



ANTI-MONEY LAUNDERING COUNCIL

SECRETARIAT

AMLC GUIDANCE NO. AGUID-18-01

To: **All Banks and Other Covered Persons Supervised and/or Regulated by the Bangko Sentral ng Pilipinas**

Subject: **“Lend-Out”/Dummy Accounts**

In a recent financial investigation, the Anti-Money Laundering Council (AMLC) Secretariat noted the *modus operandi* of certain illegal drug traffickers. Said *modus operandi* entailed using a person with no known criminal record to execute a Special Power of Attorney (SPA) in favor of another person, authorizing another person to open, maintain and manage his accounts, which would be used to launder money. Accounts of this nature, which may be termed *lend-out accounts* or dummy accounts, are not for the exclusive use and benefit of the account owner, but of the purported attorney-in-fact/transactor. In effect, the account owner *lends out* the account. Transactions on these accounts are usually attended by suspicious circumstances warranting the filing of suspicious transaction reports (STRs).

Rule 9(A)(1)(e) of the Revised Implementing Rules and Regulations (RIRR) of Republic Act (RA) No. 9160, or the Anti-Money Laundering Act of 2001, as amended (AMLA), requires covered persons to establish and record the true and full identity and existence of both the account holder or transactor, and the beneficial owner or person on whose behalf the transaction is being conducted.¹

The same Rule requires covered persons to determine the true nature of the parties' capacities and duties by obtaining a copy of the written document evidencing their relationship, and apply the same standards for assessing the risk profile and determining the standard of due diligence to be applied to both.² In case the covered person entertains doubts as to whether the account holder or transactor is being used as a dummy in circumvention of existing laws, it shall apply enhanced due diligence (EDD) or file an STR, if warranted.

¹ See also Recommendation 5 of the Financial Action Task Force (FATF) Forty Recommendations.

² *Ibid.*

All banks and other covered persons supervised and/or regulated by the Bangko Sentral ng Pilipinas (BSP) are reminded of their obligations under said RIRR and BSP Circular 950³ to conduct EDD where circumstances indicate that the customer's account is used as a dummy, and that the transactor/attorney-in-fact is the beneficial owner. If additional information cannot be obtained, or any information or document provided is false or falsified, or the result of the validation process is unsatisfactory, banks may refuse to do business. If warranted, as where the conduct of EDD may arouse suspicion or tip off the customer, covered persons may file STRs.⁴

Failure to file STR and facilitation constitute money laundering under Section 4 of Republic Act No. 9160 or the Anti-Money Laundering Act of 2001, as amended, and are penalized under Section 14 thereof as a money laundering offense.

Please be guided accordingly.

(ORIGINAL SIGNED)
MEL GEORGIE B. RACELA
Executive Director

22 May 2018

³ Dated 15 March 2017, per Monetary Board Resolution No. 334 dated 23 February 2017, re Amendments to Part Eight of the Anti-Money Laundering Regulations of the Manual of Regulations for Banks (MORB) and Manual of Regulations for Non-Bank Financial Institutions (MORNBFI).

⁴ See Subsection X806.1/4806.Q.1(a) and (b) re Customer Acceptance and Identification Policy, Manual of Regulation for Banks. The last paragraph of Subsection X806.1/4806.Q.1(b) states: "Where additional information cannot be obtained, or any information or document provided is false or falsified, or result of the validation process is unsatisfactory, *the covered person shall deny banking relationship* with the customer without prejudice to the reporting of a suspicious transaction to the AMLC when circumstances warrant." (Italics supplied)