



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE DEPUTY GOVERNOR
FINANCIAL SUPERVISION SECTOR

MEMORANDUM NO. M-2019- 028

To : ALL BSP-SUPERVISED FINANCIAL INSTITUTIONS (BSFIs)

Subject : Preventive Measures Relevant to Illegal Investment Activities or Schemes

Illegal investment schemes enticing the public to invest their money have been recently identified by supervisory authorities, such as the Securities and Exchange Commission (SEC)¹. The perpetrators operate by luring prospective investors with high interest/returns or dividends, which are not normally offered by other financial service providers. The prospective investor may invest money or recruit others to do the same. These types of investment schemes include "Ponzi Scheme" wherein a fraudster lures investors with the promise of high returns that are to be generated through the investment or business efforts of the fraudster. Instead of generating actual profits, the fraudster creates the illusion of profits by paying investors returns from their original investment or paying returns from the money that new investors contribute to the fraud. This type of scheme tends to collapse when the number of new investments into the scheme do not satisfy the payment obligations for previous investors.²

Banks and other financial institutions may be used to channel the funds amassed from these illegal investment activities, through deposit accounts of the lead perpetrators, their associates and related entities. It is therefore imperative that BSFIs adopt robust risk management system to identify, detect, prevent and mitigate risks arising from these illegal activities. This is anchored on having a strong governance framework, adequate policies and effective controls, among others.

This issuance intends to provide the BSFIs insights on relevant practices and common red flag indicators that they should consider to strengthen their capability to proactively detect, prevent and mitigate risks arising from transactions that relate to illegal investment activities. In this regard, BSFIs should:

1. Perform the basic preventive measure of conducting necessary customer due diligence (CDD), which includes controls to establish and verify the customer's identity and background, financial profile, source of funds and/or wealth. This will be used to effectively monitor the customer's transactions after the account is opened.

¹ <http://www.sec.gov.ph/public-information-2/investors-education-and-information/advisories-and-notice/>

² <https://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20in%20the%20Securities%20Sector.pdf>

Whenever enhanced due diligence (EDD) is warranted, obtain additional information/documents, perform validation procedures on any or all of the information provided and secure senior management approval before establishing or continuing business relationship.

2. Incorporate in the transaction monitoring process a surveillance mechanism to timely capture information, advisories, or news reports that identify personalities or entities involved in illegal investment schemes. The SEC regularly releases these advisories³ which should be considered as part of holistic assessment of the risk profile of a customer, including their relationship to those directly identified in the SEC advisories.
3. Examine the background and purpose of all complex, unusually large transactions, and unusual patterns of transactions, which have no apparent economic or legal purpose, and other transactions that may be considered unusual or suspicious.

Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of the relationship is intended to ensure that the transactions are consistent with the customer's business, financial and risk profile. This process will enable the BSFI to capture unusual pattern of account activities or transactions for proper investigation.

In cases where a BSFI forms a suspicion of money laundering and associated unlawful activities, and reasonably believes that performing the CDD process will tip-off the customer, the BSFI need not pursue the CDD process, but should file a suspicious transaction report, closely monitor the account, and review the business relationship.

4. Undertake proactive watchlist monitoring, otherwise known as "name screening", or checking transfer parties against existing customer database for any individual or juridical entity with negative or adverse/derogatory information based on internal Negative File Database System (NFDS). This will prompt the BSFI to identify and further investigate on customers subject of adverse or negative information to be able to decide accordingly on the business relationship.

The internal NFDS should be updated to include individuals or juridical entities identified or known to be involved in illegal or unlawful activities based on open sources or publicly available information. Close relations, such as immediate family members (spouse, children, parents, etc.) or close associates (officers, agents, representatives, transactors, etc.), should be considered in cases of illegal investment schemes.

5. Ensure that relevant personnel, particularly in the branches, are well informed of the BSFI's policies and procedures with respect to handling customers or transactions that may trigger suspicion of involvement in illegal investment scheme. Manual monitoring procedures in the branches rely heavily on frontline personnel. As such, they must be well-aware of emerging investment fraud or illegal activities through continuous training and internal advisories. It is likewise important to uphold independence of sales and operations officers in the branches to ensure proper handling of concerns.

³ <http://www.sec.gov.ph/public-information-2/investors-education-and-information/advisories-and-notice/>

6. Establish common red flag indicators related to activities of a Ponzi scheme which may include the following:
- a. Frequent and/or significant cash deposits which are not aligned with the customer's business or financial profile;
 - b. Sudden spikes in account activity, whether inflow or outflow, and/or inter-account transfers, on accounts of personalities who are related to those identified in regulatory advisories as involved in illegal investment activities;
 - c. Several accounts, both personal and businesses purposes, where the account movements materially deviate from the declared, expected or known activities;
 - d. Newly-established or registered businesses with unusually high volume of transactions;
 - e. High volume of check issuances/clearing (debiting of drawer's account after clearing) transactions from a single customer which are not consistent with the client's financial profile, among others; and
 - f. Unusual increase in transactions in branches or units located in areas where the identified illegal investment scheme operates.

For guidance and strict compliance.


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