate United Nations Security Council Sanctions Committee.

**Rule 13.c. Basic, Necessary and Extraordinary Expenses.** - For purposes of Rules 13.a and 13.b of these Rules, basic and necessary expenses shall be limited to the following:

- i) Funds necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines, medical treatment, taxes, insurances premiums, and public utility charges;
- ii) Funds intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- iii) Funds intended exclusively for payment of fees or service charges for routine holding or maintenance of funds or other financial assets or economic resources.

Expenses not falling under the foregoing shall be deemed "extraordinary expenses".

## **RULE 14**

### **Appropriation and Use of Funds of the Public Attorney's Office**

**Rule 14. Appropriation and Use of Funds of the Public Attorney's Office (PAO).** - Any appropriation and use of funds of PAO to provide free legal assistance or services to persons, organizations, associations, or groups of persons charged of the offenses defined and penalized under the TF Suppression Act shall not be construed as a violation of said Act, thereby exempting the PAO from any liability.

## **RULE 15**

### **Publication of Designation**

**Rule 15.a. Publication of Designation.** - The Department of Foreign Affairs (DFA) with respect to designation under Section 3(e) (1) of the TF Suppression Act, and the ATC with respect to designation under Section 3 (e) (2) and (3) and Section 11 of the same law, shall publish a list of the designated persons, organizations, associations, and groups of persons pursuant to the TF Suppression Act or the HSA of 2007, as the case may be. The AMLC, ATC and DFA shall, in their websites, make available to the public an electronic version of the List, the TF Suppression Act and the Rules.

**Rule 15.a.1.** - Nothing in this Rule shall prevent the AMLC, ATC and DFA from adopting measures and arrangements that will ensure the speedy publication and dissemination of the list of designated persons, organizations, associations, and groups of persons.

**Rule 15.b. Names of Persons and Entities to be Published.** - Only persons, organizations, associations, and groups of persons falling under the following categories shall be included in the publication:

- i) Named persons, organizations, associations, and groups of persons subject to sanctions under United Nations Security Council Resolution 1267 and successor resolutions, including United Nations Security Co



- ii) Organizations, associations, and groups of persons proscribed pursuant to Sec.17 of the HSA of 2007;
- iii) Persons, organizations, associations, and groups of persons whose property or funds are subject to seizure and sequestration under Sec.39 of the HSA of 2007; and
- iv) Persons, organizations, associations, and groups of persons whose property or funds are frozen under Sec. 1 of the TF Suppression Act.

In addition to the foregoing, the publication shall include the following information:

- 1) the freeze order addressed to all covered institutions, relevant government agencies, entities or persons in possession or control of any property or funds belonging to any of the above-named persons or entities;
- 2) the order prohibiting any person or entity from dealing with the property or funds of, or making available any property or funds, or financial services or other related services, to such designated persons, organizations, associations or groups of persons.
- 3) the fact of designation and its implications;
- 4) the available remedies for the lifting of the freeze order and for de-listing;
- 5) the review procedure and information on de-listing; and
- 6) the manner of securing information for the reasons for listing.

## **RULE 16**

### **Duties of the Covered Institutions and/or Relevant Government Agencies Upon Receipt of the Freeze Order**

**Rule 16.a Duty to Preserve the Frozen Property or Funds.** - Upon receipt of the notice of a freeze order, covered institutions and/or relevant government agencies shall immediately preserve the subject property or funds in accordance with the order of the AMLC and shall forthwith serve a copy of the notice of the freeze order upon the owner or holder of the property or funds. Any responsible officer or person who fails to comply with a freeze order shall suffer the penalty of imprisonment ranging from six (6) months to four (4) years and a fine of not less than Hundred Thousand Pesos (Php500,000.00) at the discretion of the court, without prejudice to the administrative sanctions that the AMLC may impose on the erring covered institution.

**Rule 16.b. Duty to Freeze and Preserve All Related Accounts.** - Immediately upon receipt of the notice of the freeze order referred to in Rule 16.a, the covered institutions and relevant government agencies shall likewise preserve all related accounts and serve a copy of the notice of the freeze order upon the owner(s) or holder(s) thereof.

**Rule 16.c. Return.** - Within twenty-four (24) hours from receipt of the notice of freeze order, the covered institutions and relevant government agencies shall submit to the AMLC, by personal delivery, a detailed written report specifying all the pertinent and relevant information which shall include, but not be limited to, the following:

For covered institutions-

- 1. The account number(s);
- 2. The name(s) of the account owner(s) or holder(s);
- 3. The time of freezing of all subject accounts;

5. The related accounts, if any, including the balance thereof as of the time of freezing; and
6. Explanation as to the ground for the identification of related accounts.

For relevant government agencies-

1. The nature and description of the property;
2. The name(s) of the owner(s) and/or holder(s) of the property;
3. The mode and date of acquisition of the property by the owner(s); and
4. Location of the property.

**Rule 16.d. Duty to Report All Attempted Dealings.** - The foregoing notwithstanding, covered institutions relevant government agencies shall report to the AMLC any and all attempted dealings with regard to the fr property or funds within twenty four (24) hours from such attempt.

## **RULE 17**

### **Predicate Offenses to Money Laundering**

**Rule 17.a. Predicate Offenses to Money Laundering.** - Financing of terrorism under Section 4 and offenses punishable under Sections 5, 6, 7, and 8 of the TF Suppression Act shall be predicate offenses to money laundering as defined in AMLA, as amended, and subject to its suspicious transaction reporting requirement.

**Rule 17.b. Reporting Period for Suspicious Transaction.** - Covered institutions shall report to the AMLC suspicious transactions within five (5) working days from occurrence thereof, or within the period prescribed by the Supervisory Authority, which in no case shall exceed ten (10) working days from occurrence.

## **RULE 18**

### **Forfeiture Action**

**Rule 18. Civil Forfeiture.** - The procedure for the civil forfeiture of property or funds found to be in any way related to financing of terrorism under Section 4 and offenses punishable under Sections 5, 6, 7 and 8 of the TF Suppression Act shall be made in accordance with the AMLA, as amended, its Implementing Rules and Regulations and the Rule Procedure promulgated by the Supreme Court.

## **RULE 19**

### **Extra-Territorial Application**

**Rule 19.a. Extra-Territorial Application of the TF Suppression Act.** - Subject to the provisions of an existing treaty including the International Convention for the Suppression of the Financing of Terrorism of which the Philippines is a State Party, and to any contrary provision of any law of preferential application, the criminal provisions of the TF Suppression Act shall apply: (a) to individual persons who, although physically outside the territorial limits of the Philippines, commit, conspire or plot to commit any of the crimes defined and punished in the Act inside the territorial limits of the Philippines; (b) to individual persons who, although physically outside the territorial limits of the Philippines, commit any of the said crimes on board Philippine ship or Philippine airship; (c) to individual persons who commit any of said crimes within any embassy, consulate, or diplomatic premises belonging to or occupied by the Philippine government in an official capacity; (d) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes against Philippine citizens or persons of Philippine descent, where citizenship or ethnicity was a factor in the commission of the crime; and (e) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes directly against the Philip

The provision of the TF Suppression Act shall likewise apply to a Filipino national who, although outside the territorial jurisdiction of the Philippines, commits, conspires or plots to commit any of the crimes defined and punished under said Act.

In case of an alien whose extradition is requested pursuant to the International Convention for the Suppression of the Financing of Terrorism, and that alien is not extradited to the requesting State, the Republic of the Philippines, with exception whatsoever and whether or not the offense was committed in the Philippines, shall submit the case without undue delay to the Department of Justice for the purpose of prosecution in the same manner as if the act constituted the offense had been committed in the Philippines, in which case, the courts of the Philippines shall have jurisdiction over the offense, subject to the provisions of the Philippine Extradition Law.

**Rule 19.a.1.** - For purposes of the immediately preceding paragraph, the Republic of the Philippines, through the Office of the Chief State Counsel, Department of Justice, shall submit the case without undue delay to the National Prosecution Service of the Department of Justice for preliminary investigation and, if warranted, prosecution.

## **RULE 20**

### **Extradition**

**Rule 20. Extradition.** - The Philippines may, at its option, subject to the principle of reciprocity, consider the International Convention for the Suppression of the Financing of Terrorism as a legal basis for requesting or granting extradition in respect of the offenses set forth under the TF Suppression Act.

## **RULE 21**

### **Applicability of the Revised Penal Code**

**Rule 21. Applicability of the Revised Penal Code.** - The provisions of Book I of the Revised Penal Code shall apply supplementarily to the TF Suppression Act.

## **RULE 22**

### **Rules on Designation**

**Rule 22.a. Designation by Adoption of UN Security Council Resolutions 1267, 1988, 1989 and Successive Resolutions.** - All designations made by the United Nations Security Council, and its appropriate Sanctions Committee and any Sanctions List or any similar list issued in connection therewith shall be transmitted by the Philippine Mission to the United Nations to the Department of Foreign Affairs in Manila which shall immediately forward the same to the AMLC for the implementation of the freezing mechanism.

Immediately upon receipt of the List and Note Verbale, either from the DFA or directly from the United Nations Security Council, the AMLC shall adopt and publish the List and order the freezing without delay of property or funds of persons, organizations, associations or groups of persons named in the List.

**Rule 22.b. Modification and Amendment of AMLC Resolution.** - In case the United Nations Security Council, or its appropriate Sanctions Committee, adopts any change or modification to its Sanctions List or any similar list, the AMLC shall act accordingly.

**Rule 22.c. Designation on Account of Proscription, Seizure and Sequestration Under the HSA of 2007.** - Judicially declared and outlawed organizations, associations or groups of persons under Section 17 of the HSA of 2007, including those whose property or funds are subject to seizure and sequestration under Section 39 of said Act, shall be deemed designated pursuant to and as defined under Section 3 (e), (2) and (3) of the TF Suppression Act.

groups of persons, whose property or funds are subject to seizure and sequestration shall also be disseminated to covered institutions, relevant government agencies and other concerned sectors, and posted on the AMLC, ATC and DFA websites.

**Rule 22. e. Other designations.** - Pursuant to Sec.54 (7) of the HSA of 2007 and consistent with the national interest, all requests for designations made by another jurisdiction or supra-national jurisdiction shall be referred by the DFA to the ATC to determine if proscription under Sec.17 of the HSA of 2007 is warranted and, if so, the ATC shall correspondingly commence proscription proceedings.

## **RULE 23**

### **Remedies for Lifting of Freeze and De-listing**

**Rule 23.a. Lifting of the Freeze on the Ground of Mistaken Identity.** - Persons, organizations, associations or groups of persons whose property or funds were frozen on account of mistaken identity may file with the AMLC a verified petition for the lifting of the freeze order.

**Rule 23.b. Grounds for de-listing.** - A petition for de-listing may be filed with the appropriate United Nations Security Council Sanctions Committee based on any of the following grounds:

- i) Mistaken identity;
- ii) Relevant and significant change of facts or circumstance, e.g. inclusion of the person in the Witness Protection Program;
- iii) Newly discovered evidence;
- iv) Death of a designated person;
- v) Dissolution or liquidation of designated organizations, associations or groups of persons; or
- vi) Any other circumstance which would show that the basis for designation no longer exists.

**Rule 23.c. De-listing Through the Office of the Ombudsperson.** - Any person or entity on the Al Qaida Sanctions List (UNSCR 1267/1989) or their legal representative or estate seeking to submit a request for de-listing can do so directly to the Office of the Ombudsperson at the following address:

Office of the Ombudsperson  
Room TB-08041D  
United Nations  
New York, NY 10017  
United States of America  
Tel: +1 212 963 2671  
Fax: +1 212 963 1300/3778  
E-mail: [ombudsperson@un.org](mailto:ombudsperson@un.org)

In accordance with paragraph 21 of Annex II, United Nations Security Council Resolution No. 1989 (2011), the Office of the Ombudsperson shall receive de-listing requests submitted by, or on behalf of, a petitioner following procedures outlined in said Annex II (reproduced as Annex A of these Rules).

**Rule 23.d. De-listing through the Focal Point.** - Any person or entity listed under the Taliban Sanctions List (UNSCR 1730 (2006)) and its annex (reproduced as Annex B of these Rules) or through their State of residence or citizenship

Focal Point for De-listing  
Security Council Subsidiary Organs Branch  
Room TB-08041B  
United Nations  
New York, N.Y. 10017  
United States of America  
Tel. +1 917 367 9448  
Fax. +1 212 963 1300/3778  
Email: delisting@un.org

**Rule 23.e. Notice of De-listing and Lifting of the Freeze Order.** - Where persons, organizations, associations or groups of persons are de-listed by the United Nations Security Council, or its appropriate Sanctions Committee in the aforementioned cases, the AMLC or the ATC, as the case may be, shall immediately issue a resolution or notice that the person, organization, association or group of persons has been de-listed and the freeze order has been lifted. The resolution or notice shall be disseminated by publication, posting on the websites of the AMLC, ATC and DFA as needed, personal service on the concerned parties.

## **RULE 24**

### **Domestic Coordination, International Cooperation and Mutual Legal Assistance**

**Rule 24.a. Domestic Coordination and International Cooperation.** - The AMLC, in coordination with the ATC and other relevant agencies, shall coordinate all efforts to prevent and suppress terrorism financing in the Philippines and maintain coordination and cooperation with other nations in combating terrorist financing.

Matters that may be the subject of coordination include, but shall not be limited to, the following:

- i) To identify targets of designation;
- ii) If requested by a foreign country, and consistent with the national interest, to examine and give effect to action initiated under the freezing mechanism of the requesting country; and
- iii) To consider other matters such as requests for de-listing.

**Rule 24.b. Mutual Legal Assistance among States.** - The authority of the AMLC to act on matters of assistance among States, including requests to freeze, shall be governed by Sec.13 of the AMLA, as amended, and its Implementing Rules and Regulations.

## **RULE 25**

### **Training and Education**

**Rule 25.a. Terrorist Financing Prevention Programs.**- Covered institutions shall formulate and implement programs for combating the financing of terrorism (CFT) programs, which may be embodied in their existing money laundering prevention programs, and should include, but not limited to, information dissemination on terrorist financing activities and their prevention, detection and reporting, and the training of their responsible officers and personnel subject to such guidelines as may be prescribed by their respective supervising authorities. Every covered institution shall submit its own terrorist financing prevention program to the supervising authority concerned within the period that the supervising authority may prescribe in the exercise of its regulatory powers.

**Rule 25.b. Training of Personnel.** - Covered institutions shall provide all their responsible officers and personnel with efficient, effective, continuing CFT training and educational programs to enable them to fully comply with all obligations under the TF Suppression Act and these Rules.

**Rule 25.c. Training Programs.** - The AMLC shall develop training and educational programs on the effective prevention and suppression of terrorism financing, as well as on the implementation of the TF Suppression Act. AMLC shall supplement the continuing CFT training of responsible officers and personnel of covered institutions and other relevant sectors, both public and private.

**RULE 26**  
**Administrative Sanctions**

**Rule 26. Administrative Sanctions.** - After due notice and hearing, the AMLC may, at its discretion, penalize a covered institution, its responsible officers and employees, or any person who violates any of the provisions of the TF Suppression Act, its Implementing Rules and Regulations, Orders and Resolutions issued pursuant thereto. The penalty may either be a reprimand or a fine ranging from One Hundred Thousand Pesos (Php100,000.00) to Five Hundred Thousand Pesos (Php500,000.00). In imposing the penalty, the AMLC shall take into consideration all attendant circumstances such as, but not limited to, the nature and gravity of the violation.

The imposition of the penalty shall be without prejudice to the filing of appropriate criminal charges against persons responsible for the violation.

**RULE 27**  
**Amendments and Guidelines**

**Rule 27. Amendments and Guidelines.** - These Rules or any portion thereof may be amended by a unanimous vote of the AMLC Chairman and Members. The Bangko Sentral ng Pilipinas, the Securities and Exchange Commission, the Insurance Commission shall issue their respective Guidelines and Circulars on terrorism financing prevention and suppression to effectively implement the TF Suppression Act.

The AMLC may also issue Guidelines and Interpretative Notes for the effective implementation of the TF Suppression Act and these Rules, and guidance of covered institutions and other relevant sectors, both public and private.

**RULE 28**  
**Separability Clause**

**Rule 28. Separability Clause.** - If, for any reason, any provision of the TF Suppression Act or these Rules is declared invalid or unconstitutional, the remaining provisions thereof not affected thereby shall continue to be in full effect.

**RULE 29**  
**Effectivity Clause**

**Rule 29. Effectivity Clause.** - These Implementing Rules and Regulations shall take effect fifteen (15) days after complete publication in the Official Gazette or in a newspaper of general circulation.

**APPROVED**, this 6th day of August 2012 at the City of Manila.

(Sgd.) **AMANDO M. TETANGCO, JR.**  
Chairman  
(Governor, Bangko Sentral ng Pilipinas)

(Sgd.) <b>TERESITA J. HERBOSA</b> Member (Chairperson, Securities and Exchange Commission)	(Sgd.) <b>EMMANUEL F. DOOC</b> Member (Commissioner, Insurance Commission)
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## Annex II

In accordance with paragraph 21 of this resolution, the Office of the Ombudsperson shall be authorized to carry out the following tasks upon receipt of a delisting request submitted by, or on behalf of, an individual, group, undertaking or entity on the Al-Qaida Sanctions List or by the legal representative or estate of such individual, group, undertaking or entity (“the petitioner”).

The Council recalls that Member States are not permitted to submit delisting petitions on behalf of an individual, group, undertaking or entity to the Office of the Ombudsperson.

### ***Information gathering (four months)***

1. Upon receipt of a delisting request, the Ombudsperson shall:

- (a) Acknowledge to the petitioner the receipt of the delisting request;
- (b) Inform the petitioner of the general procedure for processing delisting requests;
- (c) Answer specific questions from the petitioner about Committee procedures; and
- (d) Inform the petitioner in case the petition fails to properly address the original designation criteria, as set out in paragraph 4 of this resolution, and return it to the petitioner for his or her consideration;
- (e) Verify if the request is a new request or a repeated request and, if it is a repeated request to the Ombudsperson and it does not contain any additional information, return it to the petitioner for his or her consideration.

2. For delisting petitions not returned to the petitioner, the Ombudsperson shall immediately forward the delisting request to the members of the Committee, designating State(s), State(s) of residence and nationality or incorporation of the petitioner, relevant UN bodies, and any other States deemed relevant by the Ombudsperson. The Ombudsperson shall request these States or relevant UN bodies to provide, within four months, any appropriate additional information relevant to the delisting request. The Ombudsperson may engage in dialogue with these States to determine:

- (a) These States’ opinions on whether the delisting request should be granted; and
- (b) Information, questions or requests for clarifications that these States would like to be communicated to the petitioner regarding the delisting request, including any information or steps that might be taken by a petitioner to clarify the delisting request.

3. The Ombudsperson shall also immediately forward the delisting request to the Monitoring Team, which shall provide to the Ombudsperson, within four months:

- (a) All information available to the Monitoring Team that is relevant to the delisting request, including Committee decisions and proceedings, news reports, and information that States or relevant international organizations have previously shared with the Committee or the Monitoring Team;
- (b) Fact-based assessments of the information provided by the petitioner that is relevant to the delisting request.

(c) Questions or requests for clarifications that the Monitoring Team would like asked of the petitioner regarding the delisting request.

4. At the end of this four-month period of information gathering, the Ombudsperson shall present a written update to the Committee on progress to date, including details regarding which States have supplied information. The Ombudsperson may extend this period once for up to two months if he or she assesses that more time is required for information gathering, giving due consideration to requests by Member States for additional time to provide information.

#### **Dialogue (two months)**

5. Upon completion of the information gathering period, the Ombudsperson shall facilitate a two-month period of engagement, which may include dialogue with the petitioner. Giving due consideration to requests for additional time, the Ombudsperson may extend this period once for up to two months if he or she assesses that more time is required for engagement and the drafting of the Comprehensive Report described in paragraph 7 below. The Ombudsperson may shorten this time period if he or she assesses less time is required.

6. During this period of engagement, the Ombudsperson:

(a) May ask the petitioner questions or request additional information or clarifications that may help the Committee's consideration of the request, including any questions or information requests received from relevant States, the Committee and the Monitoring Team;

(b) Should request from the petitioner a signed statement in which the petitioner declares that they have no ongoing association with Al-Qaida, or any cell, affiliate, splinter group, or derivative thereof, and undertakes not to associate with Al-Qaida in the future;

(c) Should meet with the petitioner, to the extent possible;

(d) Shall forward replies from the petitioner back to relevant States, the Committee and the Monitoring Team and follow up with the petitioner in connection with incomplete responses by the petitioner; and

(e) Shall coordinate with States, the Committee and the Monitoring Team regarding any further inquiries concerning the response to, the petitioner;

(f) During the information gathering or dialogue phase, the Ombudsperson may share with relevant States information provided by a State, including that State's position on the delisting request, if the State waives provided the information consents;

(g) In the course of the information gathering and dialogue phases and in the preparation of the report, the Ombudsperson shall not disclose any information shared by a state on a confidential basis, without the explicit written consent of that state;

(h) During the dialogue phase, the Ombudsperson shall give serious consideration to the opinions of designated states, as well as other Member States that come forward with relevant information, in particular those Member States most affected by acts or associations that led to the original designation.

7. Upon completion of the period of engagement described above, the Ombudsperson, with the help of the Monitoring Team, shall draft and circulate to the Committee a Comprehensive Report that will exclusively:

(a) Summarize and, as appropriate, specify the sources of, all information available to the Ombudsperson that is relevant to the delisting request. The report shall respect confidential elements of Member States



(b) Describe the Ombudsperson's activities with respect to this delisting request, including dialogue with petitioner; and

(c) Based on an analysis of all the information available to the Ombudsperson and the Ombudsperson's recommendations, lay out for the Committee the principal arguments concerning the delisting request.

### **Committee discussion**

8. After the Committee has had 15 days to review the Comprehensive Report in all official languages of the United Nations, the chair of the Committee shall place the delisting request on the Committee's agenda for consideration.

9. When the Committee considers the delisting request, the Ombudsperson, aided by the Monitoring Team appropriate, shall present the Comprehensive Report in person and answer Committee members' questions regarding the request.

10. Committee consideration of the Comprehensive Report shall be completed no later than 30 days from the date the Comprehensive Report is submitted to the Committee for its review.

11. In cases where the Ombudsperson recommends retaining the listing, the requirement for States to take measures in paragraph 1 of this resolution shall remain in place with respect to that individual, group, undertaking or entity, unless a Committee member submits a delisting request, which the Committee shall consider under its normal consensus procedures.

12. In cases where the Ombudsperson recommends that the Committee consider delisting, the requirement for States to take the measures described in paragraph 1 of this resolution shall terminate with respect to that individual, group, undertaking, or entity 60 days after the Committee completes consideration of a Comprehensive Report of the Ombudsperson, in accordance with this annex II, including paragraph 6 (h), unless the Committee decides by consensus before the end of that 60 day period that the requirement shall remain in place with respect to that individual, group, undertaking, or entity; *provided* that, in cases where consensus does not exist, the Chair shall, at the request of a Committee Member, submit the question of whether to delist that individual, group, undertaking or entity to the Security Council for a decision within a period of 60 days; *and provided further* that, in the event of such a request, the requirement for States to take the measures described in paragraph 1 of this resolution shall remain in force for that period with respect to that individual, group, undertaking, or entity until the question is decided by the Security Council;

13. If the Committee decides to reject the delisting request, then the Committee shall convey to the Ombudsperson its decision, setting out its reasons, and including any further relevant information about the Committee's decision, and an updated narrative summary of reasons for listing.

14. After the Committee has informed the Ombudsperson that the Committee has rejected a delisting request, the Ombudsperson shall send to the petitioner, with an advance copy sent to the Committee, within fifteen days a letter that:

(a) Communicates the Committee's decision for continued listing;

(b) Describes, to the extent possible and drawing upon the Ombudsperson's Comprehensive Report, the process and publicly releasable factual information gathered by the Ombudsperson; and

(c) Forwards from the Committee all information about the decision provided to the Ombudsperson pursuant to paragraph 13 above.

15. In all communications with the petitioner, the Ombudsperson shall respect the confidentiality of Committee

## Other Office of the Ombudsperson Tasks

16. In addition to the tasks specified above, the Ombudsperson shall:

- (a) Distribute publicly releasable information about Committee procedures, including Committee Guidelines, sheets and other Committee-prepared documents;
- (b) Where address is known, notify individuals or entities about the status of their listing, after the Secretariat officially notified the Permanent Mission of the State or States, pursuant to paragraph 19 of this resolution; and
- (c) Submit biannual reports summarizing the activities of the Ombudsperson to the Security Council.

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United Nations	S/res/1730 (2006)
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<b>Security Council</b>	Distr.: General 19 December 2006
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### Resolution 1730 (2006)

**Adopted by the Security Council at its 5599th meeting, on 19 December 2006**

*The Security Council,*

*Recalling* the statement of its President of 22 June 2006 (S/PRST/2006/28),

*Emphasizing* that sanctions are an important tool in the maintenance and restoration of international peace and security,

*Further emphasizing* the obligations placed upon all Member States to implement, in full, the mandatory measures adopted by the Security Council,

*Continuing* in its resolve to ensure that sanctions are carefully targeted in support of clear objectives and implemented in ways that balance effectiveness against possible adverse consequences,

*Committed to ensuring* that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions,

1. *Adopts* the de-listing procedure in the document annexed to this resolution and *requests* the Secretary-General to establish within the Secretariat (Security Council Subsidiary Organs Branch), a focal point to receive de-listing requests and to perform the tasks described in the attached annex;
2. *Directs* the sanctions committees established by the Security Council, including those established pursuant to resolutions 1718 (2006), 1636 (2005), 1591 (2005), 1572 (2004), 1533 (2004), 1521 (2005), 1518 (2003), 1267 (1999), 1132 (1997), 918 (1994), and 751 (1992) to revise their guidelines accordingly;
3. *Decides* to remain seized of the matter.

The Security Council requests the Secretary-General to establish, within the Secretariat (Security Council Subsidiary Organs Branch), a focal point to receive de-listing requests. Petitioners seeking to submit a request for de-listing do so either through the focal point process outlined below or through their state of residence or citizenship.{{1}}

**The focal point will perform the following tasks:**

1. Receive de-listing requests from a petitioner (individual(s), groups, undertakings, and/or entities on the Sanctions Committee's lists).
2. Verify if the request is new or is a repeated request.
3. If it is a repeated request and if it does not contain any additional information, return it to the petitioner.
4. Acknowledge receipt of the request to the petitioner and inform the petitioner on the general procedure for processing that request.
5. Forward the request, for their information and possible comments to the designating government(s) and to the government(s) of citizenship and residence. Those governments are encouraged to consult with the designating government(s) before recommending de-listing. To this end, they may approach the focal point, which, if the designating state(s) so agree(s), will put them in contact with the designating state(s).
6. (a) If, after these consultations, any of these governments recommend de-listing, that government will forward its recommendation, either through the focal point or directly to the Chairman of the Sanctions Committee, accompanied by that government's explanation. The Chairman will then place the de-listing request on the Committee's agenda.  
  
(b) If any of the governments, which were consulted on the de-listing request under paragraph 5 above oppose the request, the focal point will so inform the Committee and provide copies of the de-listing request. Any member of the Committee, which possesses information in support of the de-listing request, is encouraged to share such information with the governments that reviewed the de-listing request under paragraph 5 above.  
  
(c) If, after a reasonable time (3 months), none of the governments which reviewed the de-listing request under paragraph 5 above comment, or indicate that they are working on the de-listing request to the Committee and request an additional definite period of time, the focal point will so notify all members of the Committee and provide copies of the de-listing request. Any member of the Committee may, after consultation with the designating government, recommend de-listing by forwarding the request to the Chairman of the Sanctions Committee, accompanied by an explanation. (Only one member of the Committee needs to recommend de-listing in order to place the issue on the Committee's agenda.) If after one month, no Committee member recommends de-listing, then it shall be deemed rejected and the Chairman of the Committee shall inform the focal point accordingly.
7. The focal point shall convey all communications, which it receives from Member States, to the Committee for its information.
8. Inform the petitioner:
  - (a) Of the decision of the Sanctions Committee to grant the de-listing petition; or
  - (b) That the process of consideration of the de-listing request within the Committee has been completed and the petitioner remains on the list of the Committee.

*Note:*

[[1]]A State can decide, that as a rule, its citizens or residents should address their de-listing requests directly to

on the Committee's website. [[1]]