



Bangko Sentral ng Pilipinas

OFFICE OF THE DEPUTY GOVERNOR SUPERVISION AND EXAMINATION SECTOR

MEMORANDUM NO. M-2009-051

To : ALL BANKS AND NON-BANK FINANCIAL INSTITUTIONS
UNDER BSP SUPERVISION

Subject : Opinion of the Office of the General Counsel and Legal
Services (OGCLS) on whether or not BSP examiners
conducting regular or special examination of Banks and
Non-Bank Financial Institutions (NBFIs) can access Covered
Transaction Reports (CTRs) and Suspicious Transaction
Reports (STRs) submitted by these Covered Institutions to
the Anti-Money Laundering Council (AMLC)

In view of the provisions of Section 9 of Republic Act No. 9160, otherwise known as the Anti - Money Laundering Act of 2001 (AMLA), as amended, prohibiting covered institutions and their officers and employees from communicating directly or indirectly, in any manner or by any means, to any person, the fact that a CTR or STR was made, the contents thereof, or any other information in relation thereto, together with those of Section 11 of the same law which mandates the BSP to ensure compliance by banking institutions and NBFIs with the provisions of the AMLA, as amended, the BSP Office of the General Counsel and Legal Services (OGCLS) issued the following opinion:

1. Following the principle that every part of the statute must be considered with the other parts (citing *Planters Association of Southern Negros, Inc. v. Hon. Bernardo T. Ponferrada, et al*, 317 SCRA 463), Sections 9 and 11 must be read in conjunction with one another so as to give life to both provisions of the AMLA. Thus, in consonance with the foregoing, BSP examiners must not be included in the term "any person" to whom CTRs and STRs, the contents thereof, or any other information in relation thereto, are prohibited to be communicated.

2. It is settled that when there are inharmonious sections in the law, the section last in order of position will prevail, being the latest expression of the legislative will (citing *De Santos vs. Honorable Adoracion G. Angeles, et al*, 251 SCRA 306). Moreover, in case of irreconcilable conflict between two provisions of the same statute, the last in order of position is frequently held to prevail, unless it clearly appears that the intent of the legislature is otherwise. (*R. Agpalo, Statutory Construction*, 3rd ed., 1995).

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As between Section 9 and Section 11, particularly the second paragraph thereof, the latter is the later expression of the legislative will, as this was one of the amendments incorporated in Republic Act No. 9194 (law amending Republic Act No. 9160). Thus, in case of irreconcilable conflict, Section 11 prevails over Section 9 and should be given full force and effect.

3. Lastly, the basic precept in statutory construction is that the intent of the legislature is the controlling factor in the interpretation of a statute (*citing The Commission on Audit of the Province of Cebu v. Province of Cebu*, 371 SCRA 196). The Minutes of the Congressional deliberations reveal that the second paragraph of Section 11 was incorporated primarily to empower the BSP to ensure effective compliance by Banks and NBFIs under BSP supervision with the anti-money laundering measures under the AMLA, as amended, which includes reporting of CTRs and STRs. Hence, interpreting it to mean that despite such authority, BSP is still not entitled to copies of the CTRs and STRs will, without a doubt, be contrary to the intent of the legislature.

Considering the foregoing, BSP examiners, in the exercise of the mandate granted to the BSP to ensure compliance with the AMLA, as amended, should be provided with copies of CTRs and STRs when conducting regular or special examinations in accordance with the Rules of Examination promulgated by the BSP, and such act does not fall within the ambit of the prohibition under Section 9 thereof.

For information and guidance.


NESTOR A. ESPENILLA, JR.
Deputy Governor

07 December 2009