



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE DEPUTY GOVERNOR
FINANCIAL SUPERVISION SECTOR

CIRCULAR LETTER NO. CL-2021- 028

To : All BSP-Supervised Financial Institutions (BSFIs)

Subject : Primer on Anti-Money Laundering Council (AMLC) Resolutions No. TF-33 and TF-34, Series of 2020

This is to disseminate the attached Primer on AMLC Resolutions No. TF-33 and TF-34, Series of 2020¹ issued by the AMLC, relative to the Sanctions Freeze Order (SFO) issued against terrorist organizations, associations, or group of persons designated by the Anti-Terrorism Council.

The Primer, which is in the form of a Question and Answer document, extensively explains in detail, among others, the basis of designation and issuance of SFO, duties of the covered persons/institutions and relevant government agencies with respect to the SFO, the freezing of related and materially-linked accounts, submission of suspicious transaction reports for previous transactions of designated persons, remedies of persons aggrieved, and penalties for non-compliance with the SFO.

All BSFIs are required to download the Primer to be disseminated to their respective offices and personnel for reference and proper guidance.

For information and strict compliance.

 Digitally signed by
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Deputy Governor

14 April 2021

Att: a/s

¹[http://www.amlc.gov.ph/images/PDFs/\[Final\]%20Primer%20on%20AMLC%20Resolution%20Nos.%20TF-33%20and%20TF-34.pdf](http://www.amlc.gov.ph/images/PDFs/[Final]%20Primer%20on%20AMLC%20Resolution%20Nos.%20TF-33%20and%20TF-34.pdf); Disseminated under Circular Letter (CL) No. CL-2021-007 dated 13 January 2021.



Republic of the Philippines
ANTI-MONEY LAUNDERING COUNCIL

**Primer on Anti-Money Laundering Council
Resolutions No. TF-33 and TF-34, both Series of 2020**

1. What are Anti-Money Laundering Council (AMLC) Resolution Nos. TF-33 and TF-34, Series of 2020?

AMLC Resolution No. TF-33, Series of 2020, refers to the Sanctions Freeze Order in relation to domestic designations by the Anti-Terrorism Council (ATC) under Resolution No. 12, Series of 2020.

AMLC Resolution No. TF-34, Series of 2020, refers to the Sanctions Freeze Order in relation to ATC Resolution No. 13, Series of 2020.

2. When did the AMLC issue Resolutions No. TF-33 and TF-34, Series of 2020?

The AMLC Issued Resolution Nos. TF-33 and TF-34, Series of 2020, on the same day, 23 December 2020.

3. What does ATC Resolution No. 12, Series of 2020 provide?

In ATC Resolution No. 12, Series of 2020, dated 09 December 2020, the ATC found probable cause that the Communist Party of the Philippines and the New People's Army (CPP/NPA) committed or conspired to commit acts defined and penalized under Section 4 of Republic Act (R.A.) No. 11479 or the *Anti-Terrorism Act of 2020* (ATA) and designated the CPP/NPA as terrorist organizations, associations, or group of persons.

4. What does ATC Resolution No. 13, Series of 2020, provide?

In ATC Resolution No. 13, Series of 2020, dated 09 December 2020, the ATC, upon finding probable cause pursuant to the third paragraph of Section 25 of the ATA based on the evidence submitted by the Armed Forces of the Philippines and the Philippine National Police, and their designation as terrorist organizations by other jurisdictions, designated the following groups as terrorists:

- a) Islamic State in Iraq and Syria (ISIS) in South-East Asia;
- b) Dawlatul Islamiyah Waliyatul Masrik;
- c) Dawlatul Islamiyyah Waliyatul Mashriq;
- d) IS East Asia Division;
- e) Maute Group;
- f) Islamic State East Asia;
- g) Maute ISIS;

- h) Grupong ISIS;
- i) Grupo ISIS;
- j) Khilafah Islamiyah;
- k) Khilafah Islamiyah Mindanao;
- l) Ansharul Khilafah;
- m) Bangsamoro Islamic Freedom Fighters-Bungo;
- n) Bangsamoro Islamic Freedom Fighters-Abubakar;
- o) Jama'atu al-Muhajirin wal Ansar fil Filibin;
- p) Daulah Islamiyah; and
- q) Other Daesh-affiliated groups in the Philippines.

5. What is the legal basis of the AMLC in issuing AMLC Resolutions No. TF-33 and TF-34, Series of 2020?

The AMLC issued Resolutions No. TF-33 and TF-34, Series of 2020, pursuant to the third paragraph of Section 36, in relation to Section 25, of the ATA.

The third paragraph of Section 36 of the ATA states that the AMLC, consistent with the Philippines' international obligations, shall be authorized to issue a freeze order with respect to property or funds of a designated organization, association, group or any individual to comply with binding terrorism-related resolutions including United Nations Security Council (UNSC) Resolution No. 1373 pursuant to Article 41 of the Charter of the United Nations (UN). This type of freeze order is a *Sanctions Freeze Order*.

6. When did the Sanctions Freeze Orders under AMLC Resolution Nos. TF-33 and TF-34, Series of 2020 take effect?

The Sanctions Freeze Orders, which were issued without delay, took effect on **27 December 2020, or upon publication in AMLC website.**

7. Until when shall the Sanctions Freeze Orders under AMLC Resolutions No. TF-33 and TF-34, Series of 2020, be in effect?

The Sanctions Freeze Orders under AMLC Resolution Nos. TF-33 and TF-34, Series of 2020, shall remain in effect until the basis for the AMLC's issuance thereof shall have been lifted. This period is provided under Rule 8.9 of the 2020 Implementing Rules and Regulations of R.A. No. 11479 (2020 ATA IRR). Sanctions Freeze Orders, therefore, have an indefinite period of effectivity.

8. Did the AMLC notify the public, including Covered Persons/Institutions and Relevant Government Agencies, about its issuance of Resolutions No. TF-33 and TF-34, Series of 2020?

Yes.

- a) The AMLC posted Resolution Nos. TF-33 and TF-34, Series of 2020, in the AMLC's official website on 27 December 2020 to immediately communicate the Sanctions Freeze Order to the public.
- b) On 18 January 2021, the AMLC published its Notices of the issuance of Sanctions Freeze Orders in Resolution Nos. TF-33 and TF-34, Series of 2020, in Business Insight, a newspaper of general circulation.

Rule 8.8 of the 2020 ATA IRR grants the AMLC the flexibility on how it will disseminate the Sanctions Freeze Order.

9. Is there any other kind of Freeze Order under the ATA? If so, what is it?

Yes. Under the ATA, there is also a Preventive Freeze Order aside from a Sanctions Freeze Order.

Under the second paragraph of Section 36 of the ATA, upon the issuance by the court of a preliminary order of proscription, the AMLC, either upon its own initiative or request of the ATC, is authorized to issue *ex parte* order to freeze without delay: (a) any property or funds that are in any way related to financing of terrorism or violation of Sections 4 to 12 of the ATA; and (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 aforementioned sections of the ATA.

10. What are the differences between a Sanctions Freeze Order and a Preventive Freeze Order?

As to **basis of issue**:

Sanctions Freeze Order is issued by AMLC in compliance with binding terrorism-related resolutions, including UNSC Resolution No. 1373 pursuant to Article 41 of the UN Charter. Examples of these are those issued under AMLC Resolution Nos. TF-33 and TF-34, Series of 2020.

Preventive Freeze Order is issued by AMLC upon issuance by the Court of Appeals of a preliminary order of proscription or when, (a) any property or funds that are in any way related to financing of terrorism as defined and penalized under R.A. No. 10168, or any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the ATA; and b) property or funds of any person or persons, who are not designated under Section 25 of the ATA, 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 the aforementioned sections of the ATA.

As to **period**:

A **Sanctions Freeze Order** has an indefinite period of effectivity.

A **Preventive Freeze Order** shall remain in effect for a period not exceeding twenty (20) days, extendible by the CA for a total period of not exceeding six (6) months.

11. What are the primary duties of the Covered Persons/Institutions and Relevant Government Agencies with respect to the Sanctions Freeze Orders issued under AMLC Resolutions No. TF-33 and TF-34, Series of 2020?

Covered Persons/Institutions and Relevant Government Agencies shall:

- a) **Freeze and preserve, without delay, the properties or funds**, including related accounts, belonging to persons, organizations, associations, or group of persons named in ATC Resolutions No. 12 and 13, Series of 2020;
- b) **Submit to the AMLC, within twenty-four (24) hours from notice, a written return**, pursuant to, and containing details required under Rule 16.c of the Implementing Rules and Regulations of R.A. No. 10168 or the *Terrorism Financing Suppression and Prevention Act of 2012* (TFPSA IRR). These details include, but are not limited to, the following:

For Covered Persons/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;
4. The balance of the account as of the time of freezing;
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.

12. Who are Covered Persons/Institutions?

Covered Persons/Institutions are those enumerated under Section 3(c) of R.A. No. 10168 in relation to Section 3(a)(1)(2) and (3) of R.A. No. 9160 or *The Anti-Money Laundering Act of 2001*, as amended (AMLA).

13. What are Relevant Government Agencies?

Relevant Government Agencies are agencies where businesses or properties are registered, or whose approval is necessary to transfer, convey, or dispose properties. These include the Department of Trade and Industry, the Securities and Exchange Commission, Land Transportation Office, the Land Registration Authority, the Register of Deeds, the Maritime Industry Authority, and the Civil Aviation Authority of the Philippines, among others.

14. What are the properties or funds covered by the Sanctions Freeze Orders under AMLC Resolution Nos. TF-33 and TF-34, Series of 2020?

The property or funds covered by the Sanctions Freeze Orders shall include all property or funds:

- a) That are owned or controlled by the Designated Persons and are not limited to those that are directly related or can be tied to a particular terrorist act, plot, or threat;
- b) That are wholly or jointly owned or controlled, directly or indirectly, by the Designated Persons;
- c) Derived or generated from funds or other assets owned or controlled, directly or indirectly, by the Designated Persons;
- d) Of persons and entities acting on behalf or at the direction of the Designated Persons; and
- e) That originate from related or materially-linked accounts of Designated Persons (Rule 8.8 of 2020 ATA IRR in relation to Rule 2 of 2018 Implementing Rules and Regulations of R.A. No. 9160, as amended [2018 AMLA IRR]).

15. What are related and materially-linked accounts in relation to the Sanctions Freeze Orders?

Related accounts refer to accounts, the funds and sources of which directly originated from and/or are materially-linked to the monetary instruments or properties subject of the Sanctions Freeze Order (see Section 1[jùjú], Rule 2 of 2018 AMLA IRR in relation to Rule 3.a.14 of TFP SA IRR).

Materially-linked accounts refer to:

- a) All accounts or monetary instruments under the name of the Designated Persons whose accounts, monetary instruments, or properties are the subject of the Sanctions Freeze Order;
- b) All accounts or monetary instruments held, owned, or controlled by the owner or holder of the accounts, monetary instruments, or properties subject of the Sanctions Freeze Order, whether such accounts are held, owned or controlled singly or jointly with another person;
- c) All “In Trust For” accounts where either the trustee or the trustor pertains to the Designated Persons whose accounts, monetary instruments, or properties are the subject of the Sanctions Freeze Order;
- d) All accounts held for the benefit or in the interest of the Designated Persons whose accounts, monetary instruments, or properties are the subject of the Sanctions Freeze Order;
- e) All accounts of juridical persons or legal arrangements that are owned, controlled or ultimately effectively controlled by the natural person whose accounts, monetary instruments or properties are subject of the Sanctions Freeze Order, or where the latter has ultimate effective control; and
- f) All other accounts, shares, units, or monetary instruments that are similar, analogous, or identical to any of the foregoing (see Section 1[ddd], Rule 2, 2018 AMLA IRR).

16. What is the duty of Covered Persons/Institutions and Relevant Government Agencies with respect to freezing of related accounts?

Under Rule 16.b of the TFP SA IRR, immediately upon receipt of the notice of the Sanctions Freeze Order, the Covered Persons/Institutions and Relevant Government Agencies shall preserve related accounts and serve a copy of the notice of the Sanctions Freeze Order upon the owner(s) or holder(s) thereof.

17. Are Covered Persons/Institutions required to submit transaction reports for previous transactions of Designated Persons in relation to AMLC Resolution Nos. TF-33 and TF-34, Series of 2020?

Yes, all Covered Persons/Institutions are mandated to submit ***Suspicious Transaction Reports (STRs) on all previous transactions*** of Designated Persons within five (5) days from effectivity of AMLC Resolution Nos. TF-33 and TF-34, Series of 2020.

If the Covered Persons/Institutions have a suspicion that a person, natural or juridical, regardless of whether he or she is an officer or member of Designated Persons, is dealing with the same, then the Covered Persons/Institutions should freeze the transaction and/or account/s of such natural or juridical person, and file the corresponding return. Thereafter, if the Covered Persons/Institutions discover previous transactions which may be deemed suspicious in accordance with R.A. No. 9160, as amended, and its 2018 AMLA IRR, and which may not be covered by the Sanctions Freeze Order, such Covered Persons/Institutions should timely file corresponding STRs.

18. In the implementation of AMLC Resolutions No. TF-33 and TF-34, Series of 2020, should Covered Persons wait for or request the AMLC to issue a list of individuals who are members or officers of Designated Persons?

No.

Covered Persons/Institutions do not have to wait for or request the AMLC to issue a list of individuals who are members or officers of Designated Persons.

AMLC Resolutions No. TF-33 and TF-34, Series of 2020, are ***sufficient*** for implementation in their current form. The list of individuals who are members or officers of designated groups or organizations, or those related to such groups or organizations will follow suit after the ATC decides to designate them, after finding probable cause that they committed or conspired to commit the acts defined and penalized under Sections 4 to 12 of the ATA in accordance with the procedure laid therein in relation to the 2020 ATA IRR.

19. Can Covered Persons/Institutions rely on their existing third-party Compliance Risk Vendor to identify individuals related to Designated Persons?

Although Covered Persons/Institutions may rely on their existing third-party Compliance Risk Vendor to identify individuals related to Designated Persons, *the ultimate responsibility for compliance remains with such Covered Person/Institution.*

20. Can Covered Persons/Institutions rely on news articles for information on who are identified or associated officers or members of Designated Persons for the purpose of freezing their accounts?

Yes.

Identification of a particular individual in a news article to be an officer or member of Designated Persons is sufficient ground to freeze the account or other asset if the reported relationship is verified by the Government or Relevant Government Agencies, e.g., proclamations by the President or designations by the ATC.

21. What actions can Covered Persons take regarding the accounts of associated officers or members of Designated Persons if their reported relationship still needs verification by the Government or Relevant Government Agencies?

Covered Persons must file an STR for any transaction on accounts of associated officers or members of Designated Persons, if their reported relationship is based on credible news and sources, even if such reported relationship still needs to be verified by the Government or Relevant Government Agencies.

22. If the ATC subsequently designates an individual as a terrorist for being a member of a terrorist group or organization, should Covered Person/and Relevant Government Agencies immediately freeze his funds or properties?

Yes.

Covered Persons and Relevant Government Agencies should immediately freeze the funds or properties of these subsequently designated individuals. Their designation confirms that these persons are acting in behalf of or based on the instructions of Designated Persons and, as such, their funds or properties are covered by the Sanctions Freeze Orders (see Rule 8.8[d] of 2020 ATA IRR).

23. What are the remedies of persons aggrieved by AMLC Resolutions No. TF-33 and TF-34, Series of 2020?

The following are the remedies of aggrieved persons:

- a) *Petition to determine basis of Sanctions Freeze Order* – During the effectivity of the Sanctions Freeze Order, an aggrieved party may, within twenty (20) days from the date of issuance, file a Petition with the Court of Appeals to determine the basis of the Sanctions Freeze Order according to the principle of effective judicial protection (Section 36 of the ATA in relation to Rule 8.10, 2020 ATA IRR and Section 11 of the TFPSA).
- b) *Lifting of Sanctions Freeze Order based on mistaken identity* – Any person whose property or funds have been subject of a Sanctions Freeze Order by reason of having a similar name as the subject of designation may apply for the lifting of the Sanctions Freeze with the AMLC by submitting relevant government-issued identification documents or other relevant documents that would show the true identity of the aggrieved party (Rule 8.11, 2020 ATA IRR).

- c) *Access to frozen funds; humanitarian exception* – The person whose property or funds have been frozen under the Sanctions Freeze Orders may, upon a verified request before the ATC, withdraw such sums as the ATC determines to be reasonably necessary for monthly family needs and sustenance, including for the services of counsel and the medical needs of such person and his/her immediate family (Rule 8.12, 2020 ATA IRR).
- d) *Request for delisting* – A Designated Person or its assigns or successors-in-interest may file a verified request for delisting before the ATC within fifteen (15) days from publication of the designation. A request for delisting may be filed as often as the grounds therefor exist. No request for delisting, however, may be filed within six (6) months from the time of denial of a prior request for delisting. The grounds for delisting are the following: mistaken identity; relevant and significant change of facts or circumstance; newly discovered evidence; death; dissolution or liquidation of designated organizations, associations, or groups of persons; or any other circumstance which would show that the basis for designation no longer exists (Rule 6.9, 2020 ATA IRR).

24. Should any person deal with, or transact the funds or properties of Designated Persons under ATC Resolution Nos. 12 and 13, Series of 2020?

No.

No person should deal with or transact the funds or properties of Designated Persons under ATC Resolution Nos. 12 and 13, Series 2020, because such dealing or transacting is ***prohibited*** under Section 8 of the TFPSA. These acts constitute crimes under the law.

25. Who are liable for violating the Prohibition Against Dealing with Property or Funds of Designated Persons, under Section 8, R.A. No. 10168?

Persons liable for violation of said Prohibition are those who, not being an accomplice or accessory to the crime of financing of terrorism, in relation to any property or funds:

- a) Deal 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

- b) Makes available any property or funds, or financial services or other related services to a designated and/or identified person, organization, association, or group of persons.

26. What is the penalty for Dealing with Property or Funds of Designated Persons under Section 8, R.A. No. 10168?

The penalty for Dealing with Property or Funds of Designated Persons is *reclusion temporal* in its maximum period (or imprisonment for up to twenty [20] years) to *reclusion perpetua* (imprisonment for up to forty [40] years) and a fine of not less than Five hundred thousand pesos (Php500,000.00) nor more than One million pesos (Php1,000,000.00).

27. Are Covered Persons required to file a return with the AMLC if they do not have any account, or funds and properties, or related accounts in the name of the Designated Persons identified under AMLC Resolutions No. TF-33 and TF-34, Series of 2020?

No, there is no need to file a return where the Covered Person has no account, or funds and properties, or related accounts in the name of the Designated Persons identified under AMLC Resolutions No. TF-33 and TF-34, Series of 2020.

28. What are the penalties for non-compliance with the Sanctions Freeze Orders under AMLC Resolution Nos. TF-33 and TF-34, Series of 2020?

Under Section 16 of the TFPsA, any responsible officer or other person who fails to comply with a Freeze Order shall suffer the penalty of imprisonment from six (6) months to four (4) years and a fine of not less than One hundred thousand pesos (Php100,000.00) nor more than Five 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 Person/Institution.

-NOTHING FOLLOWS-