



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE DEPUTY GOVERNOR FINANCIAL SUPERVISION SECTOR

MEMORANDUM NO. M-2021-059

To : ALL BSP SUPERVISED FINANCIAL INSTITUTIONS (BSFIs)

Subject : Information Sharing for Fraud Investigations

The financial services industry is massively shifting to digital financial and payment services in response to the COVID-19 pandemic. As a result, cyberthreat actors have more avenues and channels to perpetrate cybercriminal activities which exploit vulnerabilities of BSP Supervised Financial Institutions (BSFIs) and their clients. The BSP's ongoing cyberthreat surveillance shows that the impact of cyber-attacks and fraudulent schemes increasingly extend over two or more financial institutions simultaneously.

In order to resolve and effectively investigate fraudulent transactions involving two or more BSFIs, there needs to be coordinated and transparent information sharing mechanisms in place. However, one of the major hurdles in sharing relevant information, particularly those involving sensitive personal information, in pursuit of fraud investigation, is the Data Privacy Act of 2012 (DPA) or R.A. 10173. Under the DPA, personally identifiable information (PII) of data subjects cannot be freely shared without the data subjects' consent and without legitimate purpose. These covers all financial accounts such as e-money accounts, credit card accounts, and other non-deposit accounts.

To address this legal concern, the BSP sought clarification and advice from the National Privacy Commission (NPC) with respect to information sharing for fraud investigations. Based on NPC Advisory Opinion No. 2021-026:

- a. Sec. 13 (f) of the DPA which allows processing of personal information for the protection of lawful rights and interests of natural or legal persons shall apply to sharing of relevant information for fraud investigations; and
- b. The above processing does not require an existing court proceeding, and thus, will not necessarily require a court order.

All BSFIs are therefore advised of the above NPC Advisory Opinion and to cooperate and share relevant information to third parties, such as other financial institutions, payment gateway providers, third party service providers and law enforcement agencies, among others in the conduct of fraud investigations. Information which may be shared/disclosed to the said parties, include, but are not limited to:

- a. Name
- b. Home/Delivery Address
- c. Email Address
- d. Mobile or other contact details
- e. Bank/financial account information
- f. Bank/financial transaction details

In sharing the above information, BSFIs should ensure that the basic data privacy principles of transparency, legitimate purpose and proportionality are adhered to. Moreover, an existing court order or proceeding is not a pre-requisite for information sharing to happen.

For information and guidance.

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02 November 2021