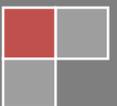


2011 - 2014

The 1st Philippine National Risk Assessment on Money Laundering and Terrorism Financing

The National ML/TF Risk Assessment of the Philippines has been conducted as a self-assessment by Philippine authorities, using the National Money Laundering and Terrorist Financing Risk Assessment Tool that has been developed and provided by the World Bank. The World Bank team's role was limited to delivery of the tool, providing guidance on technical aspects of it and review/feedback to assist with the accurate use of it. The data, statistics, and information populated into National Money Laundering and Terrorist Financing Risk Assessment Tool templates, and any other finding, interpretation, and judgment under the scope of National Money Laundering Risk Assessment process, completely belong to the Philippine authorities and do not reflect the views of the World Bank, its Board of Executive Directors or the governments they represent. Nothing herein shall constitute or be considered to be a limitation upon or waiver of the privileges and immunities of the World Bank, all of which are specifically reserved.



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EXECUTIVE SUMMARY

The Philippine National Risk Assessment (NRA) Process is a government-wide activity aiming to better understand the Money Laundering/Terrorism Financing (ML/TF) risks faced by the country. This is in compliance with Financial Action task Force (FATF) Recommendation 1, which requires countries to identify, assess and understand the ML/TF risk and apply a risk-based approach (RBA) to ensure that the measures to prevent/ mitigate ML/TF risks are commensurate with the risks identified. The Anti-Money Laundering Council (AMLC) is the lead agency in the conduct of NRA. Stakeholders from key government agencies and private sector institutions comprised the NRA Working Group (NRAWG).

The NRA report details the results of the process, conducted on the basis of a self-assessment by Philippine authorities, using the Tool developed and provided by the World Bank. The coverage of the Philippine NRA process is from 2011 to 2014. Data and statistics used for the report were derived primarily from published and periodical reports and submissions of Supervisory Authorities (SAs), law enforcement agencies (LEAs) and the different Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) stakeholders. Relevant data and information were also requested from the Office of the Court Administrator and the Sandiganbayan. Survey questionnaires and face-to-face and phone interviews were also conducted to obtain information or clarify matters.

The assessment, however, faced a number of limitations, as follows:

1. Lack of available and adequate data from the targeted sources - Where data was available, some institutions were, however, not forthcoming with the data;
2. Proceeds generated from criminal activities are also not captured in some cases. It was difficult to obtain data on proceeds of crimes as the major focus is on the number of investigations, prosecution and convictions; and
3. Non-cooperation in the assessment by some Designated Non-Financial Businesses and Professions due to fear of being targeted for tax purposes

WORLD BANK TOOL

The World Bank Tool comprises several Excel-based and interrelated modules that enable countries to assess their ML/TF threats and vulnerabilities. It consists of eight (8) modules: 1) National ML Threat; 2) National Vulnerability; 3) Banking Sector Vulnerability; 4) Securities Sector Vulnerability; 5) Insurance Sector Vulnerability; 6) Other Financial Institutions Vulnerability; 7) Designated Non-Financial Businesses and Professions (DNFBPs) Vulnerability; and 8) Financial Inclusion Product Risk Assessment. Members of the NRAWG were divided into eight (8) sub-groups based on their functions, sectors represented and backgrounds.

“Threats” here refer to the scale and characteristics of the proceeds of criminal activities or financing of terrorism in the jurisdiction. “Vulnerabilities” refers to weaknesses or gaps in a jurisdiction’s defenses against money laundering and terrorist financing.¹ The rating for threats vis-à-vis vulnerabilities determine the ML/TF risk level in a jurisdiction.

KEY FINDINGS

After considering the proceeds generated by select predicate crimes, money laundering trends and techniques and the prevalence of sectoral threats, the national money laundering threat is assessed to be **HIGH**.

After considering the ratings for National Combatting Ability and Sectoral Vulnerabilities², the national vulnerability for money laundering is assessed to be **medium**.

Following the risk map of the assessment tool, the Money Laundering Risk at National Level is rated as **medium-high**.

I. OVERALL ML THREAT RATING - HIGH

A. THREAT ARISING FROM PROCEEDS OF PREDICATE CRIMES

The threat assessment focused on the more prevalent predicate crimes, including the new predicate crimes under RA 10365.

Drug trafficking. It appears to be the most prevalent crime based on the number of operations conducted (from 12,269 in 2011 to 16,939 in 2014), amount of drugs seized (PhP4.67 Billion in 2011 to PhP6.18 Billion in 2014) and cases filed for the four- (4-) year period. However, only 2% of the total value of confiscated items were recovered or forfeited using AML mechanisms. There were also only four (4) cases for violation of AML laws compared to more than 77,000 cases filed on the predicate crime. In view of the foregoing, the threat posed by drug trafficking is considered **high**.

Plunder and Violations of Anti-Graft and Corrupt Practices. The value or amount lost to corruption is unknown although it is estimated that 20% of the national budget is lost to corruption each year.³ Using the PhP2.006 Trillion 2013 budget as reference, this translates to PhP400 Billion claimed to be lost to corruption. The period covered, however, saw some gains in the country’s fight against corruption, with the improvement of the ranking of the Philippines

¹ World Bank Group, Finance & Markets. “Introduction to the National Assessment Tool.” June 2015.

² Quality of AML Controls and Products of the Banking Sector, Securities Sector, Insurance Sector, Other Financial Institutions, and DNFBPs.

³ Developing a Corruption-intolerant Society (www.ph.undp.org). Last accessed 11 March 2015.

in Transparency International's Corruption Index, from 129th (out of 189) in 2011 to 85th (out of 175) in 2014. There was also an increase in the number of corruption-related cases filed before the courts for the given period. Also, a total of PhP730.35 Million has been subject to civil forfeiture cases filed by the AMLC. While there were gains, the threat remains **high** given the number of investigation and prosecution vis-à-vis amount subject of civil forfeiture, and the non-collection of data on the proceeds of the crime.

Investment Scam/Fraud. From 2011 to 2014, it is estimated that the total amount of proceeds of the crime is PhP4.019 Billion or approximately US\$85.508 million.⁴ The AMLC filed civil forfeiture cases involving PhP268.59 Million or approximately USD5.72 Million worth of monetary instruments, real properties and vehicles involved in the two (2) investment scams discovered in the Visayas and Mindanao regions. Considering the number of fraud cases investigated by the Securities and Exchange Commission (SEC), the number of estafa or fraud cases prosecuted by the DOJ and the amount of proceeds investigated by the AMLC vis-à-vis the amount covered by the civil forfeiture cases, the threat is rated **high**.

Smuggling. There is no data available as to the proceeds generated by smuggling. It is however estimated that between 1960 and 2011, illicit financial outflows from the Philippines totalled USD132.9 Billion, while illicit inflows is USD277.6 billion.⁵ However, forfeiture proceedings from 2011 to 2014 only amounted to PhP6.13 Million or approximately USD0.130 Million. Given, the low number of prosecution and conviction rate and forfeiture cases, the threat rating is **high**.

Human Trafficking. Based on data maintained by the National Bureau of Investigation (NBI), there were 93 persons convicted of human trafficking in 2013 and 2014. There are, however, no records as to the proceeds generated from these cases. For that period, the AMLC conducted only one (1) investigation, which resulted in the filing of a civil forfeiture case for the amounts of PhP.019 Million and AUD.284 Million. Given this, the threat is rated **high**.

Violations of Intellectual Property Code. From 2011 to 2015, it is estimated that proceeds for violations of the Intellectual Property Code amount to PhP36.82 billion or approximately USD783.36 Million. Since its inclusion as a predicate crime to ML in 2013, there are no IP-related complaints for money laundering and there are no reports or requests for financial investigation submitted to the AMLC. The threat posed by intellectual property violations is rated **high**.

Environmental Crimes. Statistics from the Supreme Court show that there were 6,298 cases filed for violations of environmental laws from 2011 to 2013. There are, however, no ML investigations related to environmental crimes since it has been included as a predicate crime

⁴ All amounts in Pesos are converted at an exchange rate of US\$1 = PhP47.

⁵ Illicit Financial Flows to and from the Philippines: A Study in Dynamic Simulation, 1960-2011, PDF downloaded from www.gfintegrity.org. Last visited : 20 March 2015.

in 2013. There is likewise no data as to the proceeds generated from these crimes. Considering the impact of these violations to the environment and the people, the threat is rated **high**.

Illegal Arms Trafficking. Statistics from the Supreme Court show that there are 13,731 cases filed involving illegal possession of firearms, ammunitions and explosives from 2011 to 2013. There is, however, no ML investigation with respect to the new predicate crime of illegal/unlawful possession, manufacture, dealing in, acquisition or disposition of firearms, ammunition or explosive. There is also no available data as to the proceeds generated by said crime. Threat rating for these crimes is **high**.

B. SECTOR THREAT ANALYSIS

Sector	Rating
Banking Sector	High
Securities	High
Insurance	Medium
Remittance Agencies and Foreign Exchange Dealers	High
Dealer in Precious Metals and Stones	Medium
Real Estate	Medium Low

The **Banking Sector** comprises about 90% of the covered persons and account for 99% of the total covered and suspicious transaction reports submitted to the AMLC. This is the main sector through which proceeds of crimes are channeled. Threat to the **Securities Sector** is also high despite regulation as it has been widely utilized in fraudulent schemes despite the repeated advisories of the SEC. The **Insurance Sector** has a medium rating as policies require a suspensive condition to give rise to the obligation. **Remittance agencies (RAs) and foreign exchange (FX) dealers** have been rated high as launderers prefer RAs/Forex since these entities conduct cash intensive operations and there is significant non-reporting of CTRs/STRs due to non-registration of these stand-alone money service businesses with the AMLC.

Of the sectors assessed and rated, **dealers in precious metals and stones**, and **real estate** remain largely unregulated for AML/CFT purposes. On the part of real estate, payment is usually through loans or checks, which then indirectly subjects a buyer to customer due diligence (CDD) processes.

C. TERRORIST FINANCING THREAT ASSESSMENT

The AMLC is authorized under the Terrorism Financing Prevention and Suppression Act of 2012 (TF Law) to investigate terrorist financing, conduct bank inquiry, and freeze accounts and file petitions for civil forfeiture of terrorist related funds and assets. In May 2014, a Joint Terrorist Financing Investigation Group (JTFIG) composed of members of anti-terrorism groups

of LEAs and the AMLCS, was formed. Since JTFIG's activation, it has looked into more than 80 individual subjects for possible links to local terrorist groups like the Abu Sayyaf Group (ASG), a group designated under UNSCR 1267/1989. Active information exchanges within JTFIG confirmed that the ASG is engaged in extortion and kidnapping for ransom activities. Rating is **medium high to high**.

D. RECOMMENDED ACTION PLAN

In conducting the assessment, the biggest issue that the authorities faced was the lack of data from certain targeted sources. Proceeds generated by the various predicate offenses are not captured by the system as LEAs generally concentrate on the number of investigations, prosecutions and convictions. It was also observed that there is lack of or insufficient coordination with LEAs with regard to the new predicate crimes. As such, the working group recommends the following action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Request the Executive Department and the Supreme Court to issue orders/circulars directing LEAs and courts to collect data as to proceeds of crimes	AMLC	DOJ, Office of the Ombudsman, PNP – DIDM, Sandiganbayan	August - October 2016
Conduct regular coordination meetings and allocate additional AMLC staff to act as coordinators to further strengthen inter-agency coordination not only with respect to the new predicate crimes, but on all predicate crimes	AMLC	NALECC agency members, JTFIG	August 2016 onwards
Create capacity-building programs that will enable LEAs and other government agencies to investigate the financial aspect of the predicate crimes	AMLC	NALECC agency members, JTFIG	August 2016 onwards

II. OVERALL VULNERABILITY RATING - MEDIUM

The national combating ability and the sector vulnerability of the Philippines were assessed, and it was determined that the national vulnerability to ML/TF is **medium**.

INTERMEDIATE VARIABLES	DESCRIPTION/INPUT VARIABLES	ASSESSMENT/ RECOMMENDED ACTION PLAN
CDD Framework Medium	<ul style="list-style-type: none"> ➤ Independent Information Sources, Medium ➤ ID Infrastructure, Medium ➤ Corporate Trust and Transparency, Medium 	<ul style="list-style-type: none"> • There is need to adopt more effective AML monitoring systems and further enhancements of CDD frameworks, with

Access to Reliable Information and Evidence Medium	<ul style="list-style-type: none"> ➤ CDD Framework, Medium ➤ Formalization of Economy, Low/Medium ➤ Auditing and Accounting, Medium/High ➤ Tax Records, Medium ➤ Financial Integrity, Medium 	<p>more focus on the availability of independent information sources and more reliable identification structure.</p> <ul style="list-style-type: none"> • Tax records and information on the management, control and beneficial interests in corporations are not readily available to the regulator and to AML-regulated entities.
Tax Records Medium	<ul style="list-style-type: none"> ➤ Tax Disclosure, Medium ➤ Financial Integrity, Medium 	
Criminal Investigation Medium/High	<ul style="list-style-type: none"> ➤ STR Data Analysis, Medium ➤ Capacity of FC Investigators, Medium/High ➤ Integrity of FC Investigators, Medium/High ➤ International Cooperation, Medium/High ➤ Domestic Cooperation, Medium/High ➤ Access to Reliable Information and Evidence, Medium ➤ Capacity of FC Prosecutors, Medium/High ➤ Integrity of FC Prosecutors, Medium/High 	<ul style="list-style-type: none"> • The AMLC investigated high-profile corruption cases and large scale fraud-based cases, despite the limited number of financial analysts (FAs) and financial crime/money laundering (FC/ML) and asset forfeiture (AF) investigators. • FC/ML Investigators and FAs handle the growing number of STRs and requests for assistance from other FIUs and LEAs. • FC/ML investigators and prosecutors, and AF investigators are perceived to consistently act with a high level of integrity under most circumstances.
Criminal Prosecution Medium/High	<ul style="list-style-type: none"> ➤ Access to Reliable Information and Evidence, Medium ➤ Capacity of FC Prosecutors, Medium/High ➤ Integrity of FC Prosecutors, Medium/High ➤ Criminal Penalties, Medium/High 	
Asset Forfeiture Medium/High	<ul style="list-style-type: none"> ➤ Domestic Cooperation, Medium/High ➤ Capacity of Presiding Officers, Medium/High ➤ Integrity of Presiding Officers, Medium/High ➤ Asset Forfeiture Laws, Medium/High ➤ Capacity of AF Investigators, Medium/High ➤ Integrity of AF Investigators, Medium/High ➤ International Cooperation in AF, Medium/High ➤ AF Orders, Medium/High 	<ul style="list-style-type: none"> • There is a good working relationship and coordination with the DOJ, Office of the Ombudsman, OSG, LEAs, foreign counterparts, other FIUs, and covered persons which is essential to the timely prosecution of ML cases. • The AMLA provides invaluable tools for investigation, such as authority of the AMLC to file ex parte Applications for Bank Inquiry, ex parte Petitions for Issuance of Freeze Order and Petitions for Civil Forfeiture.
Criminal Conviction Medium/High	<ul style="list-style-type: none"> ➤ Capacity of Presiding Officers, Medium/High ➤ Integrity of Presiding Officers, Medium/High 	<ul style="list-style-type: none"> • The New Code of Judicial Conduct (A.M. 03-05-SC) provides the standards for judges and justices in administering justice and in deciding cases. • Only a number of judges are designated to act or handle ML cases. This limitation may affect their capacity to decide ML cases.

<p>National ML Combating Ability</p> <p>Medium/High</p>	<ul style="list-style-type: none"> ➤ Policy and Implementation, Medium ➤ ML Criminalization, Medium/High ➤ Criminal Investigation, Medium/High ➤ Criminal Prosecution, Medium/High ➤ Criminal Conviction, Medium/High ➤ Asset Forfeiture, Medium/High 	<ul style="list-style-type: none"> • To meet challenges brought about by changes in global AML/CFT standards, economic development and technological advancements, laws and regulations must be periodically reviewed and updated. • Current ML trends also require enhancement of investigation and prosecution processes, and the capabilities and skills of investigators and prosecutors, including augmentation of existing manpower resources.
<p>Overall Sectoral Vulnerability</p> <p>Medium</p>	<ul style="list-style-type: none"> ➤ Banking Sector, Medium ➤ Securities Sector, Medium ➤ Insurance Sector, Medium ➤ Other Financial Institutions, Medium ➤ DNFBPs - Casinos, High ➤ DNFBPs - Real Estate, Medium/High ➤ DNFBPs - Dealers in Precious Metals, Medium ➤ DNFBPs - Lawyers, Medium/Low ➤ DNFBPs - Accountants, Medium ➤ DNFBPs - Trust Service, Low ➤ DNFBPs - Client Service, Medium ➤ DNFBPs - Car Dealers, Medium/High 	<p>The banking, securities and insurance sectors may be exposed to potential ML activities due to the wide range of services and products offered to the public. The BSP, SEC and IC should continue to enhance, foster and make robust their respective supervisory frameworks to prevent the use of the financial sector as a conduit or channel for money laundering.</p>
<p>National Vulnerability</p>	<ul style="list-style-type: none"> ➤ National Combatting Ability, Medium/High ➤ Overall Sectoral Vulnerability, Medium 	<p style="text-align: center;">Medium</p>

Based on the assessment made, the following variables should be given priority:

1. Policy and Implementation (1st Priority)
2. Formalization of Economy (2nd Priority)
3. Capacity of Prosecutors (3rd Priority)
4. Capacity of Financial Crime Investigators (4th Priority)
- STR Data Analysis (4th Priority)

The intermediate variable of **Criminal Investigation**, which was rated Medium/High, is influenced by the ratings of Capacity of Prosecutors, Capacity of Financial Crime Investigators and STR Data Analysis. The intermediate variable of Criminal Investigation assesses the ability of LEAs to professionally institute and conclude an investigation into alleged money laundering offenses. It is also inextricably linked with the intermediate variables of **Criminal Prosecution** (Medium/High) and **Criminal Conviction** (Medium/High).

1. AML Policy and Implementation - Medium

The Anti-Money Laundering Act of 2001 (AMLA) has been amended and updated in 2003, 2012 and 2013 to make it compliant with Financial Action Task Force (FATF) Revised Forty Recommendations. Sec. 2 of the law, declares that it is the *“policy of the State to protect and preserve the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money laundering site for the proceeds of any unlawful activity.”*

In order to fully implement this policy, coordination and cooperation between relevant AML/CFT stakeholders, particularly between the AMLC and the different LEAs, needs to be strengthened. It was observed that the LEAs have conducted a number of investigations and prosecutions involving the predicates crimes to money laundering. However, not all LEAs refer cases to the AMLC for financial investigation. While some LEAs coordinate with the AMLC, only a few money laundering investigation and cases were developed and filed by the AMLC.

Furthermore, there are gaps in the availability of relevant AML/CFT data and information which, if gathered and provided, would make the assessment of the money laundering and terrorist financing risks more meaningful.

2. Formalization of Economy - Low/Medium

The share of the informal sector to the yearly national economic output remained the same since 1995 at 20% to 30% levels. Moreover, the informal sector is also responsible for one-third of non-agricultural GDP.⁶

There is significant informal economic activity in the country. The lack of incentives prompting the transition from informal to formal economic activity as well as the absence of up-to-date records on such are making it difficult for LEAs to access transaction and client information.

The presence of alternative financial service providers (FSPs) such as off-site ATMs, pawnshops, remittance agents, money changers/foreign exchange dealers, e-payment service providers, mobile banking agents, non-stock savings and loans associations (NSSLAs) and credit cooperatives, helps significantly in increasing the access to financial services of the unbanked and unserved areas (which forms the core of the informal economy).

However, the retail reach, as well as the ease and speed of delivery of the funds, particularly to the unbanked segment through cash delivery or cash pickup, increases the complexity of tracing the flow of funds. In addition, the use of small-value and dispersed

⁶ Mangahas, Rosario,S. “Profiling of Workers Associations in the Informal Economy.” ILS Discussion Paper 2012, citing the “Profile of the Informal Sector” Congressional Planning and Budget Department of the House of Representatives. (November 2008).

transaction, which is an inherent feature of the remittance industry, may increase the risk that some funds could be inadvertently used for terrorist financing.

3. Capacity of Prosecutors - Medium/High

Prosecution of ML is done by the AMLC through the Department of Justice (DOJ) or Office of the Ombudsman.

The assessment of the capacity of prosecutors is principally anchored on the outcome of the prosecution of ML cases. For the period 2011-2014, there are 21 criminal complaints filed before the DOJ and ML cases filed before the Regional Trial Court, distributed as follows:

Money Laundering Cases Filed	2011	2012	2013	2014	Total
Criminal Complaints filed before the DOJ	4	7	1	-	12
Criminal Complaints filed before the OMB	-	-	-	-	-
Information filed before the RTC	-	5	3	1	9
Total	4	12	4	1	21

In relation thereto, the table below shows the number of ML Criminal Complaints resolved by the DOJ as well as the ML Criminal Cases decided by the RTC from 2011 to 2014, which do not necessarily refer to the cases filed above.

Money Laundering Cases Resolved	2011	2012	2013	2014	Total
Money Laundering Criminal Complaints resolved by the Department of Justice	3	3	-	-	6
Money Laundering Criminal Complaints resolved by the Office of the Ombudsman	-	-	1	-	1
Money Laundering Criminal Cases decided by the Regional Trial Court	-	-	1	1	2
Total	3	3	2	1	9

In addition thereto, since the passage of the AMLA in 2001, four (4) persons have been convicted of various ML offenses

4. Capacity of Financial Crime Investigators - Medium/High

The capacity of financial crime investigators of the AMLC Secretariat is measured based on the cases that were filed by the AMLC in relation to its resources and power to obtain information, as follows:

Cases filed by the AMLC	2011	2012	2013	2014	Total
Civil Forfeiture Cases filed before the RTC	6	8	5	8	27
ML Complaints before the DOJ	4	7	1	-	12
ML Complaints filed before the OMB	-	-	-	-	-

ML Criminals Cases filed before the RTC	-	5	3	1	9
ML Criminal Cases filed before the Sandiganbayan	-	-	-	-	-
Court-based Applications for Bank Inquiry	13	12	15	28	68
Applications for Freeze Order	14	9	8	9	40
Total	37	43	31	46	156

The capacity of financial investigators is also measured against its action on domestic and international referrals or requests.

The actions taken by the AMLC Secretariat on domestic requests are shown below:

Year	No. of Requests for Assistance	STATUS OF DOMESTIC REQUESTS				
		ML cases filed	Results Forwarded to Requesting Agency	Issued Resolutions to Covered Persons re AML compliance	Under investigation	Archived
2011	85	16	27	-	16	26
2012	123	16	28	3	47	29
2013	105	16	19	-	60	10
2014	134	14	41	-	69	10

The increase in covered persons and unlawful activities under the AMLA, not to mention the increase in workload brought by increasing referrals from LEAs and foreign counterparts, created manpower resource challenges for the AMLC. Despite such challenge, for which additional manpower will be sought under a reorganization of the AMLCS structure, money laundering and asset forfeiture investigators are pursuing a risk-based approach in their investigations and applying a proportionality approach to use both manpower and financial resources to cases which constitute higher risks.

5. STR Data Analysis - Medium

The assessment on STR Data Analysis is based on the ability of covered persons to detect suspicious transactions and submit good quality STRs in a timely manner to the AMLC. The STRs should also be analyzed and investigated in a timely fashion by the AMLC.

The AMLC Secretariat's Information Management and Analysis Group (IMAG), through the latter's Data Collection and Management Staff, is primarily responsible for data collection and the assessment of the data quality of the Covered Transaction Reports (CTRs) and Suspicious Transaction Reports (STRs). The IMAG's Financial Intelligence Analysis Staff (FIAS), composed of nine (9), is tasked to analyze STRs and CTRs. The results of the analysis of the FIAS are then disseminated to the CIG for the investigation of possible money laundering and other violations of the AMLA.

From 2011 to 2014, STRs submitted by BSP-supervised covered persons (CPs) accounted for 99.55% of the total STRs received by the AMLC, while the IC-supervised CPs and SEC-supervised CPs only accounted for 0.39% and 0.06%, respectively.

Supervising Agency	2011	2012	2013	2014
BSP	9,700	17,524	94,270	94,483
IC	51	162	263	364
SEC	1	25	17	92
Total	9,752	17,711	94,550	94,939

It appears that the AMLC received 216,950 STRs covering the assessment period of 2011 to 2014 and most of the STRs submitted in 2013 and 2014 relate to the *pyramid and pork barrel scams*. In 2013, the AMLC received 72,174 STRs related to the predicate crime of Fraudulent Practices and other violations of the Securities and Regulations Code. It was during 2013 that BSP required concerned banks to submit STRs related to the *ponzi* scheme. The said transactions started as early as 2011 but were only reported in 2013 and 2014. No STR was received for this predicate crime in 2011 while 940 STRs were received by the AMLC in 2012.

In 2014, PDEA reported Php6.18 Billion⁷ worth of seized illegal drugs. While drug trafficking generates huge amounts of proceeds, it was noted that only 906 drug-related STRs were submitted to the AMLC. Some of the STRs were submitted only upon receipt of letters for conduct of bank inquiry and freeze orders issued by the Court of Appeals.

In 2013 and 2014, the AMLC received 2,103 and 25,466 STRs tagged under graft and corruption. The bulk of these STRs were related to the *pork barrel scam* involving several individuals, corporations, Non-Government Organizations (NGOs) and government officials. From 2011 to 2012, only 107 STRs were filed related to graft and corruption

As the number of STRs submitted increase, the AMLC recognized the need to conduct risk assessment and prioritization of STRs. Under the approved *STR Classification and Prioritization* system, STRs are classified into high, medium and low priority.

Year	High	Medium	Low	Total No. of STRs ⁸	STRs Referred to CIG ⁹	Percentage of STRs referred to CIG	Yearly Assessment of High and Medium STRs ¹⁰
2011	219	656	8,877	9,752	754	7.73%	11.89%
2012	1,361	446	15,903	17,710	6,064	34.24%	50.86%
2013	74,643	4,566	15,340	94,549	72,869	77.07%	2.81%
2014	29,983	22,539	42,417	94,939	34,159	35.98%	55.86%
Total	106,206	28,207	82,537	216,950	113,846	52.48%	

⁷ PDEA Annual Report 2014, p. 30.

⁸ Data obtained from AMLC monthly reports.

⁹ Total STRs received and referred to CIG as of 31 December 2015.

¹⁰ Yearly assessment of *High* and *Medium* priority STRs received and referred to CIG within the same year.

Yearly assessment of the STRs received and referred to CIG within the same year averaged 52.48%. One factor contributing to the relatively long turnaround time in the assessment of STRs is the insufficient number of financial analysts. As of 31 December 2014, there were only seven (7) financial analysts. The task of analyzing STRs is on top of the conduct of database analysis on search requests from domestic and foreign LEAs and other FIUs.

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
AML Policy and Implementation			
Identify problems in the implementation of AML laws, rules and regulations	AMLC	BSP SEC IC	4 th Quarter, 2016
Create a policy-making research group that would study applicability of best practices in other jurisdictions to the Philippine setting			1 st Quarter, 2017
Periodic review and update of AML laws, rules and regulations to meet challenges			Continuous
Formalization of Economy			
Make formalization easy by simplifying existing and/or proposing new regulations and schemes. This may involve enhancement of <i>GoNegosyo</i> dedicated for micro entrepreneurs	BSP CDA		1 st - 2 nd Quarter, 2017
Provide incentives for transfer from informal to formal economic activity by increasing alternative financial service providers, and creating partnerships with microfinance institutions and other providers for combined delivery of basic services to the poor			
Capacity of Financial Crime Prosecutors			
Assign or hire more financial crime prosecutors since capacity of financial crime prosecutors is affected by the lack of manpower	DOJ, OSG, Office of the Ombudsman	AMLC	August - September 2016, 1 st Quarter 2017
Conduct of trainings for prosecutors to familiarize them with how the AMLC conducts financial investigation	AMLC	DOJ, OSG, Office of the Ombudsman	Every 3 months
STR Data Analysis			
Increase number of financial analysts and financial investigators	AMLC		August 2016 - January 2017
Identify problems in STR analysis process, which may require amending the current STR classification and prioritization, and STR format			August - December 2016

Identify potential training sources and materials. This may require updating of training manuals to cope up with the new ML trends.			4th Quarter, 2016
Improve analysis systems or acquire new analytical tools			August 2016 - July 2017
Continuously improve on the training of covered persons and closely supervise and monitor their AML systems and practices			Continuous

III. BANKING SECTOR VULNERABILITY - MEDIUM

As of end of 2014, the banking system's assets (PhP11.169 Trillion¹¹) account for 87.7% of the country's GDP (PhP12.735 Trillion¹²) and 80.8% of assets of the Philippine financial system. Given the primary status of banks in the financial system, products and services offered are among the means favored by money launderers to obscure the illegal source of their funds.

After assessment of the relevant variables, **Quality of AML Controls** was rated **Medium-High**. This vulnerability is, however, mitigated and addressed by the continuing and joint efforts of the various stakeholders, comprising of the Government, the regulatory agencies, as well as banks and financial institutions, to prevent the use of the banking sector as a channel for ML/TF. Thus, the **overall banking sector vulnerability is medium**.

OUTPUTS		
BANKING SECTOR VULNERABILITY		Medium
MIDNODES	QUALITY OF GENERAL AML CONTROLS	Medium/High
	Quality of Bank Operations	Medium/High
	Comprehensiveness of Policies and Procedures	Medium/High
	CDD Framework	Medium
	Bank Staff Compliance	Medium/High
	Bank Management's Commitment and Leadership	High

The assessment of the strength of AML controls is anchored on 13 input variables:

General Input Variable		Rating
1	AML Laws and Regulations	High
2	Quality of AML Supervision	High
3	Market Pressure to Meet AML Standards	Close to Excellent
4	Commitment to Good Corporate Governance	High
5	Penalties	High

¹¹ Status Report on the Philippine Financial System, Second Semester 2014

¹² <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD> (Philippine 2013 GDP at USD272.067, converted to PHP at P44.414 to USD)

6	Enforcement of AML Obligations	High
7	Staff Integrity	High
8	Staff Knowledge	High
9	Compliance Function	High
10	AML Monitoring, Data Collection and Record Keeping Systems	Medium High
11	Corporate and Trust Transparency	Medium High
12	Identification Infrastructure	Medium High
13	Availability of Independent Information Sources	Medium High

Of the 13 input variables, the improvement of **AML Monitoring, Data Collection and Record-Keeping Systems** should be given top priority. This variable, which was rated **medium high**, assesses whether there is an adequate and appropriate information system to support the sector's AML policies and procedures. BSP requires universal and commercial banks to adopt an electronic ML transaction monitoring system; all other banks may do with a manual system. The banking group, however, recognizes that there is a need to refine alerts parameters set by banks aligned with the risk, product and customer profile, taking into consideration financial information and historical transactions of the customer. The process of investigating alerts should be streamlined to facilitate timely and quality disposition and to reduce ML risks.

The variables of **Corporate Trust and Transparency, Identification Infrastructure and Availability of Independent Sources**, which are all part of the **CDD Framework**¹³ (**medium high**), should also be given priority by the sector.

The issue with corporate trust and transparency is that legal entities in the country, such as trust and complex corporate entities, can be used in masking ultimate beneficial ownership, and thus, provide avenues for money laundering. However, banks' compliance with this requirement is checked during examination and appropriate enforcement actions are implemented in cases of violation. There is however, a challenge with respect to foreign beneficial ownership as this is currently not required under existing SEC rules. The enhancement of the existing system to identify and verify ultimate beneficial ownership will be considered in coordination with the industry.

Identification infrastructure and availability of independent information sources are variables which have been assessed as problematic by the banking, securities and insurance sectors. The lack of a national ID system makes it difficult for the covered persons to readily verify the identities of its customers. The veracity of information is also a challenge when it comes to media reports and those obtained through the grapevine. Despite this, results of examination for the past four (4) years disclosed improving efforts of banks to consistently obtain minimum information from customers and to validate the same from reliable sources.

¹³ This variable assesses whether the country has legal, institutional and technical framework to identify and verify identities and profiles of natural and legal persons, to store identification records and to facilitate the use of information by authorized parties for AML purposes.

It is hoped that issues on identification can be better addressed when the Credit Information Corporation (CIC) becomes fully operational.

PRODUCT VULNERABILITY

For specific banking products and services, remittances and deposits were identified to be the more vulnerable products given their volume, transactional behavior and client profile.

Products/Services	Inherent Risk	Residual Risk ¹⁴
Private Banking	Medium High	Medium
Deposits	Medium High	Medium
Remittance	Medium High	Medium
Trust	Medium	Medium Low

Among the four products/services, remittance has the highest risk to ML/TF. Volume and nature of the transaction covering fund transfers are the main factors that have significant impact on vulnerability of remittances. On the other hand, average size of transaction and customer profile are low-risk factors. However, inherent ML risk is mitigated by appropriately placed AML/CFT controls, particularly for customer acceptance and identification and ongoing monitoring of transactions. It bears noting however that while remittance agencies are required to be registered with the BSP, they are not supervised entities of the BSP.

Deposit products are vulnerable to ML and financial abuse since depositors may use it as a medium to facilitate domestic and cross-border funds/wire transfer. Technological advances (Internet/electronic banking), which facilitates fund/wire transfers at very short period of time, are also among the reasons for the increasing vulnerability of the product.

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Propose amendments to the BSP Charter giving BSP explicit authority to supervise and regulate electronic money issuers, credit card companies and money transfer operators (money changers/FX dealers and remittance agents)	BSP	Senate, Congress	2 nd Semester, 2016

¹⁴ Risk rating after taking into consideration AML/CFT controls in place. The risk is expressed on a numerical scale from 0.10 to 1.0, with 1.0 as the highest risk, which is attractive to money launderers.

Amend BSP Circular No. 706 dated 11 January 2011 to align with the updated RIRRs of the AMLA, as amended by RA 10365, and for the BSP to proactively issue AML guidelines to help implement the RIRR, FATF 40 Recommendations and other international best practices	BSP	AMLC	
Sustain capacity-building within the BSP by increasing number of AMLSG examiners and providing continuing education and training to AML supervisors/examiners	BSP		Ongoing
AML Monitoring, Data Collection and Record Keeping Systems			
Continuously give capacity-building programs to covered persons, with focus on KYC requirements, customer due diligence, reporting of transactions and record keeping	BSP	AMLC, Associations under the BSP (ABCOMP, BAP, CTB, RBAP, ABROI, etc.)	Ongoing
Conduct a full mapping of bank monitoring systems and determine overall quality of such systems to improve functionality and capability of the AML system to generate quality alerts or red flags, based on appropriate and relevant parameters identified by the banks. There should also be industry-wide sharing of alert parameters and improved identification of linked/related accounts to enable aggregation			2017
Corporate Trust and Transparency, Identification Infrastructure and Availability of Independent Sources			
Create a nationwide information bureau with a database of client information to aid identity verification of persons/ corporate representatives/ stockholders/ directors/ beneficial owners, where financial institutions are provided secure access	BSP, SEC, IC	CIC, Industry Associations under the BSP, SEC and IC	August 2016 - December 2017
Develop an independent, comprehensive, accessible and reliable source of stockholders, beneficial owners information			2017

IV. SECURITIES SECTOR VULNERABILITY - MEDIUM

The SEC, as supervisory authority under the law has the authority to monitor and enforce compliance of covered persons under its jurisdiction to AML/CFT policies and laws.

After assessment of the relevant variables, **Quality of AML Controls** was rated **Medium**. The **overall securities sector vulnerability rating is MEDIUM**, taking into account input variables, and products and services. It was noted that key components of an AML/CFT regime are in place, and there are significant steps to address AML/CFT concerns. However, there are several challenges that need to be addressed to achieve compliance and effective implementation of global standards, particularly FATF recommendations and UNSC resolutions.

OUTPUTS		
MIDNODES	SECURITIES SECTOR VULNERABILITY	Medium
	QUALITY OF GENERAL AML CONTROLS	Medium
	Quality of Operations	Medium
	Comprehensiveness of Policies and Procedures	Medium/High
	CDD Framework	Medium
	Staff Compliance	Medium
	Management's Comittment and Leadership	Medium

The assessment of the strength of AML controls is anchored on 13 input variables:

General Input Variable		Rating
1	AML Laws and Regulations	High
2	Quality of AML Supervision	Medium
3	Market Pressure to Meet AML Standards	Medium High
4	Commitment to Good Corporate Governance	High
5	Penalties	High
6	Enforcement of AML Obligations	Medium High
7	Securities Firm Staff Integrity	Medium High
8	Securities Firm Staff Knowledge	High
9	Compliance Function	Medium High
10	AML Monitoring Systems	Medium
11	Identification Infrastructure	Medium High
12	Availability of Independent Information Sources	Medium Low
13	Corporate and Trust Transparency	Medium

Based on the assessment of the sector, the variable of **Quality of AML Supervision** should be given top priority. The SEC has no AML/CFT dedicated unit, unlike the BSP and the IC. It has an Anti-Money Laundering Desk, which is an attached function to a Division of the Enforcement and Investor Protection Department. The SEC lacks manpower, facilities, and resources to enable it to check and examine the compliance of market intermediaries with AML/CFT regulations. Supervision is in fact geared towards the implementation and enforcement of sector-specific laws and not on the AMLA, as amended.

Quality of AML Supervision, as well as **Law Enforcement** (Medium-High. 0.60),¹⁵ **Staff Knowledge** and **Staff Integrity**, are factors of **Staff Compliance**¹⁶ (**medium**).

¹⁵ Law Enforcement variable assesses the effectiveness of law enforcement in ensuring commitment of securities' firm management to and compliance of securities' firm staff with AML rules and regulations. The effectiveness of law enforcement depends on the appropriate penalties (rated High, 0.80) and the enforcement (rated Medium-High, 0.60) by authorities.

¹⁶ The variable of Securities Firm Staff Compliance assesses the compliance of the staff with AML legislation and institutional obligations.

The assessment also identified **AML Monitoring Systems** as a variable that should be given priority by the sector. Based on the survey, it was seen that only 29% of respondents risk-profile their clients and only 58% have established policies on reporting transactions of clients whose beneficial owner cannot be determined by competent evidence. Only 61% to 79% of the respondents monitor complex, unusual large transactions, or unusual patterns of transactions, transactions with clients from countries that do not have or insufficiently apply AML measures, and transactions of clients included in the list of suspected terrorists.

Similar to the banking sector, **CDD Framework (medium)** is also a cause of concern with the sector. The absence of a national ID system and an independent database to verify client IDs and determine transaction pattern of clients is an issue in the country (**ID Infrastructure and Independent Information Sources**). However, covered persons employ other methods to verify identity of their customers and institute processes to minimize use of fake documents.

With respect to disclosure of beneficial owners (**Corporate Trust and Transparency**), the information is generally disclosed to brokers/dealers, and to a limited extent, trustees. However, there have been instances where Broker/Dealers refused to share said information to the regulators and issuers. It was also observed that only 66-82% of respondents monitor transactions involving shell companies, trust, nominee and fiduciary accounts.

PRODUCT VULNERABILITY

Products and services of the sector are rated as follows:

Products/Services	Inherent Risk	Residual Risk
Equities trading	Medium	Medium
Mutual funds	Medium	Medium
Underwriting Securities	Medium Low	Medium Low

There are several factors that mitigate the vulnerabilities of the sector. Among these factors are: a) all covered persons regulated by the SEC are required to adopt an AML Operating Manual, appoint an AML Compliance Officer and practice record-keeping for more than five (5) years; b) Class A Brokers/Dealers, all investment houses, and investment company advisers mainly deal with institutional clients; c) Customer identification measures, sustained monitoring of transactions, and continuing due diligence; d) Opening of bank account for onboarding of clients; e) Market intermediaries associated with foreign institutions conform with international AML/CFT standards and termination of relationship with high-risk clients; and, f) SEC and CMIC have separate systems for monitoring transactions facilitated by Brokers/Dealers.

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Quality of AML Supervision			
Create a new AML division dedicated to monitor AML/CFT compliance by SEC regulated entities	SEC		August 2016 - July 2017
AML Monitoring Systems			
Formulate guidelines on risk-based policy for customer identification procedures, guidelines on CDD procedures for local and foreign PEPs, and guidelines for market intermediaries in cases where freeze orders are issued.	SEC	AMLC	August 2016 - January 2017
Require newly registered entities applying for secondary license to first register with the AMLC before secondary license will be issued. Those already registered with the SEC will be given time to register with the AMLC.			August - December 2016
Adopt a table of administrative fines and penalties to be imposed for non-compliance with AML/CFT regulations			August 2016 - July 2017
Develop an AML/CFT compliance audit program			August - October 2017

V. INSURANCE SECTOR VULNERABILITY - MEDIUM

As of May 2015, the insurance industry in the Philippines is comprised of one hundred two (102) insurance companies. Combined assets held by insurance companies amounted to PhP1.166 trillion.¹⁷ In 2014, the Insurance Penetration Rate (IPR), which is defined as the contribution of the entire insurance sector to the Gross Domestic Product (GDP) of the country, grew to 1.56% compared to the 1.02% in 2009 or a 54.90% increase. On the other hand, the Market Penetration Rate (MPR) or the percentage of insured lives compared to the total population has increased to 37.39% in 2014 from 14.08% in 2009.

Since the insurance sector is composed of several industries, namely life, non-life, pre-need and Mutual Benefit Associations, the working group decided to gather assessment inputs from each industry cluster. Representatives from each industry were tasked to give their ratings on the general input variables of the survey tool. Thereafter, each of the industry's rating was given corresponding weights according to the premiums collected per industry cluster. In effect, the impact of the industry's assessment on the vulnerability of the insurance sector is proportional to the sector's overall business (the sum of all premiums in the insurance sector).

¹⁷ Combined assets of Life Insurance, Non-Life Insurance and Professional Reinsurance, and Pre-need Companies and Mutual Benefit Associations.

The vulnerability of the insurance sector is dependent on the strength of AML general controls and product specific variables. The general classification of the products for each insurance industry and the premiums contributed for each class of product were considered in the assessment. Based on the vulnerability map, the Quality of AML General Controls is rated **Medium**. The **overall securities sector vulnerability rating is medium**, taking into account the vulnerability ratings of input variables, and products and services.

OUTPUTS		
MIDNODES	INSURANCE SECTOR VULNERABILITY	Medium
	QUALITY OF GENERAL AML CONTROLS	Medium
	Quality of Insurance Operations	Medium
	Comprehensiveness of Policies and Procedures	Medium
	CDD Framework	Medium
	Insurance Staff Compliance	Medium
	Insurance Management's Commitment and Leadership	Medium

The assessment of the strength of AML controls is anchored on 13 input variables:

General Input Variable		Rating
1	AML Laws and Regulations	High
2	Quality of AML Supervision	Medium
3	Market Pressure to Meet AML Standards	Does Not Exist
4	Commitment to Good Corporate Governance	High
5	Penalties	Medium High
6	Enforcement of AML Obligations	Medium
7	Insurance Firm Staff Integrity	Medium
8	Insurance Firm Staff Knowledge	Medium
9	Compliance Function	Medium
10	Insurance Firms' AML Monitoring Systems, Data Collection and Records Keeping Systems	Medium High
11	Corporate and Trust Transparency	High
12	Identification Infrastructure	Medium High
13	Availability of Independent Information Sources	Medium

Market Pressure to Meet AML Standards is non-existent at present since life insurance, which forms the bulk of the industry, as well as pre-need and MBA, are offered only to the domestic market. Hence, the pressure to comply with AML standard comes mainly from the regulators and not from the market. However, with the participation of the sector in the ASEAN integration, cross border transactions with other ASEAN members will be likely in the future.

Market Pressure to Meet AML standards, together with Corporate Governance, Quality of Supervision and Law Enforcement, are part of **Insurance Firms Managements' Commitment**

and Leadership¹⁸ (Medium). The rating for Commitment and Leadership, which was the lowest among intermediate variables, was affected by the 0-rating of Market Pressure.

As to the input variables for general AML controls, it was determined that the variables of **Quality of AML Supervision** and **Staff Knowledge** should be given top priority by the insurance sector. Covered persons are subject to a mandatory annual examination, with the AML examination incorporated on a risk-based approach. AML examination is focused primarily on high risk value life insurance products with high investment level.

Findings of on-site and off-site examinations include lack of AML training of the officers and employees; non-registration with the AMLC; companies still registered under their old corporate name or have undergone corporate mergers have not advised the AMLC accordingly; and non-submission of names of AML compliance officers. Due to lack of staff and resources, findings and evaluation related to AML compliance were not thoroughly monitored. However, with the establishment of IC's AML Department in 2015, the IC expects that compliance on AML will have further systematic supervision and examination.

The priority variables of Quality of AML Supervision and Staff Knowledge, together **Law Enforcement (medium)** and **Staff Integrity** are part of **Staff Compliance¹⁹ (medium)**.

PRODUCT VULNERABILITY

For products and services of the sector, the ratings are as follows:

Products/Services	Inherent Risk	Residual Risk
Life - Ordinary	Medium	Medium Low
Life - Group	Medium Low	Medium Low
Life - Accident and Health	Medium Low	Medium Low
Life - Variable	High	Medium High
Micro-Insurance	Low	Medium Low
Non-Life - Fire	Medium Low	Medium Low
Non-Life - Motor Car	Medium Low	Medium Low
Non-Life - Casualty and Surety	Medium Low	Medium Low
Non-Life - Marine	Medium Low	Medium Low
Pre-Need Life	Medium Low	Medium Low
Pre-Need Pension	Medium	Medium
Pre-Need Education	Medium	Medium
MBA Various	Low	Low

¹⁸ This variable assesses the insurance firm's management's commitment and leadership in addressing the money laundering risks. This variable considers how it is influenced by several factors such as AML laws and regulations, quality of supervision, commitment to corporate governance law enforcement.

¹⁹ This variable assesses the compliance of insurance firm's staff with the AML legislation and other institutional obligations.

Certain products of the life insurance and pre-need sectors with high cash surrender values exhibit inherent vulnerabilities. Based on the tool, life-variable product is ranked as the most vulnerable. However, with the establishment of appropriate AML controls, coupled with the growing awareness of the industry players, the vulnerabilities can be mitigated. As the industry grows and become more robust, the IC, as the regulator of the insurance sector, and the AMLC, as the FIU, should jointly develop strategies to manage and mitigate the identified risks through continuous monitoring and establishment of controls and/or regulations.

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Improve dissemination of AML/CFT policies to industry associations and covered persons by emailing directly to compliance officers.	IC	Industry Associations under the IC	August 2016, continuous
Strictly implement the requirement on AML/CFT trainings to relevant officers and employees, especially for newly established/licensed covered persons	IC	AMLC, Covered Persons, Industry Associations	August 2016, continuous
Regularly coordinate between the AMLC and the IC-AML Division to ensure that newly licensed entities and covered persons subject of mergers or who changed their names are registered with the AMLC	IC AMLC	Covered Persons, Industry Associations	August - December 2016
Issue a circular providing for graduated sanctions/penalties for non-compliance	IC	AMLC	August 2016 - January 2017

VI. OTHER FINANCIAL INSTITUTIONS

The overall Other Financial Institutions sector vulnerability is **medium**.

	Vulnerability to ML			Vulnerability to ML (after taking the controls into account)					
	High	Medium	Low	Very High	High	Medium High	Medium	Medium Low	Low
Other Financial Institutions									
Non-Stock Savings and Loan Associations (NSSLAs)	H						M		
Stand-Alone Money Service Businesses (MSBs)	H				H				

Pawnshops (with remittance/money changing business)		M							ML	
E-money issuers (non-banks/others)			L							L
Finance/lending companies (including stand-alone finance/leasing companies)			L							L
Sector Vulnerability - MEDIUM										

1. Non-Stock Savings and Loan Associations (NSSLAs) - MEDIUM

Emerging ML/TF risks have made NSSLAs more vulnerable, particularly those in the military/police sectors. NSSLAs in these sectors have been used to disguise proceeds of unlawful activity, such as graft and corruption, plunder, bribery, malversation of public funds, and the like. While there are only 13 military/policy NSSLAs (out of 81 total NSSLAs), these already comprise 74% or Php112.3 billion out of the total NSSLAs asset size.

Overall vulnerability is rated as **medium** since NSSLAs are subject to strict monitoring and supervision of the BSP.

2. Stand-Alone Money Service Businesses (MSBs) - HIGH

Of the other financial institutions rated, stand-alone MSBS - stand-alone money changers (MCs) and foreign exchange (FX) dealers, and stand-alone remittance agents (RAs) – have the highest ML/TF risk. As they are largely unsupervised, they are not required to submit financial statements/results of operations. In effect, no available data can be obtained. Thus, the indirect method to secure industry information was used.

ML and TF risks for money changers and remittance agents are inherently high due to lack of on-site examinations, lack of reporting requirements especially for sole proprietorship or DTI-registered entities, and very low registration with AMLC for the submission of CTRs/STRs. Both deal mainly with cash, transact with walk-in and one-off customers, and have higher exposure to overseas customer. The retail reach, the ease and speed of delivery of the funds, particularly to the unbanked segment, increases the complexity of tracing the flow of funds and pose significant challenges in identifying suspicious transactions.

Transactions of MSBs with Philippine banks are, however, closely monitored since banks treat MSBs as high risk customers subject to enhanced due diligence procedures. Nonetheless, MSBs' vulnerability remains high due to insufficient controls.

3. Pawnshops (with remittance/money changing business) - MEDIUM LOW

Vulnerability of pawnshops with remittance/money changing business is rated as medium-low. As a covered person under the BSP, they are subject to periodic on-site and off-

site examinations, particularly on matters pertaining to AML/CFT issues. However, with the sector’s potential for further growth, vis-à-vis the inherent high risk in the money changing business, as well as operational complexity in the remittance activity, there is a projected challenge in the monitoring of reportable transactions.

4. E-Money Providers - LOW

Since the e-money service sector is still at a developing stage in the Philippines, the value of a transaction is low. Most of the customers are individuals who are in low-income categories. The possibility of involvement of high-risk customers, such as PEPS and non-resident customers is low, with private banking customers at nil. Moreover, E-money issuers and service providers are regulated and supervised by the BSP. Hence, vulnerability is low.

5. Lending and Financial Companies - LOW

Lending Companies (LCs) and Financial Companies (FCs) covered by this process are those under the supervision and regulation of the SEC. These LCs and FCs pose low risks for money laundering and terrorist financing as they have limited range of products and services and transactions are generally low in cash value. Although the risks for ML/TF for LCs and FCs are low, there has been no study as yet on any possible ML/TF in these entities.

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in controls of other financial institutions, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Amend BSP Charter to place stand-alone MSBs under regulatory and supervisory authority of the BSP	BSP		2 nd semester, 2016
Amend BSP Circular 706 to require NSSLAs, stand-alone MSBs and pawnshops to adopt AML electronic monitoring system, depending on asset size and complexity of operation	BSP		2 nd semester, 2016
Amend BSP Circular No. 471 to provide for adequate regulatory framework covering stand-alone MSBs	BSP		2 nd semester, 2016

VII. DESIGNATED NON FINANCIAL BUSINESSES AND PROFESSIONS

In 2013, Republic Act No. 10365, was passed amending Republic Act No. 9160, the “Anti-Money Laundering Act of 2001”, extending AML/CFT obligations to the Designated Non-Financial Businesses and Professional (“DNFBPs”). The amendment included dealers of precious metals and stones, and company service providers under the country’s AML Regime.

Efforts to include other DNFBPs under the ambit of AML regulation are ongoing. There is a pending bill including the casino industry as a covered person under the AMLA.

The estimated size of DNFBPs subject of the study is at around PHP4 trillion or 30% of the 2014 GDP. This figure excludes Lawyers, Notaries, Accountants, Trust and Company Service Providers where revenues and volume of turnover is not available.

SECTOR	RATING
Casino	Very High
Real Estate	Medium High
Dealers of Precious Metals and Stones	Medium High
Lawyers and Notaries	Medium
Accountants	Medium
Trust Companies	Medium Low
Company Service Providers	Medium
Car Dealers	Medium High

1. Casinos - VERY HIGH

Casinos are not covered persons and are therefore unregulated for purposes of AML/CFT compliance. Vulnerability of casinos to money laundering is rated very high.

Casinos are inherently vulnerable to money laundering as they undertake high-volume/speed financial activities that are similar to financial institutions. The use of foreign holding accounts where funds in one jurisdiction are available for use in a casino in another jurisdiction without the need for a cross border remittance presents further issues. Casino-based tourism or “junkets” are also vulnerable as they involve the cross border movement of people and funds and often target high net-worth/VIP clients.

According to PAGCOR, the estimated amount of money played in casinos in the country amounted to PHP2 trillion in 2012. This grew to almost PHP2.5 trillion in 2014, which is around 22% of 2014 GDP. Most of these transactions were in cash. At present, profile of casino players is not known. For the period 2011-2014, there were no official reports from LEAs that casinos are being used for money laundering in the country.

2. Real Estate Brokers – MEDIUM HIGH

Real AML regulations is absent in the real estate sector as brokers are not covered persons under the AMLA. They are, however, regulated through licensure exams, and are required to abide by a Code of Conduct. Total Vulnerability is therefore rated at **medium high**.

The sector predominantly conducts business using non-cash transactions such as checks or other services provided by banks. Cash payment is generally discouraged for control

purposes. While data on the amount and frequency of international transactions are not readily available, it is safe to assume that money coming from abroad are captured for AML reporting purposes by banks, wireless money transfers, and remittance agents. Statistics on the number of PEPs who purchase real estate under their names is not readily available because monitoring is not required by law. Ownership information however, can be easily retrieved as the AMLA requires the Land Registration Authority (LRA) and all its Registries of Deeds to submit reports on all transactions in excess of PhP500,000.

3. Dealers in Precious Metals and Precious Stones - MEDIUM HIGH

Vulnerability in the sector is rated Medium High as it is currently unregulated even though dealers are covered persons under the AMLA, as amended. There is also a challenge in the implementation due to lack of supervising authority or of an SRO to implement AML regulation. Thus, ownership or customer information is not available and it is not known whether Know Your Customer (KYC) requirements are complied with.

There were difficulties in gathering accurate figures from the industry players as they were hesitant to share information when they found out that the Bureau of Internal Revenue (BIR) is a member of the NRAWG. Representatives of the industry however revealed in a meeting for the NRA that there are around 10,000 dealers in the country and it is possible that they are accepting cash payments.

4. Lawyers and Notaries - MEDIUM

Overall vulnerability is rated as Medium because the profession remains to be outside the AML regime even though they are considered as covered persons with respect to certain services. It bears noting however that the present Rules of Court and Code of Professional Responsibility for lawyers do not allow them to hide behind privileged communication with respect to criminal activities, including money laundering and all its predicate offenses. The vulnerability is further dampened by the existence of an efficient SRO and a Code of Professional Responsibility for Lawyers.

5. Accountants - MEDIUM

Accountants, for purposes of AML regulation, refer to sole practitioners, partners or employed professionals within professional firms. Overall vulnerability is rated as Medium as the sector is not yet compliant with AML requirements and the only measure in place is the strong commitment of the Board and PICPA.

6. Trust Companies - LOW Company Service Providers - MEDIUM

The trust sector is under the supervision and regulation of the BSP and remains to be a highly regulated business. Currently, there are no reports on the involvement of the trust sector in any money laundering related offense. As such, overall vulnerability is rated as Low.

On the other hand, overall vulnerability of company service providers is rated as Medium as reporting procedure has not been implemented in the sector. Though CSPs are already considered as covered persons, regulations for DNFBPs including CSPs, has yet to be issued. Nevertheless, CSPs perform due diligence on their client as well as keep records as part of their international compliance.

7. Car Dealers - MEDIUM HIGH

Overall vulnerability is rated as Medium High as counter measures to reduce ML in the industry is currently absent due to lack of legislation. During interviews with several sales executives, the NRAWG found out that dealers do not verify the identity of their clients. Car dealers also do not ask their customers' sources of funds when cash payment are made. Customers only undergo robust CDD if purchases of vehicle are through loans. There is also little reliable information about the proportion of high-risk customers

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in controls of other financial institutions, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Submit proposals for amendment of AMLA to include casinos, real estate brokers and car dealers as covered persons			August 2016
Update RIRRs of the AMLA for the implementation of the law as to dealers in precious metals and stones, lawyers and notaries, accountants, trust services and company service providers	AMLC	BSP, SEC, IC IBP, PICPA	July - September 2016

VIII. FINANCIAL INCLUSION PRODUCT

As of 2014, 36 % of municipalities (covering 12% of the population) do not have a banking office. This is significant considering that banks account for 80% of the total resources of the financial system and serve as the primary distribution channels of financial services. It is recognized however, that there are other financial service providers that deliver equally valuable services such as cooperatives, lending companies, financial companies, among others.

With these multiple providers, as well as with an enabling policy and regulatory environment conducive to financial inclusion, access to and usage of formal financial services has generally been increasing. The 2014 World Bank Global Findex reports that the percentage of Filipino adults with an account with a formal financial institution increased to 31% from 27% in 2011.

In the Philippines, the key inclusion-friendly products include microfinance loans, microenterprise, micro-agri, housing microfinance, microfinance plus; microdeposits; micro-insurance; pawning services, and remittance services thru pawnshops; and low value payment services through e-money stored in a cash card or a mobile phone e-wallet.

Product	ML Risk	TF Risk
Microfinance Loans	Low	Low
Microdeposits	Low	Low
Micro-Insurance	Low	Low
Electronic Money	Low	Low
Pawning	Low	Low
Remittance thru pawnshops	Low to Medium	Low to Medium

The ML risk for microfinance loans is generally low, not only due to the size of loan and the prescribed threshold amounts (maximum of PhP300,000), but also due to the limited functionalities and existence of risk mitigants for the product. Likewise, TF risk for this product is generally low because loan products are availed of only by natural persons who are Filipino citizens and who are residing in the country.

The ML risk for microdeposit is generally low because of a low value threshold (average daily balance of PHP 40,000) and of the existence of risk mitigants. Microdeposits are provided only by banks, which are prudentially regulated and supervised by the BSP. TF risk is also generally low due to the value thresholds and the existing risk mitigants for the product. This product is not offered to non-residents and cross-border transaction is not possible.

The ML/TF risk for microinsurance is generally low due to size [maximum premium of 7.5% of current daily minimum wage (CDMW) of around PhP450 and maximum benefits of 1000x CDMW], limited functionalities and existing risk mitigants. It is not offered to non-residents, and anonymous use of the product is not possible. The usage of these products to perpetrate ML/TF activities is not known nor are there any reported cases that relate these products to financial crimes or activities.

The ML risk for E-money is generally low because of a low value threshold (P100,000.00 as imposed by BSP) and existence of risk mitigants. The number of STRs filed by the sector is relatively low as against the total e-money transactions. Nonetheless, an area of concern is that exposure to financial crimes comprises the abuse of the product for scam purposes. As to TF risks, the lower aggregate threshold amount per month and the very low current average transaction amount per area reduces the risk of TF. However, it might be possible for terrorist

groups to channel the funds for their activities using e-money transfer, although the proportion of ML/TF cases using e-money and the total e-money transaction is very negligible.

The ML and TF risks for the pawning service are generally low because loans are secured by personal properties delivered to the pawnshops. These pawning loans are usually short term involving small amounts which are generally carried out by those from the low-income bracket. Non face-to-face transactions are also not allowed, with pawners required to come personally to the pawnshop. However, one identified risk on pawning is the issue of ownership of the personal property offered as collateral.

The ML/TF risks for remittance services by pawnshops are generally low to medium because no cap has been placed on the amount of remittance and on the number of transactions. While there is no limit on the amount and number of transactions, in general, the amount of these remittances are relatively low. Domestic remittances amounts to around PhP2,000 and international remittances amounts to around PhP5,000 to PhP10,000 which is typically the profile of remittances sent by Overseas Filipinos to their families. Some remittances also have regularity (i.e., twice a month) with recipients already known to the pawnshop.

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in controls on these financial products, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Adopt a new licensing framework for pawnshops	BSP		August 2016 - March 2017
Introduce a different classification of BSP-issued license based on the type and/or level of complexity of the pawnshop business			
Introduce new minimum capital requirement for each type of license to be issued by the BSP			
Set a limit on borrowings of a pawnshop business			
Require pawnshops to adopt internal control standards, risk management system, recording and reporting standards/system, consumer protection mechanism and comply with the AMLA		AMLC	
Adoption of the BSP Supervisory Enforcement Policy and provide for specific grounds for revocation of the BSP-issued license			
Provide for a two (2)-year transitory period for existing pawnshop operators to secure an authority to operate a pawnshop business from the BSP			

PHILIPPINE NATIONAL RISK ASSESSMENT ON MONEY LAUNDERING AND TERRORISM FINANCING

The Philippine National Risk Assessment (NRA) Process is a government-wide activity aiming to better understand the ML/TF risks faced by the country. Recommendation 1 of the Financial Action Task Force (FATF) requires countries to identify, assess and understand the ML/TF risk and apply a risk-based approach (RBA) to ensure that the measures to prevent/mitigate ML/TF risks are commensurate with the risks identified. The Anti-Money Laundering Council (AMLC) is the lead agency in the conduct of NRA. Stakeholders from key government agencies and private sector institutions comprised the NRA Working Group (NRAWG).

The NRA report details the results of the process, conducted on the basis of a self-assessment by Philippine authorities, using the tool developed and provided by the World Bank. The coverage of the Philippine NRA process is from 2011 to 2014. Data and statistics used for the report were derived primarily from published and periodical reports and submissions of Supervisory Authorities (SAs), law enforcement agencies (LEAs) and the different AML/CFT stakeholders. Relevant data and information were also requested from the Office of the Court Administrator and the Sandiganbayan. Survey questionnaires and face-to-face and phone interviews were also conducted to obtain information or clarify matters.

The assessment, however, faced a number of limitations, as follows:

1. Lack of available and adequate data from the targeted sources - Where data was available, some institutions were, however, not forthcoming with the data;
2. Proceeds generated from criminal activities are also not captured in some cases. It was difficult to obtain data on proceeds of crimes as the major focus is on the number of investigations, prosecution and convictions; and
3. Non-cooperation in the assessment by some Designated Non-Financial Businesses and Professions due to fear of being targeted for tax purposes

World Bank Tool

The World Bank tool comprises several Excel-based and interrelated modules that enable countries to assess their ML/TF threats and vulnerabilities. It consists of eight (8) modules: 1) National ML Threat; 2) National Vulnerability; 3) Banking Sector Vulnerability; 4) Securities Sector Vulnerability; 5) Insurance Sector Vulnerability; 6) Other Financial Institutions (OFIs) Vulnerability; 7) Designated Non-Financial Businesses and Professions (DNFBPs) Vulnerability; and 8) Financial Inclusion Product Risk Assessment. Members of the NRAWG were divided into these eight (8) sub-groups based on their functions, sectors represented and backgrounds.

“Threats” here refer to the scale and characteristics of the proceeds of criminal activities or financing of terrorism in the jurisdiction. “Vulnerabilities” refers to weaknesses or gaps in a jurisdiction’s defenses against money laundering and terrorist financing.²⁰ The rating for threats vis-à-vis vulnerabilities determine the ML/TF risk level in a jurisdiction.

OVERALL ASSESSMENT

After considering the proceeds generated by select predicate crimes, money laundering trends and techniques, and the prevalence of sectoral threats, the national money laundering threat is assessed to be **HIGH**.

After considering the ratings for National Combating Ability and Sectoral Vulnerabilities (i.e. Quality of AML Controls and Products of the Banking Sector, Securities Sector, Insurance Sector, Other Financial Institutions, and DNFBPs), the national vulnerability for money laundering is assessed to be **MEDIUM**.

Following the risk map of the assessment tool, the Money Laundering Risk at National Level is rated as **MEDIUM-HIGH**.

²⁰ World Bank Group, Finance & Markets. “Introduction to the National Assessment Tool.” June 2015.

I. OVERALL MONEY LAUNDERING AND TERRORIST FINANCING THREAT

I.A. MONEY LAUNDERING

I.A.1. Major Predicate Crimes

a. Violations of the Comprehensive Dangerous Drugs Act of 2001

Violations of the Comprehensive Dangerous Drugs Act of 2001 are major concerns in the Philippines.

Mutual Evaluation Report (MER, 2009)

The 2009 Philippine MER, par. 90, states that "(T)he picture in the Philippines is dominated by crystal methamphetamine (locally referred to as "shabu"): the country is a significant producer, transit point and consumer country of the drug. x x x. Several seizures of clandestine laboratories and chemical warehouses, (accounting for 8.4 metric tons of shabu over the 2000-2006 period) placed the country 5th on a global basis. Drug manufacture is managed by transnational organized crime syndicates together with local drug groups, smuggling chemicals into the country via mislabeled shipments x x x."

Current Drug Trafficking Trend

In 2014 alone, the Philippine Drug Enforcement Agency (PDEA) and other law enforcement agencies (LEAs) conducted 16,939 anti-drug operations nationwide. These operations resulted in the arrest of 13,792 individuals and the seizure of PhP6.18 billion worth of illegal drugs²¹.

In 2014, the PDEA noted that "consistent with the previous years' observations, methamphetamine chloride (locally known as "shabu") and marijuana remain the most used illegal drugs in the Philippines. Evidently, the value of *shabu* seized for the year is 78% of the total value of seized drugs and control precursor and essential chemicals (CPECs). Furthermore, 89% of the arrests are shabu-related".

The role of drug syndicates in the proliferation of illegal drugs is immense. International drug trafficking organizations have been determined to be operating in the country. In addition to the African drug syndicates and the Filipino-Chinese drug syndicate, a drug syndicate based in Sinaloa, Mexico has also been operating in the country in 2013.²²

²¹ Philippine Drug Enforcement Authority 2014 Annual Report

²² The Philippine Drug Situation, 2013 (supra.)

Due to the geological make-up of the Philippines, it is used as a transshipment point of local and foreign drug traffickers. The Ninoy Aquino International Airport (NAIA) continues to be the preferred trafficking avenue for illegal drugs. Reports indicate that drug mules hide or conceal their illegal cargo in secret compartments of their suitcases, shoes, books bottles, parcels, or other objects or clothes they are wearing. Others wrap the drugs around their body, undergoing minor surgery to put the drugs inside their body or ingesting or inserting the dangerous drugs into their private parts to avoid detection.

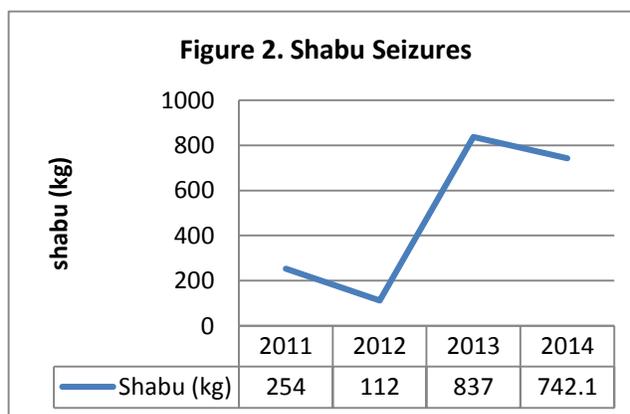
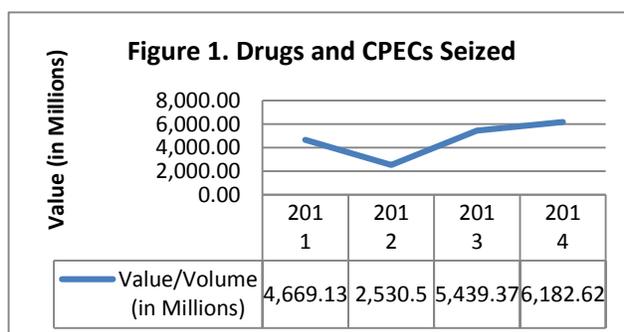
The use of freight providers have also been recorded, with payments coursed through money service businesses like foreign exchange dealers and remittance agencies. In 2014, at least 40 mail and parcel interdiction operations were conducted nationwide, which resulted in the seizure of shabu, marijuana and ecstasy, and arrest of 20 drug personalities. The utilization of various materials like sandals, milk boxes and electronic devices to conceal illegal drugs was also noted.²³

Seizure of Dangerous Drugs and Control Precursor and Essential Chemicals (CPEC)

The anti-illegal drug campaign also resulted in the seizure of various dangerous drugs, CPECs, clandestine laboratories and other non-drug evidence.²⁴

Figure 2 provides the volume of seized and confiscated methamphetamine chloride (locally known as shabu) for the period 2011 to 2014.

In 2013, the PDEA and other LEAs conducted 11,474 anti-drug operations, which resulted in the arrest of 9,162 individuals and seizure of PhP5.42 Billion worth of illegal drugs. Part of seizures is the confiscation of 837.60 kilograms of shabu worth PhP4.7 Billion, exceeding the total seizure for the years 2009 to 2012.²⁵



²³ *Ibid.*

²⁴ Lifted from the PDEA 2011, 2012 and 2013 Annual Reports (www.pdea.gov.ph).

²⁵ Computed at PhP5.6 million per kilogram.

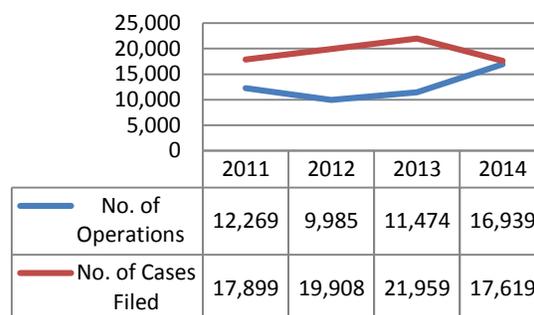
Drug-Related Arrests and Investigation

Various anti-illegal drug operations (e.g., buy-bust operations, implementation of search warrants, interdiction, etc.) were conducted and resulted in the arrests of numerous personalities, including several foreign nationals.

Prosecution of Illegal Drugs Cases

Anti-illegal drug enforcement and operations are conducted by various LEAs such as the PDEA, the PNP and the local police units. Each agency or unit maintains its own set of statistics, making it difficult to ascertain the exact number of prosecution and cases being filed in court.

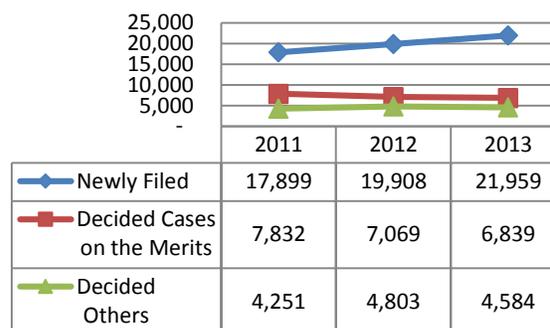
Figure 3. Operations vs. Cases Filed



According to the PDEA, a total of 80,580 drug cases were filed nationwide from 2002 to 2012. Out of this number, only 14,087 cases, or 17.48%, were resolved, while the remaining 66,493 cases, or 82.52%, are pending in courts. The resolved cases are broken down as follows: 17.48% - conviction; 26.71% - dismissal; and, 43.64% - acquittal.²⁶

Data was also obtained from the courts through the Supreme Court's Office of the Court Administrator (SC-OCA) on drug-related cases filed with the courts nationwide. Of the total cases filed from 2011 up to 2013, an average of 37% was decided with a conviction rate of 17% and 26%²⁷ for 2012 and 2013, respectively.

Figure 4. Drug-Related Cases



Financial Investigation

The PDEA and other relevant government agencies and the AMLC collaborated in tracing the proceeds of drug-related crimes. This resulted in the filing of criminal charges for violations of the Dangerous Drugs Act and for violations of the AMLA, and the freezing, asset preservation and forfeiture of the proceeds of the crime.

²⁶ 2012 PDEA Annual Report.

²⁷ 2012 and 2013 PDEA Annual Report.

Table 1. Cases

	2011	2012	2013	2014
Number of bank inquiries and/or freezes	3	1	2	5
Number of criminal cases filed for Violation of the Dangerous Drugs Act prosecuted	17,899	19,908	21,959	17,619
Number of cases filed for Violation of the AMLA	-	3	1	-
Amount of proceeds subject of forfeiture proceedings (in millions)	PhP163.69 US\$.181 (PhP7.7 ²⁸) CNY.003 (PhP.022) Total = PHP171.38	PhP55.49	PhP64.97	PhP29.77
Number of STRs on drug-related crimes received by the AMLC	36	44	123	906

Conclusion

After considering the data and information gathered, the following were observed:

1. The number of operations against drug trafficking and the value of seizures and confiscations are high.
2. The number of related violations of the Comprehensive Dangerous Drugs Act of 2001 filed before the courts increased from 2011 to 2014 and only 37% were resolved, with around 17% and 26% conviction rate for 2012 and 2013, respectively.
3. Only around 2% of the total value of confiscated items related to illegal drugs operations was recovered or forfeited using the AML mechanisms, and there were only four (4) cases filed for violation of the AMLA compared to more than 77,000 cases filed on the predicate crime.

In view of the foregoing, threat posed by the violations of the Comprehensive Dangerous Drugs Act is rated **HIGH**.

b. Plunder and Violations of the Anti-Graft and Corrupt Practices Act

According to the United Nations Development Programme (UNDP), the Philippines is ranked the 41st most corrupt nation in the world by Transparency International (TI) and the 3rd most corrupt in the Asia-Pacific by the Political and Economic Risk Consultancy Ltd.²⁹ However, the Philippines' ranking progressed through the years due to the government's efforts to combat corruption, tax evasion and other crimes. In 2010, it was ranked 134th out of 178 countries in TI's Corruption Index (with the 178th being the most corrupt). From 2011, the Philippines' TI ranking improved from 129th (out of 189) to 85th (out of 175) in 2014.

²⁸ Currency Exchange rate at PhP42.4462 = 1\$, PhP7.29 = 1CNY.

²⁹ Developing a Corruption-intolerant Society (www.ph.undp.org). Last accessed 11 March 2015.

Mutual Evaluation Report (MER, 2009)

The 2009 Philippine MER, par. 89 states: “(W)idespread corruption, x x x, also generated substantial illegal proceeds”. Par. 96 thereof also provides that “corruption in revenue-generating agencies is taking a particularly heavy toll on the local economy.”

Current Plunder and Graft and Corruption Trend

It is estimated that 20% of the Philippines’ yearly national budget is lost to corruption.³⁰ Using the Php2.006 Trillion budget for 2013 as reference, this translates to Php400 Billion claimed to be lost to corruption.

In 2013, high-level government officials involved in the Priority Development Assistance Fund (PDAF) scam, or “pork barrel scam,” were charged with plunder and graft and corruption, among others. The scam involved the funding of agricultural “ghost projects” using the PDAF of participating lawmakers. Funds are processed through fake Non-Governmental Organizations (NGOs). The main actor in the scam gives a commission of 10-15% to the local government units and recipient agencies of PDAF and 40-60% commission to the participating legislator. It is estimated that around Php10 Billion of government money has been lost to this scheme.

The Office of the Ombudsman (OMB) is at the forefront of the government’s intensified efforts against corruption. As of 2014, the OMB has already filed several plunder charges against a former president, three (3) Senators, a former PNP Chief and two (2) congressmen. Four (4) congressmen were also charged with graft and corruption, and/or malversation of public funds.

Prosecution of Plunder and Graft and Corruption Cases

Data from the OMB-Office of the Special Prosecutor showed a significant increase in the prosecution of graft and corruption (violations of R.A. No. 3019) and plunder³¹ cases filed before the Sandiganbayan and regular courts:

TABLE 2. Cases filed before the Sandiganbayan and the regular courts

Year	Anti-Graft violations	Plunder
2011	223	1
2012	194	1
2013	521	-
2014	234	14

It is estimated that Php1.2 Billion is involved in the pending plunder cases.

³⁰ Developing a Corruption-intolerant Society (www.ph.undp.org). Last accessed 11 March 2015.

³¹ Violations of Section 3 par. B, C, E, G, H, and I of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), as amended, and Plunder under Republic Act No. 7080, as amended, are predicate crimes to money laundering.

Financial Investigation

From 2011 to 2014, the AMLC conducted the following ML investigations related to graft and corruption, and plunder:

Table 4. Graft-Related Money Laundering Investigations

Predicate Crime Involved	2011	2012	2013	2014
Graft and Corruption	1*	1	4**	9***
Plunder			1	1
Total	1	1	5	10

*The investigation involved both predicate crimes of graft and corruption and plunder.

**Three (3) investigations also involved the predicate crime of plunder.

***Six (6) investigations also involved the predicate crime of plunder.

Based on the aforesaid investigations, the AMLC filed the following petitions for the issuance of freeze order and civil forfeiture:

Table 5. Freeze and Confiscation

	2011	2012	2013	2014
Freeze Order	1	1	2**	-
Civil Forfeiture	1*			2
Total Cases	2	1	2	2
Amount subject of forfeiture proceedings (in millions)	PhP274.24 USD1.77 EUR.006	PhP56.81 USD.374	PhP18.45 USD.055	PhP380.85 USD.697

*Only one (1) case was involved. A petition for civil forfeiture was filed before the expiration of the freeze order issued against the subject properties.

**The petition for civil forfeiture was filed in 2014.

AMLC records show that as of 31 December 2014, a total of PhP785.86 Million in funds and properties are the subject of civil forfeiture cases related to plunder.

Conclusion

Considering the data on the investigation and prosecution of plunder and corruption-related cases, and the total amount of properties subject of civil forfeiture cases and the non-collection of data on the proceeds of graft and corruption and plunder, the threat posed by graft and corruption and plunder cases is rated **HIGH**.

c. Investment Scam/Fraud

Investments scams and fraud generate large amount of proceeds and a number of victims were duped by these pseudo-investments.

Mutual Evaluation Report (MER, 2009)

The 2009 Philippine MER, par. 93, noted that “(T)he Philippine form of ponzi or pyramid scheme is called “networking” or “pseudo-deposit-taking activities” or “high yield investment programs” which involves the recruitment of agents/investors upon which the recruiter earns a commission even though there is no underlying product being sold. The swindle consists of the misrepresentation that the activity to solicit the so-called “investment” has been duly authorized by the SEC, when in fact, it has not.”

Current Investment Scam/Fraud Trend

The trend noted in the 2009 MER is still the current trend observed during the period covered by this review.

In 2012, two (2) large-scale investment scams in the Visayas and Mindanao regions were discovered. One of the investment scams enticed Filipinos to invest in a corporation engaged in commodities futures trading, which is not allowed under the existing securities regulation in the Philippines. The other, a family-owned business, promised a guaranteed and secured payment of high-yielding interests to investors to its expanding trading business of pre-owned and brand new cars, including the sale of petroleum. The family aggressively marketed the business, reaching both local and foreign investors.

From 2011 to 2014, victims of fraud and investments scams have been defrauded a total of PhP4.019 Billion or approximately USD85.51 Million³². In 2013, the AMLC filed civil forfeiture cases against PhP268.59 Million (approximately USD5.72 Million)³³ worth of monetary instruments, real properties and vehicles involved in the aforesaid two (2) investment scams.

Prosecution of Investment Scam/Fraud Cases

Data from the Department of Justice (DOJ) showed that an average of 13,458 estafa cases is prosecuted each year.³⁴

From 2011 to 2013, the Securities and Exchange Commission (SEC) reported that there were 393 fraud investigations related to pyramiding schemes. As of 2014, a total of 39 cases involving pyramiding schemes are pending before the courts for violations of the Securities and Regulations Code (SRC) while 21 complaints are pending before the DOJ.

³² At an exchange rate of U\$1 = PhP47.

³³ At an exchange rate of U\$1 = PhP47.

³⁴ From 2009 to 2013.

Financial Investigation

For the period under consideration, the AMLC conducted sixteen (16) ML investigations related to estafa or fraud:

Table 6. Estafa-Related Money Laundering Investigations

Predicate Crime Involved	2011	2012	2013	2014
Estafa/Swindling	6	5	5	10

In relation to the aforementioned investigations conducted, the AMLC filed the following petitions to freeze and for civil forfeiture:

Table 7. Freeze and Confiscation

	2011	2012	2013	2014
Freeze Order	6	5	1	1
Civil Forfeiture	1	2	4	1
Total Cases	7	7	5	
Amount subject of forfeiture proceedings (in millions)	PhP.265 USD.0010 GBP .007	PhP33.71 USD.0006	PhP233.32 USD.707	PhP.559 USD.00009 EUR.101

Conclusion

Considering the fraud investigated by the SEC, the number of estafa or fraud cases prosecuted by the DOJ yearly and the amount of proceeds that was generated by estafa/fraud cases investigated by the AMLC vis-à-vis the amount covered by the civil forfeiture cases, the threat is rated **HIGH**.

d. Smuggling

Current Smuggling Trends

In a study conducted by the Global Financial Integrity (GFI)³⁵, it was found that between 1960 and 2011, illicit financial outflows from the Philippines totalled USD132.9 Billion, while illicit inflows amounted to USD277.6 Billion. Thus, over the 52-year time-span, cumulative illicit financial flows into and out of the Philippines totalled USD410.5 Billion.³⁶

³⁵ "Illicit Financial Flows to and from the Philippines: A Study in Dynamic Simulation, 1960-201 (conducted with the support from the Ford Foundation) PDF downloaded from www.gfintegrity.org. Last visited: 20 March 2015.

³⁶ GFI Report, page ix (Executive Summary).

The GFI-Report PHL further stated that *“(T)he vast majority of money flowing illicitly into and out of the Philippines is accomplished through the misinvoicing of trade, rather than through hot money flows such as unrecorded wire transfers. x x x.”* The report also pointed out that *“(S)ince 2000, illicit financial flows have cheated the government of an average of \$1.46 billion in tax revenue each year. To put this in perspective, the \$3.85 billion in lost tax revenue in 2011 was more than twice the size of the fiscal deficit and equal to 95 percent of the total government expenditures on social benefits that same year.”*³⁷

The 2013 Serious and Organized Crime Threat Assessment (SOCTA) prepared by the PAOCC identified the different *modus operandi* of smuggling. Most notable of which are outright and technical smuggling, undervaluation, under-declaration of volume shipped, misclassification and diversion of cargo.³⁸ The 2014 SOCTA also reported that *“(W)hile different methodologies have allowed different parties to come up with divergent estimates, all are in agreement that misinvoicing or customs fraud comprises the vast majority of illicit funds funneled into a shadow economy x x x.”*³⁹

Prosecution of Smuggling

To address the smuggling problem, the Bureau of Customs (BOC) launched its “Run After the Smugglers” (RATS) program.⁴⁰ As of 2013, 155 cases were filed under the RATS program, out of which 112 are pending before the DOJ, 28 are pending before the courts while 15 cases have been dismissed. There are, however, only three (3) convictions since the RATS program was launched in 2005.⁴¹

Data from the DOJ show the following:

TABLE 8. Anti-Smuggling Cases

Year	No. of cases investigated by BOC	Cases handled/referred by BOC to DOJ	Cases filed in court
2011	-	69	22
2012	-	39	29
2013	-	12	4

³⁷ Ibid., pp. ix-x.

³⁸ 2013 SOCTA, page 114.

³⁹ 2014 Serious and Organized Crime Threat Assessment (SOCTA) prepared by the Presidential Anti-Organized Crime Commission (PAOCC).

⁴⁰ 2013 SOCTA, page 113.

⁴¹ *Fighting the Smuggling Scourge --- Makati Business Club*. Congress Watch Report No. 179 (5 December 2013). The Congress Watch Report is a regular publication of the Makati Business Club. Its main mission is to promote accountability and transparency of elected officials. (www.mbc.com [last visited 23 March 2015]).

Financial Investigation

For the period covered, the AMLC conducted one (1) ML investigation related to smuggling in 2011, and another in 2012.

In relation to the aforementioned investigations conducted, the AMLC filed the following petitions to freeze and for civil forfeiture:

Table 11. Freeze and Confiscation

	2011	2012	2013	2014
Freeze Order	1	-	-	-
Civil Forfeiture	-	1	-	-
Total Cases	1	1	-	-
Amount of proceeds subject of forfeiture proceedings (in Millions)	-	PhP6.13	-	-

Conclusion

Data and information on the proceeds of smuggling present a huge challenge as they are not gathered by concerned agencies. Concerned agencies also failed to provide other requested data and information.

Based on the data or information on the estimated amount of income lost from evasion of customs duties due to under- and misinvoicing, the absence of actual/official data from the concerned agencies, the low number of prosecution and conviction rate, and forfeiture cases the threat rating for this predicate offense is **HIGH**.

I.A.2. Other Predicate Crimes

The amendments under R.A. No. 10365 introduced new predicate offenses to money laundering which include, among others, human trafficking, intellectual property law violations, environmental crimes and illegal possession/manufacture of firearms. Although information and data on the following predicate crimes are limited to prosecution and arrests, they are included considering their scope and social impact.

a. Human Smuggling/Trafficking

Human trafficking was criminalized under Republic Act (RA) No. 9208 or the Anti-Trafficking in Persons Act of 2003.

Current Human Trafficking Trend

The Philippines is listed under Tier 2⁴² of the United States.

Domestically, people are trafficked from rural areas to urban centers such as Manila, Cebu, Angeles City and, increasingly, to cities in Mindanao. Women and children are trafficked internally for forced labor as domestic workers, small-scale factory workers, beggars and for exploitation in the commercial sex industry.

Returnees from Sabah, Malaysia and internally displaced persons (IDPs) from the civil conflict in Zamboanga City and those from typhoon-hit areas are lured by human traffickers/illegal recruiters, who prey on displaced women and children, including orphaned minors with no immediate family to take care of them.⁴³

The most common TIP perpetrators are illegal recruiters. Some use legitimate documents to get Filipinos out of the country, only to be exploited upon arrival in the foreign country through low-paying jobs and substandard working conditions, or by forcing them into activities like prostitution or drug smuggling. Others offer job opportunities abroad with high salary; but in reality, they end up being trafficked victims.

Social networking sites and electronic mails are also widely used to perpetuate illegal recruitment. Victims are enticed to work abroad and are convinced by their recruiter to apply through Facebook and/or electronic mails. Further, travel agencies and tour packages are now used as a means by human traffickers to avoid detection from state agents⁴⁴.

As a result of the continued and coordinated efforts of relevant stakeholders in fighting human trafficking, the Philippines was recognized in the 2014 edition of the Global Slavery Index as among the countries “making comparative efforts with limited resources” in the campaign against human trafficking. The second edition of the index ranked the Philippines as number 1 in Asia, number 3 in the Asia-Pacific and number 29 out 167 countries.

Investigation of TIP Cases

In 2014, the Bureau Immigration (BI) prevented the entry in the country of 170 sex offenders due to enhanced airport operations and international information sharing arrangements. The BI also constructed a database reflecting passengers whose departures were deferred and that said database is linked to all international airports⁴⁵.

⁴² Tier 2 listing pertains to countries whose governments do not fully comply with the US Trafficking Victims Protection Act’s (TVPA) minimum standards but are making significant efforts to bring themselves into compliance with those standards.

⁴³ Page 1, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

⁴⁴ Page 3, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

⁴⁵ Page 8, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

For the period covering April 2014 to 6 January 2015, a total number of 443 passengers were deferred from departure for being possible victims of TIP. One hundred ninety-two (192) possible TIP cases were turned over to the Inter-Agency Council Against Trafficking (IACAT) for proper investigation while 127 cases were turned over to Philippine Overseas Employment Administration (POEA) for possible human trafficking and illegal recruitment⁴⁶.

The National Bureau of Investigation's (NBI) Anti-Human Trafficking Division (AHTRAD) investigated 95 TIP cases. Thirty seven (37) of these TIP cases were filed by AHTRAD, nine (9) of which are pending in court. Two (2) cases resulted in convictions⁴⁷.

The IACAT Task Force conducted 100 operations and rescued 656 victims. It also resulted in the filing of 81 TIP cases⁴⁸.

For the period April-December 2014, the Department of Social Welfare and Development (DSWD) served 1,395 victim-survivors of trafficking. Most of the clients served were women and the highest number of purpose of trafficking is for forced labor. Many of them are intercepted in airports and other exit points in the country and were prevented from purposive exploitation of their traffickers.⁴⁹

From April 2014 to January 2015, the POEA Legal Assistance Division received 129 cases involving 289 victims of illegal recruitment. The Prosecution Division endorsed 124 cases to the DOJ and other prosecution offices for the conduct of preliminary investigation. The Operations and Surveillance Division (OSD) conducted 74 surveillance/special operations against unlicensed/cancelled and suspended agencies and 66 surveillance operations against licensed agencies that lead to the closure of 11 establishments. Eleven (11) closure orders were also implemented on non-licensed entities.

Prosecution and Investigation of TIP Cases

For 2014, the DOJ received 263 TIP cases against 533 alleged traffickers for potential prosecution. After inquest or preliminary investigation, the DOJ disposed these cases as follows:

1. Filed 172 cases against 342 accused for violation of R.A. No. 9208 as amended by R.A. No. 10364 in Courts;
2. Filed five (5) cases against seven (7) accused for violation of other related laws in Courts;
3. Dismissed 11 cases against 34 alleged traffickers.

The remaining 73 cases against 150 alleged traffickers are still pending for preliminary investigation.

⁴⁶ Page 35, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

⁴⁷ Page 19, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

⁴⁸ Page 21, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

⁴⁹ Page 8, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

Below is a comparative table⁵⁰ of convictions reported every year from the time of the enactment of Republic Act No. 9208.

TABLE 15. Comparative Statistics on Convictions

Year	Number of Convictions	Number of Persons Convicted
2011	25	32
2012	27	32
2013	27	37
2014	54	56
Total	133	157

Financial Investigation

For the period 2011-2014, the AMLC conducted one (1) money laundering investigation related to human trafficking in 2013. In relation thereto, the AMLC filed a petition to freeze the bank accounts of the subject in 2013. In 2014, an application for bank inquiry was filed and granted by the court. In 2015, a petition for civil forfeiture was filed against the bank accounts amounting to PHP18,970.92 and AUD.285 Million.

Conclusion

Having considered the number of TIP cases and the persons charged with and convicted violation of R.A. No. 9208, as well as the number of victims, the threat of human trafficking is rated as **HIGH**.

b. Copyright Infringement/Intellectual Property Law Violations

In February 2013, Republic Act (R.A.) No. 10372 was signed into law, amending and updating the Philippine copyright law. Three (3) other IP-related laws⁵¹ were also signed that year. These laws set up the stage for the Philippines to implement a holistic approach to IP protection and development.

IPO Violations Investigations and Prosecutions

The following table provides a summary of the operations conducted by various law enforcement agencies and the value of infringing goods seized.

⁵⁰ Page 19, Questionnaire for the Fifteenth Annual Trafficking in Persons (TIP) Report.

⁵¹ R.A. 10515 or the Anti-Cable Television and Cable Internet Act; R.A. No. 10557, The Philippine Designed Competitiveness Act of 2013; R.A. No. 10365, the Amendment to the Anti-Money Laundering Act of 2001 (including IP-Code violations as a predicate crime to money laundering).

TABLE 16. Enforcement Summary of IPOPHIL (2011 - 2015)

AGENCY	NO. OF OPERATIONS			QUANTITY		ESTIMATED VALUE (in Billion PHP)
	Inspection	Search Warrant	WSD ⁵²	Pieces	Cartons/ Stacks	
NBI		3,035		11,336,519	4,027	13.939
PNP		1635		3,042,955	3,286	.989
OMB	10,540	1		10,982,233		4.580
BOC			18	235,890		7.934
FDA				25,753		.037
Joint Ops			31	4,793,313		9.339
TOTAL	10,540	4671	49	30,416,663	7,313	36.818

The following table summarizes the cases filed before the regular courts involving intellectual property rights violations.

TABLE 17. Intellectual Property Code (IPC) Violations

	2011	2012	2013
Cases reported to/by LEAs	216	430	569
Cases prosecuted	49	135	195

TABLE 18. Statistics on IPC Violations⁵³

IPC Violations	2011	2012	2013
Newly Filed	277	329	347
Pending (as of year-end)	700	737	691
Decided (after trial on the merits)	24	32	33
Decided (others)	13	165	146

Since the promulgation of the Special IP Rules and Procedures in 2011, there are 14 convictions indicating positive gains in prosecution and adjudication of IP cases.

Financial Investigation

As of end of 2014, there are no money laundering cases predicated on the violation of intellectual property laws. There are also no reports or requests for financial investigation submitted to the AMLC on IP-related violations.

⁵² Warrant of Seizure and Detention.

⁵³ Statistics from Supreme Court Office of the Court Administrator

Conclusion

Considering the foregoing, the threat of IP Violations is rated **HIGH**.

c. Environmental Cases

Investigation and Prosecution of Environmental Cases

The Department of Environment and Natural Resources (DENR) provided the following data on violations of environmental laws which are predicate crimes to money laundering:

Table 19. Environmental Crimes

Unlawful Activities	2011	2012	2013 (Jan-June)
Violations of Sections 78 to 79 of the Revised Forestry Code, as amended	279	107	101
Violations of Sections 101 to 107, and 110 of Philippine Mining Act of 1995	-	-	-
Violations of Sections 27 (c), (e), (f), (g) and (i) of Wildlife Resources and Conservation Act	17	16	9
Violation of Section 7(b) of the National Caves and Cave Resources Management Act	No data available		

The value of the confiscated flora and fauna was not available. However, the quantities of confiscated fauna and flora for the period 2011 to 2013⁵⁴ are as follows:

Table 20. Confiscated Fauna

Unit of Measure	2011	2012	2013
heads	138	14,489	1,726
kilos	-	29	25
plastic bags	3		-

Table 21. Confiscated Flora

Unit of Measure	2011	2012	2013
board feet	-	3,750	5,417
cubic meters	18	-	812
bundles	-	1,216	-
pieces	1,531	25	49
sacks	26	24	113
suckers	-	-	-
pieces	-	4	-

⁵⁴ <http://www.denr.gov.ph/e-library/compendium-2013.html> (last visited 27 January 2016).

The statistics on violations of various environmental laws provided by the Supreme Court’s Office of the Court Administrator showed larger figures, as follows:

TABLE 22. Statistics on Environmental Laws Violations from the Supreme Court

Environmental laws violations	2011	2012	2013
Newly Filed	1,350	2,215	2,733
Pending (as of year-end)	2,543	3,373	3,693
Decided (after trial on the merits)	137	150	142
Decided (others)	465	647	724

Financial Investigation

As of end of 2014, there are no money laundering cases predicated on the violation of environmental laws. There are also no reports or requests for financial investigation submitted to the AMLC on environmental laws violations.

Conclusion

The concerned agencies do not gather data or information on the proceeds of crimes generated by the violations of environmental laws which are predicate crimes to money laundering. Considering the impact of the violations of these laws, to the environment and the people, the threat is rated **HIGH**.

d. Illegal Manufacture and Possession of Firearms, Ammunitions and Explosives

Current Trend

Studies showed that the sources of loose firearms in the country are smuggling, manufacturing and diversion. Further, some loose firearms fall into the hands of organized criminal groups and criminal gangs. In its 2013 report, the Small Arms Survey estimates that the country has about 610,000 loose firearms, and this marks a considerable increase from the previous estimates of small firearms in the Philippines.

Based on the 2014 SOCTA, there are around 118,380 unexpired firearms licenses. The said report also indicated that there are about 1,905,679 loose or not registered firearms as of 2010.

There is also a demand for illicit weapons from groups whose objectives are political rather than criminal. Similar to criminals, insurgents may be able to access the weaponry desired from local sources by stealing, renting or purchasing weapons from the police and military.⁵⁵

⁵⁵ FIREARMS, unodc.org ,page.129. Last visited: 30 June 2015.

Investigation and Prosecution

The statistics on illegal possession of firearms, ammunitions and explosives provided by the Supreme Court’s Office of the Court Administrator are as follows:

TABLE 23. Illegal Possession of Firearms, Ammunition and Explosives

	2011	2012	2013
Newly Filed	4,055	4478	5198
Pending (as of year-end)	9,553	10,623	10,799
Decided (after trial on the merits)	751	897	907
Decided (others)	2,221	2,212	2,274

Financial Investigation

As of end of 2014, there are no money laundering cases predicated on illegal possession and manufacture of firearms, ammunition and explosives. There are also no reports or requests for financial investigation submitted to the AMLC.

Conclusion

The illegal/unlawful possession, manufacture, dealing and acquisition or disposition of firearms, ammunition or explosives were included only as predicate crimes to money laundering in February 2013. Appropriate government agencies have not gathered information on the value of proceeds generated by these predicate crimes. Threat rating for these crimes is **HIGH**.

I.B. SECTOR THREAT ANALYSIS

In the Sector Threat Analysis, the impact of the money laundering cases predicated on drug trafficking-related cases, large-scale investment scams and plunder/corruption cases were considered. Most of the money laundering cases handled by the AMLC involved these major predicate crimes.

I.B.1. Banking Sector

The Banking Sector comprises about 90% of the total number of covered persons and 99% of the total covered and suspicious transaction reports submitted to the AMLC.

In the majority of drug cases, LEAs arrest low-level drug peddlers who do not have bank accounts. During their arrests, bank documents in the names of individuals/entities where they deposit or remit the proceeds of drug trafficking were recovered in their possession. Often, these individuals/entities would receive, several times a day, funds from all over the

Philippines. These funds will then be withdrawn when it reaches a substantial amount (i.e. PhP3 Million to PhP10 Million or approximately USD 63,829 to USD21,765⁵⁶). These bank accounts are temporary repositories of funds, thus, the amount that will eventually be frozen is of a small value as compared to the total amount transacted.

The banking sector was also utilized by recent investment scams to facilitate financial transactions (e.g. fund transfers, loans, purchase of Manager's Checks) in furtherance of the scheme and to launder the proceeds of the scam. In 2012, two (2) large-scale pyramiding scams involved a number of branches of 29 banks in the Visayas and Mindanao regions. It resulted in the freezing of approximately PhP191 Million or USD4.063 Million found in 480 bank accounts. Based on investigations, the proceeds of this scam reached about PhP12 Billion pesos (USD255.32 Million).

Banks are also used in the laundering of proceeds of graft and corruption and plunder cases. In the PDAF scam alone, at least 1,032 bank accounts in eight (8) banks have been used to launder approximately PhP155 Million (USD3.4 Million). This involves more than 1,277 transactions, with money transfers ranging from PhP10,500.00 to PhP774.59 Million.

The banking sector is identified as the main sector through which proceeds of crimes are channeled since it is very accessible and convenient. Bank branches are located in most part of the Philippines. Internet and mobile banking also facilitated the transfer of funds. Use of fake identification documents and aliases were noted in the opening of bank accounts.

Considering the exposure of the banking sector to money laundering, the threat rating is **HIGH**.

IB.2. Securities Sector

In 2014, PhP457.8 Billion worth of securities registered with the SEC.

The securities sector has been widely used in ponzi or pyramiding scams, the proceeds of which reach billions of pesos. In the 2012 investment/pyramiding scams, it is estimated that about 15,000 persons were swindled of PhP12 Billion pesos. The masterminds of the scam or the "investment" group made use of several companies, soliciting funding for investments on commodity futures and promising big returns. The scammers would issue postdated checks representing the invested amount plus interest. After some time, the checks started bouncing.

Although the SEC has stepped up its information campaign against pyramiding schemes, these remain attractive to the public because of promises of big returns. Even after the expose of the 2012 scam, there are still reports of pyramiding scams. However, criminal prosecutions pertain only to the predicate crime of violation of Securities Regulation Code or estafa/fraud.

⁵⁶ Based on PHP47/1USD exchange rate.

There was no ML prosecution. With the proliferation of these pyramiding scams, threat rating for the Securities sector is **HIGH**.

I.B.3 Insurance Sector

As of end of 2014, the Insurance Sector has about PhP1.166 Trillion total assets.⁵⁷

Insurance contracts in the Philippines strictly adhere to the concept of insurable interest in order for it to be valid and enforceable. An insurance policy also requires a suspensive condition to give rise to the obligation. With respect to life insurance, this necessarily means the death of the insured before proceeds can be paid out to the beneficiaries. As payout is not immediate, the use of insurance policies as a means to launder funds remains low.

However, recent investigations have shown that insurance policies have been utilized in some money laundering cases and its predicate crimes. Money launderers purchase life and variable insurance in their names or in the names of their relatives. There have been three (3) reported drug-related incidents where drug proceeds were used to purchase insurance policies. It was also discovered that insurance policies from four (4) insurance companies were purchased by the main proponent of the “pork barrel scam” using the proceeds of the crime.

As of 2014, no criminal case for money laundering has been filed against any of the covered entities in the insurance sector, and no criminal case for money laundering has been filed which involves the insurance industry.

The threat rating for the insurance sector is therefore **MEDIUM**.

I.B.4 Remittance Agencies and Foreign Exchange Dealers

In several drug operations, it was noted that drug peddlers remit the drug proceeds via RAs/forex. It appears that launderers prefer RAs/forex since these entities conduct cash-intensive operations.

In three (3) drug-related cases investigated by the AMLC, it was found that drug traffickers used RAs/forex dealers to launder drug proceeds. In one of those cases, the drug traffickers set up their own forex business as front for their drug business. The forex business was used as a pass-thru of the drug proceeds. The drug proceeds in this case are estimated at PhP2 Billion.

Considering the above situation, the threat rating for RAs/forex is **HIGH**.

⁵⁷ Combined assets of Life Insurance, Non-Life Insurance and Professional Reinsurance, and Pre-need Companies and Mutual Benefit Associations.

I.B.5. Dealer in Precious Metals and Stones

Data from the Philippine Statistics Authority (PSA) would show that in 2012, transactions on fine jewelry amounted to PhP3.93 Billion while costume jewelry was at PhP1.22 Billion. Export of jewelry also amounted to approximately PhP1.1 Billion.

The sector, however, remains unregulated for AML purposes despite the inclusion of dealers in precious metals and precious stones as covered persons under the AMLA, as amended. No information was provided by the sector for fear of possible use of information for tax purposes, which makes it difficult to identify and assess the level of threat. There are, however, reports of rampant smuggling in this sector. Further, there have been no ML investigations and prosecution so far involving this industry.

Considering the above situation, threat rating is **HIGH**.

I.B.6. Real Estate

Data from the PSA showed that the volume turnover of real estate amounts to PhP357 Billion and PhPP400 Billion in 2013 and in 2014, respectively. This translates to around 3.9% of the country's nominal GDP in 2014.

Real Estate Brokers, however, are not covered persons under the AMLA, as amended. As such, there is no direct monitoring of real estate transactions. The law only requires that the Land Registration Authority and all its Registries of Deeds submit to the AMLC reports on all real estate transactions involving an amount in excess of P500,000.00.

The insufficient regulation in this sector makes it difficult to fully identify and assess the level of threat. Nevertheless, the sector predominantly conducts business using non-cash transactions such as checks or loans from banks. The use of the banking sector in real estate transactions presumes that customer due diligence has been conducted on those who hold current accounts or those who avail of housing loans. This minimizes threats in the sector.

No money laundering activities involving real estate brokers have actually been reported, but there are real estate properties that have been subject of freeze orders and forfeiture proceedings. Investigations revealed that the mastermind of the pork barrel scam purchased several real estate properties using the proceeds of the scam.

Considering the above situation, threat rating is **MEDIUM-LOW**.

I.C. THE LEVEL OF EXTERNAL THREAT

The Philippines' location is considered a major crime “enabler” for it facilitates the entry and escape routes of organized crimes. The Philippines serves as an opening to the western rim of the Pacific upon entering Asia. The country is accessible to all the countries located in the Eastern and Southeast Asia. Its proximity to Borneo, Brunei, Malaysia and surrounding bodies of water like the West Philippine Sea, Sulu Sea and the Pacific Ocean could serve as trans-boundary escape routes for criminals.⁵⁸

The archipelagic characteristic of the Philippines is also a crime enabler. In between big and small islands are tidal islets that could be used as transit areas from one island to the other. Philippine authorities also encounter difficulties in monitoring coastlines. Some people could use the Sulu archipelago in Mindanao as an escape door to Malaysia and Indonesia. Also, the proximity of the Philippines to Taiwan and Vietnam enables criminals to smuggle transportation parts, and transact business along coastal seaboard, e.g. motor vehicle smuggling.⁵⁹

Proceeds from Abroad

The ease of transferring funds from one jurisdiction to another has also facilitated movement of criminal proceeds.

A majority, if not all, of the mutual legal assistance (MLA) extended by the Philippines that were coursed or referred to the AMLC involved swindling or fraud cases. From 2011 to the first half of 2014, the estimated proceeds from MLA-related cases amounted to USD4.5 million and EUR5.3 million.

International Rankings

“The Basel AML Index – Country risk ranking,” gave the Philippines an overall score of 6.39 (from [0] low to [10] high risk), which is a Medium High risk country for money laundering/terrorist financing. The Basel AML Index assesses countries' adherence to AML/CTF standards, their perceived level of public corruption, financial transparency, political financing, judicial strength and other relevant indicators. By combining these various data sources, the Basel AML Index score represents a country's overall risk level or vulnerability regarding money laundering and terrorist financing.⁶⁰

⁵⁸ SOCTA (2013) p.14.

⁵⁹ Ibid.

⁶⁰ Index.baselgovernance.org/index/faq (last visited: 26 March 2015).

I.D TERRORISM AND TERRORIST FINANCING THREAT ASSESSMENT

Terrorist financing was criminalized as a stand-alone offense under Republic Act No. 10168⁶¹ or the TF law. It penalizes the following:

1. Financing of (a) terrorist acts, (b) terrorist organization, or (c) an individual terrorist (Section 4);
2. Organizing or directing others to commit terrorist financing (Section 4);
3. Attempting or conspiring to commit terrorist financing (Section 5);
4. Participating as either an accomplice (Section 6) or an accessory (Section 7) to the crime of terrorist financing; and
5. Dealing with properties or funds of a designated person (Section 8).

Under the TF law, the AMLC is authorized to investigate terrorist financing, conduct bank inquiry (Section 10), freeze accounts (Section 11) and file petitions for civil forfeiture of terrorist-related funds and assets (Section 12).

The Human Security Act of 2007 criminalizes terrorism. Terrorism and terrorism financing were included as predicate crimes to money laundering Republic Act No. 10365.

According to the DOJ, the term “terrorism” is used in the generic sense. The cases reported may include terrorism under the Human Security Act or common crimes committed by terrorist groups. Data provided by the DOJ showed the following:

TABLE 24. Terrorism

	2011	2012	2013	2014 (June)
Cases reported to/by LEAs	205	319	283	205
Cases prosecuted	135	212	167	135

On 3 March 2015, the Philippine government obtained its first criminal conviction for terrorism under the Human Security Act.

In May 2014, the Joint Terrorist Financing Investigation Group (JTFIG)⁶² was formed. The JTFIG has looked into more than 80 individual subjects for possible links to local terrorist groups like the Abu Sayyaf Group (ASG), a group designated under UNSCR 1267/1989. Active information exchanges within JTFIG confirmed that the ASG is engaged in extortion and kidnapping for ransom activities.

Threat Rating: MEDIUM HIGH to HIGH

⁶¹ R.A. No. 10168, otherwise known as “The Terrorist Financing Prevention and Suppression Act of 2012.”

⁶² JTFIG is a task force composed of members from the anti-terrorism groups of the NBI, Philippine National Police-Intelligence Group (PNP-IG), the PNP Criminal Investigation and Detection Group (PNP-CIDG), the PNP Directorate for Intelligence (PNP-DI) and the AMLC Secretariat.

I.E. RECOMMENDED ACTION PLAN

In conducting the assessment, the biggest issue that the authorities faced was the lack of data from certain targeted sources. Proceeds generated by the various predicate offenses are not captured by the system as LEAs generally concentrate on the number of investigations, prosecutions and convictions. It was also observed that there is lack or insufficient coordination with LEAs with regard to the new predicate crimes. As such, the working group recommends the following action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Request the Executive Department and the Supreme Court to issue orders/circulars directing LEAs and courts to collect data as to proceeds of crimes	AMLC	DOJ Office of the Ombudsman PNP – DIDM Sandiganbayan	August-October 2016
Conduct regular coordination meetings and allocate additional AMLC staff to act as coordinators to further strengthen inter-agency coordination not only with respect to the new predicate crimes, but in all predicate crimes	AMLC	NALECC agency members JTFIG	August 2016 onwards
Create capacity-building programs that will enable LEAs and other government agencies to also investigate the financial aspect of the predicate crimes	AMLC	NALECC agency members JTFIG	August 2016 onwards

II. NATIONAL VULNERABILITY

II.A. Policy and implementation - Medium

The Philippines' AML legal framework is Republic Act No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001" (AMLA), as amended. Sec. 2 of the law declares that it is the *"policy of the State to protect and preserve the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money laundering site for the proceeds of any unlawful activity."* It further states that *"(C)onsistent with its foreign policy, the State shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed."*

The AMLA has been amended and updated in 2003, 2012 and 2013 to make it compliant with Financial Action Task Force (FATF) Revised Forty Recommendations.

The Anti-Money Laundering Council (AMLC), the Philippines' Financial Intelligence Unit, is tasked to implement the AMLA, as amended. It also acts as the nexus of the fight, and the bridge between and among relevant AML/CFT stakeholders for domestic and international collaborative efforts to combat ML, its predicate crimes and TF.

The Supervisory Authorities⁶³ issued their respective circulars to implement the AMLA, as amended and its Revised Implementing Rules and Regulations (RIRRs).

The conduct of the National AML/CFT Risk Assessment is the first step taken by the Philippines in order to craft a holistic government strategic plan to establish or improve of policies, laws, rules and regulations, and other measures to strengthen the Philippine AML/CFT Regime, consistent with its risk and context.

The Philippines' firm commitment in this endeavor is embodied in the Office of the President's Memorandum Circular No. 64, enjoining all concerned government agencies to fully support and actively participate in the conduct of the National AML/CFT Risk Assessment through involvement in the ML/TF NRA Working Group. The AMLC was designated as the lead agency of the NRAWG and vested with the authority to issue operational guidance and instructions to the concerned agencies and call on such agencies for assistance in the performance of its tasks.

Notwithstanding the aforementioned, coordination and cooperation between relevant AML/CFT stakeholders, particularly between and among the AMLC and LEAs, needs to be strengthened. It was observed that LEAs have conducted a number of investigations and prosecutions involving the predicates crimes to money laundering. However, not all refer cases

⁶³ Supervisory Authority includes the Bangko Sentral ng Pilipinas (BSP), the Securities and Exchange Commission (SEC) and the Insurance Commission (IC).

to the AMLC for financial investigation. While some LEAs coordinate with the AMLC, only a few money laundering investigation and cases were developed and filed by the AMLC.

Furthermore, there are gaps in the availability of relevant AML/CFT data and information which, if gathered and provided, would make the assessment of the money laundering and terrorist financing risks more meaningful.

II.B. Criminalization of Money Laundering - Medium/High

Sec. 4 of the AMLA, as amended, fully criminalizes money laundering pursuant to FATF Recommendation 3. The predicate crimes⁶⁴ to money laundering cover nineteen (19) of the twenty-one (21) designated categories of offenses under the FATF Recommendation 3.

The amendment to the definition of money laundering now covers all elements of the Vienna and Palermo conventions including the ancillary offense of conspiracy to commit money laundering. Notwithstanding such compliance, efforts must still be made to include other designated categories of offenses such as tax crimes among the predicate crimes to ML, in order to cover all designated categories of offenses under the FATF Recommendations.

II.C. Money Laundering Investigation - Medium/High

The rating of medium/high on money laundering investigation was derived from the analysis of the various factors under item II.C and other relevant factors.

II.C.1. STR Data Analysis

The AMLC, as the Philippines' FIU, receives covered⁶⁵ (threshold) and suspicious transaction⁶⁶ reports from covered persons, and it investigates suspicious transactions and covered transactions which are deemed suspicious.

⁶⁴ Section 3(i), AMLA, as amended.

⁶⁵ "Covered transaction" is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of Five hundred thousand pesos (P500,000.00) within one (1) banking day.

⁶⁶ Suspicious transaction" are transactions with covered persons, regardless of the amounts involved, where any of the following circumstances exist:⁶⁶

1. there is no underlying legal or trade obligation, purpose or economic justification;
2. the client is not properly identified;
3. the amount involved is not commensurate with the business or financial capacity of the client;
4. taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the Act;
5. any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered person;
6. the transaction is in any way related to an unlawful activity or offense under this Act that is about to be, is being or has been committed; or

The AMLC Secretariat’s Information Management and Analysis Group (IMAG), through the latter’s Data Collection and Management Staff, is primarily responsible for data collection and the assessment of the data quality of the Covered Transaction Reports (CTRs) and Suspicious Transaction Reports (STRs). The IMAG’s Financial Intelligence Analysis Staff (FIAS), composed of nine (9) personnel, is tasked to analyze STRs and CTRs. The results of the analysis of the FIAS are then disseminated to the Compliance and Investigation Group (CIG), the law enforcement unit of the AMLC Secretariat, for the investigation of possible money laundering and other violations of the AMLA.

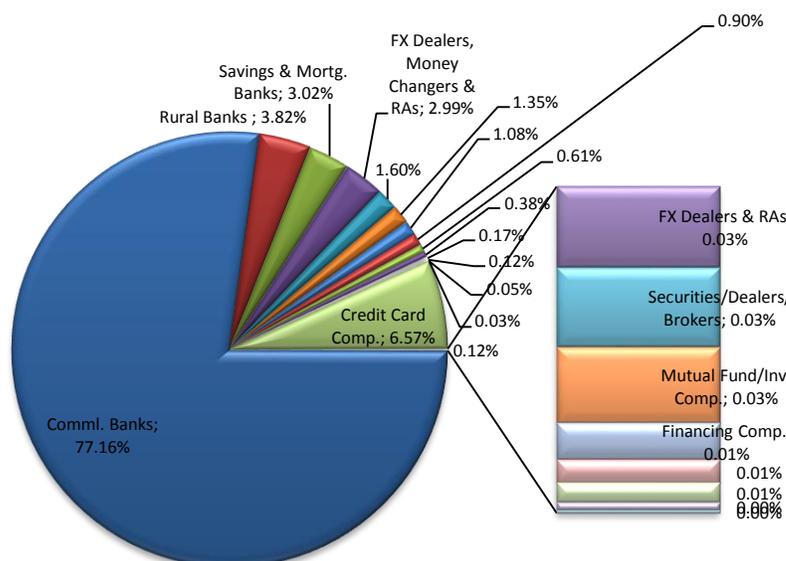
From 2011 to 2014, STRs submitted by BSP-supervised covered persons (CPs) accounted for 99.55% of the total STRs received by the AMLC, while the IC-supervised CPs and SEC-supervised CPs only accounted for 0.39% and 0.06%, respectively.

Table 25. Suspicious Transaction Reports per Supervising Authority

Supervising Agency	2011	2012	2013	2014
BSP	9,700	17,524	94,270	94,483
IC	51	162	263	364
SEC	1	25	17	92
Total	9,752	17,711	94,550	94,939

Commercial banks are the top STR-reporting institution, accounting for 77.16% of the total STRs. Credit card companies and Rural Banks came in 2nd and 3rd, registering 6.57% and 3.82%, respectively, of the total STRs submitted to the AMLC. Savings and Mortgage Banks, and FX dealers, money changers and remittance agents, placed 4th and 5th with 3.02% and 2.99%, respectively, of the total STRs received by the AMLC.

Figure 11. Suspicious Transaction Reporting Covered Persons, 2011-2014



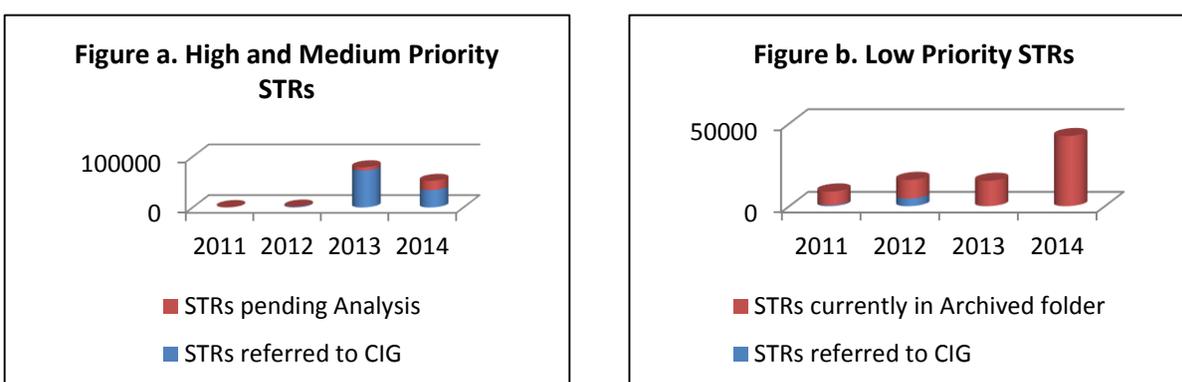
7. any transaction that is similar or analogous to any of the foregoing.

Analysis and Investigation of Suspicious Transaction Reports (STRs)

The AMLC conducts risk assessment and prioritization of STRs. If an STR warrants further investigation, the analyst conducts a preliminary assessment using various sources. The preliminary analysis report will be submitted to the CIG for case building.

“High priority” STRs are analyzed immediately and the results are forwarded to the CIG. On the other hand, “Medium and Low Priority” STRs are subject to further evaluation and the results of only those that merit investigation will be forwarded to the CIG. *Low Priority STRs* are placed in a pool of STRs which will be the subject of a review. The analyst looks into this pool of STRs for any pattern or typology present that may warrant further investigation. Figures 13a and 13b show the status of STRs received by the FIAS.

Figure 13. Suspicious Transaction Reports Referred to CIG



The AMLC received 216,950 STRs covering the assessment period of 2011 to 2014. Most of the STRs submitted in 2013 and 2014 relate to the *pyramid and pork barrel scams*. Table 26 shows the number of STRs received and referred to CIG.

Table 26. Suspicious Transaction Reports According to Priority

Year	High	Medium	Low	Total No. of STRs ⁶⁷	STRs Referred to CIG ⁶⁸	Percentage of STRs referred to CIG	Yearly Assessment of High and Medium STRs ⁶⁹
2011	219	656	8,877	9,752	754	7.73%	11.89%
2012	1,361	446	15,903	17,710	6,064	34.24%	50.86%
2013	74,643	4,566	15,340	94,549	72,869	77.07%	2.81%
2014	29,983	22,539	42,417	94,939	34,159	35.98%	55.86%
Total	106,206	28,207	82,537	216,950	113,846	52.48%	

STRs analyzed and referred to CIG within the same year averaged 52.48%. This relatively long turnaround time in the assessment of STRs is due to the insufficient number of financial

⁶⁷ Data obtained from AMLC monthly reports.

⁶⁸ Total STRs received and referred to CIG as of 31 December 2015.

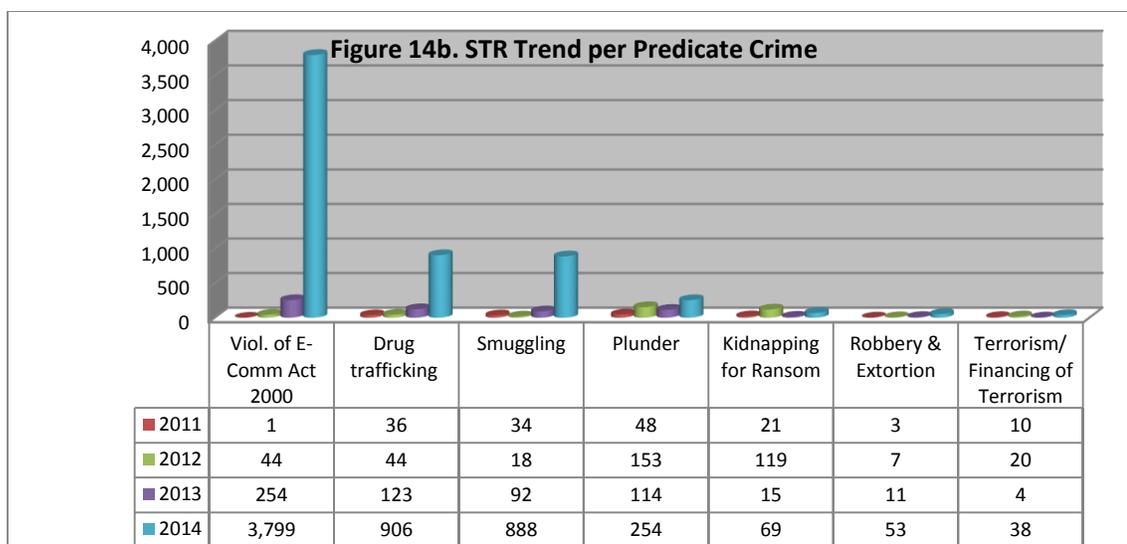
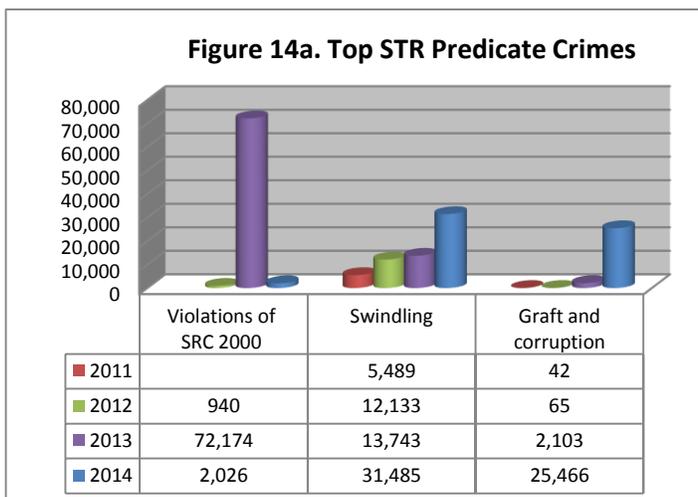
⁶⁹ Yearly assessment of *High* and *Medium* priority STRs received and referred to CIG within the same year.

analysts performing other equally important tasks, such as: (1) database analysis on search requests from domestic and foreign LEAs and other FIUs; (2) strategic analysis research; and (3) data mining and preparation of statistical reports. As of 31 December 2014, there were a total of seven (7) financial analysts who perform the aforesaid functions.

As shown in Table 26 above, there was a huge increase in STRs received for 2013 and 2014. The huge spike in the STRs was due to the submissions in relation to three (3) predicate crimes, to wit, fraudulent practices and other violations of the Securities and Regulations Code (SRC), graft and corruption, and swindling.

From 2012 to 2014, the AMLC investigated large-scale investment scams and corruption-related offenses, particularly the pork barrel scam, and the *Ponzi* or pyramiding scams in the Southern Philippines. However, it appears that a large volume of STRs were only submitted by covered persons relating to these offenses in 2013-2014.

High and medium priority STRs reported on selected predicate crimes, as shown in Figure 14b, likewise show an increasing trend.

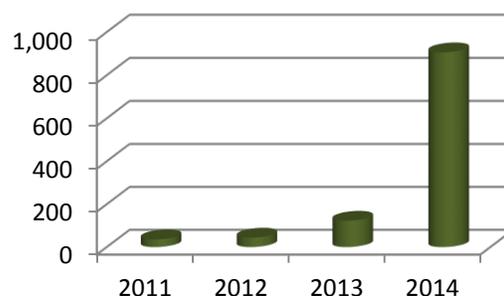


STRs on Major Predicate Crimes

1. Drug Trafficking

In 2014, PDEA reported PhP6.18 Billion⁷⁰ worth of seized illegal drugs. However, only 906 STRs related to drug trafficking were received by the AMLC. Some of the STRs were submitted to the AMLC only upon receipt of letters for conduct of bank inquiry, and freeze orders issued by the Court of Appeals. While drug trafficking generates huge amounts of proceeds, it was noted that only a small number drug-related STRs were submitted to the AMLC.

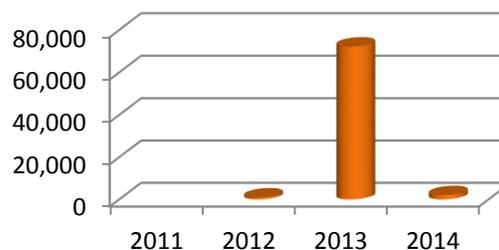
Figure 15. Drug trafficking and other related offenses



2. Violations of the Securities Regulations Code

In 2013, the AMLC received 72,174 STRs related to the predicate crime of Fraudulent Practices and other violations of the Securities and Regulations Code. This represented the highest number of reported STRs for the four-year period. It was in 2013 that BSP required concerned banks to submit STRs related to the *ponzi* scheme. The said transactions started in as early as 2011 but were only reported in 2013 and 2014. No STR was received for this predicate crime in 2011 while 940 STRs were received by the AMLC in 2012.

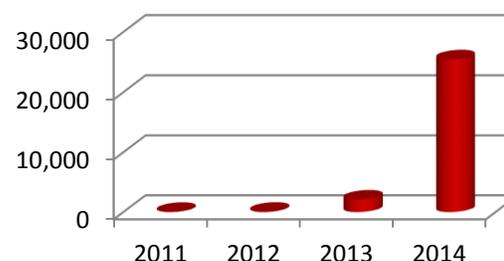
Figure 16. Violations of the Securities Regulation Code of 2000



3. Graft and Corruption

In 2013 and 2014, the AMLC received 2,103 and 25,466 STRs tagged under graft and corruption. The bulk of these STRs were related to the *pork barrel or PDAF scam* involving several individuals, corporations, Non-Government Organizations (NGOs), and government officials. From 2011 to 2012, only 107 STRs were filed related to graft and corruption.

Figure 17. Graft and corrupt practices

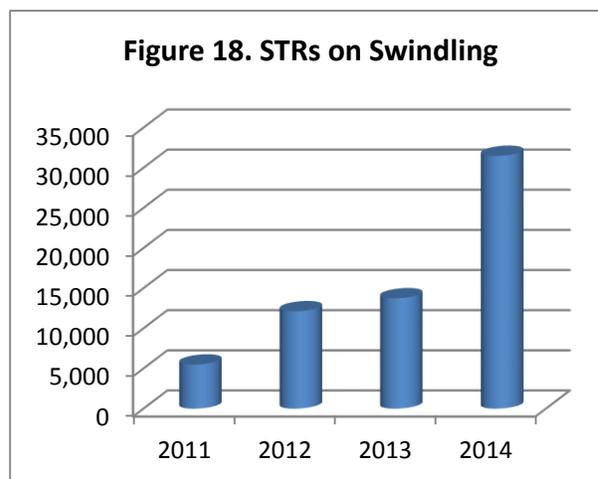


⁷⁰ PDEA Annual Report 2014, p. 30.

4. Swindling or Fraud

Swindling has the broadest scope of all the unlawful activities under the AMLA. It covers frauds such as internet scam, text scam, romance scam, disputed credit card transactions, spurious checks, advance fee fraud and other similar cases.

Figure 18 shows the increasing trend of STRs in which the limited number of staff dedicated to STR analysis impacts the timeliness and degree of STR data analysis.



II.C.2. Capacity of Money Laundering Investigators

The AMLC investigates money laundering and other violations of the AMLA, as amended⁷¹. The AMLC, through the AMLC Secretariat's CIG⁷² conducts the investigation. The CIG is headed by a Deputy Director and, as of 31 December 2014, there are twenty-one (21) financial investigators. The financial investigators have varying but complementary fields of expertise as follows:

Table 30. CIG Profile

Field of Expertise/Educational Background	Number
Certified Public Accounts (CPA) and Lawyer	6
Lawyer	8
CPA/Forensic Accountant	1
CPA	4
Financial Expert from Law Enforcement Agency	2

Newly hired AMLC investigators undergo an executive course on ML/TF. The said course covers detection and tracing of proceeds of crime. Investigators also undergo regular ML training/seminars both in the Philippines and abroad to keep them abreast of the current ML and TF typologies and investigation techniques, among others.

To strengthen the AMLC's ability to investigate money laundering, R.A. No. 10167⁷³ amended Sec. 11 of the AMLA to allow *ex parte* application for bank inquiry, i.e., issuance of court order allowing bank inquiry without notice and hearing.

⁷¹ Section 7(5) of the AMLA, as amended.

⁷² The AMLC, in its Resolution No. 6, Series of 2006, delegated this authority to the AMLC Secretariat.

⁷³ An Act to Further Strengthen the Anti-Money Laundering Law, Amending for the Purpose Sections 10 and 11 of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, as Amended, and for Other Purposes.

For the period 2011-2014, the AMLC filed the following number of cases:

Table 32. Money Laundering Cases

Money Laundering Cases	2011	2012	2013	2014	Total
Civil Forfeiture Cases filed before the RTC	6	8	5	8	27
ML Complaints before the DOJ	4	7	1	-	12
ML Complaints filed before the OMB	-	-	-	-	-
ML Criminals Cases filed before the RTC	-	5	3	1	9
ML Criminal Cases filed before the Sandiganbayan	-	-	-	-	-
Court-Based Applications for Bank Inquiry	13	12	15	28	68
Applications for Freeze Order	14	9	8	9	40
Total	37	43	31	46	156

Despite the limited number of investigators, the AMLC was able to investigate large-scale corruption and fraud-based ML cases which were given priority as public interest cases. In addition, AMLC investigators also acted upon an increasing number of referrals from other Philippine law enforcement and government agencies, as well as requests for assistance from other FIUs and foreign government agencies.

Understandably, the increase in number of covered persons and the CTRs and STRs received and the unlawful activities under the AMLA, not to mention the increase in workload brought by rising referrals from LEAs and foreign counterparts, created manpower resource challenges for the AMLC. Despite such challenge, for which additional manpower will be sought under a reorganization of the AMLCS structure, money laundering and asset forfeiture investigators are pursuing a risk-based approach in their investigations and applying a proportionality approach to use both manpower and financial resources to cases which constitute higher risks.

II.C.3. Integrity and Independence of Money Laundering Investigations

The AMLC is not attached to any other agency of the Philippine government. Its operations and investigations are not subject to review/approval of other government officials, which may be subject of its own investigations. Due to its operational independence, the AMLC, and the investigators of the AMLC Secretariat, are not subjected to undue influence and pressure from people subject of its investigations, especially from government officials who are suspected of having committed graft and corruption.

In the 2009 MER of the Philippines, it was noted that there were no integrity breaches for the AMLC and its Secretariat.

The financial investigators of the AMLC are also carefully selected. They undergo several interviews by the key officers of the AMLC Secretariat and the Human Resource Management

Department of the BSP. They also undergo batteries of psychological examination and background investigations before they are hired.

To date, neither the AMLC, nor its FC/ML investigators have been investigated, much less indicted, for suspicion of committing acts which undermine their integrity and professionalism in the performance of their functions. The integrity of AMLC investigators has been instrumental in the exceptional reputation of the AMLC among its domestic and international law enforcement partners, foreign FIUs, banking associations, government agencies, justice officials, courts and the Philippine legislature.

II.C.4. International Cooperation

Sec. 13 (b) of the AMLA, as amended, vests the power of the AMLC to act on a request for assistance from a foreign State. It provides that the *“AMLC may execute a request for assistance from a foreign State by: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity under the procedures laid down in this Act; (2) giving information needed by the foreign x x x; and (3) applying for an order of forfeiture of any monetary instrument or property in the court: x x x.”*

The AMLC may also make a request to any foreign State for assistance in: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity; (2) obtaining information that it needs in its investigation; (3) applying with the proper court therein for an order to enter any premises belonging to or in the possession or control of, any or all of the persons named in said request, and/or search any or all such persons named therein and/or remove any document, material or object named in said request; and (4) applying for an order of forfeiture of any monetary instrument or property in the proper court in the foreign State⁷⁴.

In addition, AMLC Resolution No. 59, Series of 2006, authorized the AMLC Secretariat to furnish Member-FIUs of the Egmont Group and other FIUs which have an existing MOU with the AMLC, information that may be relevant to an analysis or investigation of persons or companies involved in possible money laundering and terrorist financing activities.

The AMLC Secretariat received and sent the following request for information from the Egmont Secure Web (ESW) of the Egmont Group of Financial Intelligence Units (FIUs):

Table 34: Information Exchanged through the Egmont Secure Web

Year	2011	2012	2013	2014
Requests received *	76	47	79	73
Requests made**	37	124	22	11

⁷⁴ Sec. 13 (c) of the AMLA, as amended.

These requests for information were given due course by the AMLC Secretariat. These requests for information concern the identity, criminal, travel records or transactions, if any, of the subject. Requests for any records of transactions are acted within a short period of while requests for other information require more time as the AMLC is not the repository of the data/information. The status of requests is as follows:

Table 35: Status of Requests

Year	No. of Requests for Assistance	STATUS OF REQUESTS		
		Acted on in 6 Months	Acted on from 6 months to 1 year	Acted on beyond 1 year
2011	76	66	1	9
2012	47	36	5	6
2013	79	55	12	12
2014	73	39	28	6

Mutual Legal Assistance (MLA) on Money Laundering

Table 36: Statistics on Mutual Legal Assistance Through the Department of Justice

	2011	2012	2013	2014
MLA Requests received from other jurisdictions	-	7	6	6
MLA requested by the Philippines	-	-	-	1

II.C.5. Domestic Cooperation

The AMLC, in its Resolution No. 59, Series of 2006, authorized the AMLC Secretariat to furnish, among others, domestic law enforcement agencies (LEAs) and other relevant government agencies which have an existing MOA with the AMLC, information that may be relevant to an analysis or investigation of persons or companies involved in possible ML/TF activities.

For the period 2011 to 2014, the AMLC Secretariat received requests for assistance from various government and LEAs such as the PDEA, NBI, DOJ, PNP, BSP, SEC, IC, OMB, Bureau of Internal Revenue (BIR), Philippine Center for Transnational Crime (PCTC), DOF, and Philippine Deposit Insurance Corporation (PDIC), Presidential Anti-Organized Crime Commission (PAOCC). These requests for assistance involve requests for information, investigation of the predicate crime and for the possible freezing and confiscation of its proceeds, if there are any.

The actions taken by the AMLC Secretariat on these requests are shown in the following table:

Table 37. Requests for Assistance

Year	No. of Requests for Assistance	STATUS OF REQUESTS				
		ML cases filed	Results Forwarded to Requesting Agency	Issued Resolutions to Covered Persons re AML compliance	Under Investigation	Archived
2011	85	16	27	-	16	26
2012	123	16	28	3	47	29
2013	105	16	19	-	60	10
2014	134	14	41	-	69	10

Some requests were archived or closed as initial investigation showed that either the crime involved is not a predicate crime to money laundering at the time of the requests or that database search yielded negative results.

II.C.6. Access to Reliable Information and Evidence

a. Identification Infrastructure

Sec. 9 (a) of the AMLA, as amended, requires covered persons to establish the true and full identity of its clients based on official documents. In relation thereto, Rule 9.a.4 of the RIRRs provides that the identification document (ID) should be issued by an official authority⁷⁵. The BSP, in its Circular No. 706, Series of 2011, enumerates the acceptable IDs.

The RIRRs and the respective circulars of the BSP, SEC, and IC issued rules and regulations requiring covered persons to establish the true and full identity of their customers by obtaining the prescribed information and validating the same from official documents.

In 2005, a Unified Multi-Purpose ID (UMID) system was introduced, requiring all government agencies and government-owned and -controlled corporations (GOCCs) to streamline and harmonize their identification systems.⁷⁶ Later, the social security identification systems were made the core of UMID system.⁷⁷ The Government Service Insurance System (GSIS), Social Security System (SSS), Pag-IBIG and PhilHealth adopted the UMID card system. The agencies conduct CDD procedures and the UMID is equipped with biometric data of the holder.

⁷⁵ Rule 9.a.4 of the RIRRs “official authority” refers to any of the following:

- i. Government of the Republic of the Philippines;
- ii. Its political subdivisions and instrumentalities;
- iii. Government-Owned and –Controlled Corporations; and
- iv. Private entities or institutions registered with or supervised or regulated by the BSP, SEC or IC.

⁷⁶ Executive Order No. 420, 13 April 2005.

⁷⁷ Executive Order No. 700, 16 January 2008.

The table below shows the number of STRs filed on clients not properly identified by the banks and on the use of fake IDs, false identity and identity theft:

Table 49. STR Statistics on Fraudulent Identification

2011	2012	2013	2014	Total
497	978	1,184	801	3,460

The above statistics suggests that there is still widespread use of fake IDs and false identities in the financial system even if covered persons implement KYC policy, ID verification and validation processes. It appears that the current system in detecting and deterring the use of false IDs is, in some way, weak and needs to be further strengthened.

b. Availability of Independent Information Sources - Medium

In the conduct of customer due diligence, the following are independent sources of reliable financial information and client’s history available for the AML covered institutions, specifically the banks:

1. The Bankers Association of the Philippines Credit Bureau

It is a computerized credit information exchange institution and allows members credit-dealing reports on individual and corporate borrowers to combat fraud and bad loans.

2. Credit Information System Act (CISA)

R.A. No. 9510, or the Credit Information System Act of 2008 (CISA Law) established the credit information system in the Philippines. This can address the need for dependable credit information concerning the credit standing and track record of borrowers.

3. The CIBI Information Inc. (CIBI)

CIBI provides information for business, credit and individuals. The company also supplies compliance reports before accrediting suppliers, industry partners and even hiring professionals. It validates and collects any available information using sources from both private and government institutions such as SEC, DTI, BSP, Land Transportation Office (LTO); schools, colleges, universities and other educational institutions.

Covered persons rely on other independent information available like historical information of clients’ transactions, as well as those shared by the credit bureaus and media reports.

c. Auditing and Accounting Standards and Practices

Accounting and auditing practices are governed primarily by the Revised Accountancy Law, while other laws, such as the Corporation Code of the Philippines, the Securities Regulation Code, the New Central Bank Act and the National Internal Revenue Code, also have supplementary effect on the accounting and auditing practice.

The Revised Accountancy Law, also known as the Philippine Accountancy Act of 2004, provides for the standardization and regulation of accounting education, licensure, and practice. It also mandates continuing professional education for CPAs to renew their accreditation with the Board of Accountancy (Board). CPAs and firms engaged in auditing of companies under the rules of the Board, SEC and BSP are required to have accreditation. The presence of a Quality Review Committee conducts quality review on applicants for accreditation.

Regulatory/supervisory bodies like the (BIR), Commission on Audit (COA) and the BSP also require submission of audited financial statements from their respective regulated/supervised institutions/persons. Financial institutions are required to file with the BSP audited financial statements in accordance with generally accepted accounting principles, but adjusted following BSP-prescribed rules. BSP regulations require banks to publish in newspapers their annual balance and income statements without notes.

There is no recent study on the quality of financial and audit reporting in the Philippines. However, in the Report on the Observance of Standards and Codes (ROSC) dated 15 March 2006, there was consensus that the country was geared towards complying with the International Standards on Accounting and Auditing and stakeholders agreed that strengthening enforcement of the standards would improve the quality of financial reporting.

Accountants, in general, are not included as covered persons under the AMLA, as amended. However, an account would be considered as a covered person if he/she performs any the following services under Sec. 3 (a)(7): (i) managing of client money, securities or other assets; (ii) management of bank, savings and securities accounts; (iii) organization of contributions for the creation, operation or management of companies; and (iv) creation, operation, or management of juridical persons or arrangements, and buying and selling business entities.

Further, professional accountants are guided by a Code of Ethics which is adopted from the International Ethics Standards Boards of Accountants' (IESBA) Code of Ethics for Professional Accountants. Under the code, professional accountants are required to undertake engagement acceptance procedure if the transaction would involve holding of the client's money and to inquire on source of assets and consider all legal and regulatory obligations and to seek legal advice if necessary.

Confidentiality

Accountants are required to keep confidential all information acquired in the course of professional services and should not use or disclose such information without proper and specific authority, unless there is a legal or professional right or duty to disclose. The duty of confidentiality extends even to the staff of the accountant and persons from whom advice and assistance are obtained. It continues even after the end of the accountant-client/employer relationship. Confidentiality is not only a matter of disclosure of information; it also requires that professional accountant acquiring information in the course of performing professional services neither uses nor appear to use that information for personal advantage or for the advantage of a third party.

d. Corporate and Trust Transparency

Sec. 9 of the AMLA, as amended, requires covered persons “to establish and record the true and full identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients, and in case of corporate clients, require a system of verifying their legal existence and organizational structure, **as well as the authority and identification of all persons purporting to act on their behalf**” (emphasis supplied).

Rule 9.a.5 of the RIRRs provides the minimum information to be required by covered persons from their corporate clients such as Articles of Incorporation (AOI), Latest General Information Sheet which lists the names of directors/trustees/partners, principal stockholders owning at least 20% of the outstanding capital and primary officers such as President and Treasurer, and beneficial owners and beneficiaries of the corporate and/or juridical entities.

In addition, Section 26 of the Corporation Code requires the Corporate Secretary or any other officer of the Corporation, to submit within thirty (30) days after the election of its directors, trustees, and officers, a General Information Sheet (GIS) containing, among others, the names, nationalities and addresses of such persons for the purpose of providing a more comprehensive information on the structure, management, control, and beneficial interests in corporations, trusts and similar vehicles.

Plain or authenticated copies of the AOI, By-laws, GIS and audited financial statements of all companies registered with the SEC can be obtained upon request and upon payment of fees either through the SEC Express System or SEC Public Reference Unit appointment system.

Information on the structure, management, control, and beneficial interests in corporations, trusts and similar vehicles are available to the public through the SEC-iView, which is an online system that allows the general public, other government and private entities to view and print company reports for a fee, 24 hours a day, seven days a week.

There is, however, a gap on the identification of beneficial owners. The current identification infrastructure on beneficial owners is cumbersome as the information on ultimate natural persons owning a corporate entity is not automatically available particularly when it involves foreign entities.

e. Tax Disclosure

The BIR Commissioner is authorized by law to obtain information, and to summon, examine, and take testimony of persons in order to: (i) ascertain the correctness of any return; (ii) make a return when none has been made; (iii) determine the liability of any person for any internal revenue tax; (iv) collect any such liability; or (v) evaluate tax compliance.⁷⁸

However, access by LEAs to tax information collected by the BIR, particularly the Income Tax Returns (ITRs), are limited under Section 71 of the National Internal Revenue Code (NIRC), which provides that although ITRs are public records, they shall be open for inspection only upon order of the President of the Philippines, subject to the rules and regulations prescribed by the Secretary of Finance, and upon recommendation of the BIR Commissioner. Thus, ITRs and other tax information are confidential in nature and may not be readily available for the investigation of predicate crimes and money laundering offenses.

In addition, Section 270 of the NIRC penalizes any BIR officer or employee who divulges to any person any information regarding the business, income or estate of any taxpayer, as well as the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of a taxpayer, knowledge of which was acquired in the discharge of official duties.

Notwithstanding the foregoing, the Exchange of Information on Tax Matters Act of 2009⁷⁹ allows the BIR to exchange information on tax matters with foreign tax authorities, in compliance with Article 26 of the OECD's Model Tax Convention.

Finally, tax crimes are not considered as predicate crime to money laundering. Thus, this limits the ability of the AMLC to exchange information relating to tax crimes.

f. Financial Integrity

On July 2000, R.A. No. 8799 or the Securities Regulation Code (SRC) was enacted to ensure that the governance of SEC-registered entities is carried out in a transparent, responsible and accountable manner and with the utmost degree of professionalism and effectiveness, under governing boards which are competent to carry out their functions.

The following were adopted to effectively implement the SRC:

⁷⁸ Section 5, NIRC.

⁷⁹ Republic Act No. 10021.

a. The Revised Code of Corporate Governance;

Pursuant to the Code of Corporate Governance under SEC Memorandum Circular (MC) No. 2, Series of 2002, corporations (including covered persons) are required to form audit committees. Subsequently, the Revised Code of Corporate Governance of SEC MC No. 6–2009 requires the strengthening of compliance, particularly the requirement of a compliance officer.

In March 2013, the SEC required companies to submit the Annual Corporate Governance Report (AGCR) containing disclosure on its code of conduct and business; remuneration; internal audit and control; board, director, committee and CEO appraisal; internal breaches and sanctions. In furtherance of advocating unparalleled business and professional ethics, the SEC institutionalized the submission of Corporate Governance Scorecard by Financing Companies and Publicly Listed Companies.

The SEC's Revised Code of Corporate Governance is currently being updated to further strengthen the practices espoused in the ASEAN Corporate Governance Scorecard, in preparation for the ASEAN 2015 integration.

- b. Rules and regulations prescribed by the Philippine Stock Exchange (PSE) for listed companies as well as the amending or supplementing circulars thereto;
- c. For entities under the jurisdiction of the BSP, the General Banking Law of 2000 and the Manual of Regulations for Banks (MORB), Manual of Regulations for Non-Bank Financial Institutions (MORNBFI), circular letters and other BSP issuances aimed at strengthening banking supervision and corporate governance standards; and
- d. For entities under the jurisdiction of the IC, the Code of Corporate Governance Principles and Leading Practices and amending or supplementing circulars thereto.

In 2012, the BSP issued Circular No. 749 institutionalizing the corporate governance framework for banks. The BSP and SEC are actively promoting the expansion of corporate governance practices to adopt ASEAN corporate standards and reportorial requirements. Bank managements are also committed to high ethical values and corporate citizenship, based on the Code of Ethical Conduct issued to bank directors and bank personnel. For transparency, the bank's corporate governance framework, organizational structure and corporate governance manuals are accessible in their respective websites, including the credentials of members of the bank's Board and senior officers.

For the insurance sector, the IC, in its Circular Letter 2015-23 dated 8 May 2015, prescribes the adoption of the ACGS. The IC also issued Circular Letter No. 2013-33 dated 4 November 2013, which prescribes the adoption and implementation of the Market Conduct

Guidelines for Life Insurance companies to maintain the highest standards of professional and ethical conduct among its agency force.

g. Formalization of Economy

The informal sector, being a permanent fixture of the economy, poses a lot of economic potentials and benefits when correctly identified, supported and improved by the government. These potentials include the fact that it contributes to the Gross Domestic Product (GDP) and Gross National Product (GNP) and that it plays a significant role in the economy by absorbing the surplus labor that cannot be taken-in by the formal sector and ultimately serves as a safeguard during economic crisis.⁸⁰

The 2008 Informal Sector Survey⁸¹ (ISS): Preliminaries

The 2008 ISS is a nationwide data collection operation by the National Statistics Office,⁸² in collaboration with United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP). It was aimed at putting in place a system of two-step surveys related to the evaluation of employment of informal sector enterprises. It was the first nationwide survey of informal sector conducted by the NSO.

Below are some of the significant results of the 2008 ISS:

1. There were about 10.5 million informal sector operators identified in the survey.
2. Informal sector operators are either: (i) self-employed without any paid employee; or (ii) employer in own-family operated farm or business. The self-employed numbered about 9.1 million while the employer numbered 1.3 million.
3. Of the 10.5 million IS operators counted in 2008, 41.3% were engaged in agriculture, hunting and forestry, 29.6% in wholesale and retail trade, and 10% in transport, storage and communications.
4. More than ten percent (11.1%) of IS operators were in CALABARZON followed by Central Luzon and Western Visayas with 8.3% and 8.1%, respectively. On the other hand, CAR reported the smallest proportion of IS operators (1.5%).

Level of Economic Informality

The Philippine labor market is characterized by high levels of informality with around 75% informally employed. The NSO and the Department of Trade and Industry (DTI) estimated

⁸⁰Toyoken, M. "An Overview of the Lurking Economy: The Underground Economy and the National Accounts of the Philippines." 22 October 2012.

⁸¹Source: <https://psa.gov.ph/content/informal-sector-operators-counted-105-million-results-2008-informal-sector-survey>

⁸²Now merged with the National Statistical Coordination Board (NSCB), the Bureau of Agricultural Statistics (BAS), and the Bureau of Labor and Employment Statistics (BLES) to form the Philippine Statistics Authority (PSA).

that around 90% of Filipinos work in micro, small, and medium-sized enterprises or on own-account, and more than 60% are found in the informal sector. According to the 2008 ISS, around 70% of self-employed Filipino workers are not registered with any government authority. Also, majority of these workers are employed under informal arrangements.⁸³

Based on the NSO's 2013 Labor Force Survey (LFS), workers in the informal economy reached 16.088 million (significantly found in agriculture, wholesale and retail trade, fishing and transport, storage and communication), or 42.53% of the country's working population of 37.819 million workers.⁸⁴

Informal Sector's Contribution to the Philippines' National Output

The informal economy's share in the yearly summation of the country's GDP and GNP and its share in the absorption of labor prove to be substantial. The share of the informal sector to the yearly national economic output remained the same since 1995 at 20% to 30% levels. Moreover, the informal sector is also responsible for one-third of non-agricultural GDP.⁸⁵

In addition, the workers in the informal sector sustained their productivity and continue to contribute significant portion in the country's economy, to wit:

- In 2006, the informal sector accounted for 61% of the GDP of the Philippines, representing almost PhP4 Billion in income.⁸⁶
- In 2007, 43% of the country's GDP is attributed to the informal sector.⁸⁷
- As of 2012, the informal sector accounted to about 45% of the country's GDP.⁸⁸

There is thus significant informal economic activity in the country. The lack of incentives for the transition from informal to formal economic activity, as well as the absence of up-to-date records on such are making it difficult for LEAs to access transaction and client information.

⁸³Mangahas, Rosario, S. "Profiling of Workers Associations in the Informal Economy." ILS Discussion Paper Series 2012.

⁸⁴National Statistics Office. 2013 Labor Force Survey 2013.

⁸⁵*Supra. Note 80*, citing the "Profile of the Informal Sector" Congressional Planning and Budget Department of the House of Representatives. (November 2008).

⁸⁶National Statistical Coordination Board. "Informal Employment and Informal Sector Data Collection: Strategy, Tool and Advocacy." 2007.

⁸⁷"Factsheet on Filipino Women". March 2008, retrieved from www.ncrfw.gov.ph/inside_pages/downloads/factsheets_on_filipino_women_03_2008.pdf.

⁸⁸"Workers in the informal economy." Spring 2012, retrieved from www.dole.gov.ph/fndr/bong/files/Workers%20in%20the%20Informal%20Economy.pdf.

Impact of Alternative Financial Service Providers to the Informal Economy

Their presence translates to more than 50,000 access points in addition to the banks. This figure does not yet reflect the branch network of microfinance NGOs, which also provide financial services for low-income households and their microenterprises. Since microfinance institutions include various types (banks, credit cooperatives, and microfinance NGOs) which are under the oversight of multiple regulatory and supervision regimes, there is a need for continuing data-sharing among relevant regulators.⁸⁹

The retail reach, as well as the ease and speed of delivery of the funds, particularly to the unbanked segment through cash delivery or cash pickup, increases the complexity of tracing the flow of funds. In addition, the use of small-value and dispersed transaction, which is an inherent feature of the remittance industry, may increase the risk that some funds could be inadvertently used for terrorist financing. Despite the gains in increasing access points for financial services, the use of financial services still leave much to be desired.

Nevertheless, this environment (characterized by enabling policies and regulations) catalyzes the development of a financial system that serves not only the relatively well-off clients and big businesses but also the poor, low-income population who are unbanked or underserved.

II.D. Money Laundering Prosecution - Medium/High

The rating of medium/high on money laundering prosecutions was derived from the assessment of the various factors under item II.D and other relevant factors.

II.D.1. Integrity and Independence of Money Laundering Prosecutors

In 2014, the AMLC Secretariat commissioned an Integrity and Corruption Perception (ICP) survey designed to provide qualitative and comparative information on the general level of integrity and corruption of ML prosecutors in the Philippines. This survey⁹⁰ seeks to elicit categorical responses from various LEAs about: (i) their own experience; and (ii) their perceptions of the integrity characteristics and behavior of others involved in ML investigations.

The ICP survey results indicate that within the present sample population, ML prosecutors are perceived to act with a high level of integrity under most circumstances.

⁸⁹ Section lifted from the draft National Strategy for Financial Inclusion.

⁹⁰ It bears emphasis that perceptual data espoused by this ICP survey are considered subjective and are thus colored by respondents' incentives to withhold or color information through the filter of their own opinions.

II.D.2. Capacity of Money Laundering Prosecutors

Prosecution of ML is done by the AMLC through the Department of Justice (DOJ) or Office of the Ombudsman (for criminal money laundering cases) and the Office of the Solicitor General (OSG) (for civil forfeiture cases and provisional remedies such as Applications for Bank Inquiry and Petitions for Issuance of Freeze Order). The AMLC has a good working relationship with the DOJ, Office of the Ombudsman and the OSG.

The AMLC Secretariat regularly organizes AMLC/CFT training courses for DOJ prosecutors and OSG lawyers involved in the prosecution of AML/CFT cases. Resource speakers from the AMLC Secretariat discuss topics on the AMLA, as amended, and its RIRRs; R.A. No. 10168 (Terrorist Financing Prevention and Suppression Act of 2012); Asset Recovery and Forfeiture; and Financial Investigation relative to ML/TF.

The assessment of the capacity of prosecutors is principally anchored on the outcome of the prosecution of money laundering cases under items II.D.3 and II.F.1

II.D.3. Criminal Penalties

The penalties or sanctions for money laundering and other violations under the AMLA, as amended, are effective, proportionate and dissuasive.

Section 14 of the AMLA, as amended, provides the following penalties on money laundering and other violations of the law:

Table 40: Money Laundering Offenses and Corresponding Penalty

ML Offense/Violation	Penalty
Knowingly transacting, converting, transferring, disposing, moving, acquiring, possessing, using, concealing or disguising the monetary instrument or property (MI/P) or attempting or conspiring to commit ML	7 to 14 years imprisonment Fine: not less than PhP3 Million but not more than twice the value of the MI/P involved.
Knowingly aiding, abetting, assisting or counseling ML or performing or failing to perform an act as a result of which he facilitates ML	4 to 7 years imprisonment Fine: not less than PhP1.5 Million but not more than PhP3 Million
Covered Person, its directors, officers and personnel who <i>knowingly participated</i> in the commission of the crime of ML	
<i>Breach of Confidentiality</i> - Covered persons and their officers and employees are prohibited from communicating directly or indirectly, in any manner or by any means, the fact that a covered or suspicious transaction report has been reported, or is about to be reported, the contents thereof, or any other information related thereto.	3 to 8 years imprisonment Fine: not less than PhP500,000 but not more than PhP1 Million

Knowingly failing to report covered and suspicious transactions to the AMLC	6 months to 4 years imprisonment Fine: not less than PhP100,000 but not more than PhP500,000
<i>Malicious Reporting</i> - Reporting or filing a completely unwarranted or false information	
Failure to keep records for at least five (5) years from date of transaction/closure	6 months to 1 year imprisonment Fine: not less than PhP100,000 but not more than PhP500,000

The following table shows the number of: (a) ML Criminal Complaints filed before the DOJ; and (b) ML Cases filed before the Regional Trial Court from 2011 to 2014:

Table 38. Money Laundering Cases

Cases Filed	2011	2012	2013	2014	Total
Criminal Complaints filed before the DOJ	4	7	1	-	12
Criminal Complaints filed before the OMB	-	-	-	-	-
Information filed before the RTC	-	5	3	1	9
Total	4	12	4	1	21

Under Section 7(4) of the AMLA, as amended, the AMLC is authorized to file ML Criminal Complaints before the DOJ or the Office of the Ombudsman (for corruption cases). Upon finding probable cause that a money laundering offense has been committed, the DOJ or the Office of the Ombudsman files the Information before the Regional Trial Court (RTC) or the Sandiganbayan (i.e., anti-graft court) to formally charge the suspected money launderer.

The following table shows the number of ML Criminal Complaints resolved by the DOJ as well as the ML Criminal Cases decided by the RTC from 2011 to 2014:

Table 39. ML Cases Resolved by DOJ and RTC

Particulars	2011	2012	2013	2014	Total
Money Laundering Criminal Complaints resolved by the Department of Justice	3	3	-	-	6
Money Laundering Criminal Complaints resolved by the Office of the Ombudsman	-	-	1	-	1
Money Laundering Criminal Cases decided by the Regional Trial Court	-	-	1	1	2
Total	3	3	2	1	9

Since the passage of the AMLA in 2001, four (4) persons have been convicted of various ML offenses. Two (2) of those convicted were found guilty of laundering proceeds in separate estafa (swindling) cases while the other two (2) persons were found guilty of laundering the proceeds from a Kidnap For Ransom (KFR) case. The RTC imposed penalties of imprisonment and fine against all four (4) persons convicted of ML offenses. However, one of the persons

convicted applied for and was granted probation since penalty imposed on him qualified the grant of probation under the law.⁹¹ He was sentenced to serve a maximum term of imprisonment of not more than six (6) years.

Hereunder is a summary of the penalties imposed on the persons convicted for money laundering under the AMLA, as amended:

Table 41. Summary of Penalties Imposed

Particulars	Year Convicted	Penalty Imposed
ML Conviction No. 1 - facilitating the transaction of the proceeds of estafa (swindling) under Section 4(b) of the AMLA, as amended	2006	<i>Imprisonment: 6 years</i> <i>Fine: PhP1.5 Million</i>
ML Conviction No. 2 - transacting the proceeds of estafa (swindling) under Section 4(a) of the AMLA, as amended	2013	<i>Imprisonment: 7 to 13 years</i> <i>Fine: PhP34 Million</i>
ML Conviction No. 3 – transacting the proceeds of Kidnapping for Ransom (KFR) under Section 4(a) of the AMLA, as amended	2013	<i>Imprisonment: 8 years</i> <i>Fine: PhP500,000</i>
ML Conviction No. 4 – transacting the proceeds of KFR under Section 4(a) of the AMLA, as amended	2014	<i>Imprisonment: 8 years</i> <i>Fine: PhP500,000</i>

II.E. Money Laundering Conviction - Medium/High

The rating of medium/high on money laundering conviction was derived from the assessment of the various factors under item II.E.

II.E.1. Integrity and Independence of Presiding Officers

The conduct of presiding officers, like judges of trial courts and justices of collegiate courts, is governed by the New Code of Judicial Conduct (A.M. 03-05-SC) (hereinafter referred to as the “Code”) promulgated by the Supreme Court on 27 April 2004. The Code, patterned after the Bangalore Draft of the Code of Judicial Conduct, consists of six (6) Canons highlighting

⁹¹ Presidential Decree No. 968, as amended.

Section 9. Disqualified Offenders. The benefits of this Decree shall not be extended to those:

- (a) sentenced to serve a maximum term of imprisonment of more than six years;
- (b) convicted of any offense against the security of the State;
- (c) who have previously been convicted by final judgment of an offense punished by imprisonment of not less than one month and one day and/or a fine of not less than Two Hundred Pesos;
- (d) who have been once on probation under the provisions of this Decree; and
- (e) who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof.

the standards that should govern the conduct of judges and justices in administering justice and in deciding cases.

Canon 1 of the Code directs judges and justices to uphold and exemplify judicial independence free from any extraneous influence, inducement, pressure, threat or interference, whether direct or indirect. Canon 2 of the Code mandates judges and justices to maintain integrity in the proper discharge of the judicial office.

Violations of the Code may subject the offending judge or justice to criminal and administrative sanctions. Administrative sanctions may include suspension or dismissal from the judiciary. While there has been a number of judges and justices who have been meted administrative sanctions by the Supreme Court, none was sanctioned for AML-related incidents.

II.E.2. Capacity of Presiding Officers

Judges and justices and other members of the judiciary regularly undergo trainings/seminars on new laws at the Philippine Judicial Academy (PhilJA). The AMLA, as amended, is a regular part of the curriculum in the said training. For the period under review, the AMLC Secretariat has conducted thirty (30) seminars/lectures/workshops for PhilJA on topics covering the AMLA, investigation and prosecution of money laundering cases, as well as the latest AML trends and measures. Judges and justices are also briefed on remedial measures under the AMLA, as amended, such as freezing and forfeiture of proceeds of unlawful activities and inquiry into the bank accounts and investment of related to the unlawful activity or money laundering offense.

The Supreme Court also promulgated A.M. No. 05-11-04-SC (*Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, And Freezing of Monetary Instrument, Property, or Proceeds, Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense Under Republic Act No. 9160, as amended*) which serves as guide to presiding officers in handling cases of such nature.

II.F. Asset Forfeiture - Medium/High

The rating of medium/high on asset forfeiture was derived from the assessment of the various factors under item II.F and other relevant factors.

II.F.1 Asset Forfeiture Laws

Sections 10 (*Freezing of Monetary Instrument or Property*), 11 (*Authority to Inquire into Bank Deposits*), and 12 (*Forfeiture Provisions*) of the AMLA, as amended, provide invaluable tools in the recovery of proceeds of crimes, thus, LEAs and other government agencies have

frequently requested assistance from the AMLC in tracing, freezing and confiscating proceeds of crime.

Under Section 10 of the AMLA, as amended, the AMLC is authorized to file, *ex parte* (without notice), through the OSG, a Petition with the Court of Appeals (CA) for the Issuance of a Freeze Order when there is probable cause that the monetary instruments and properties subject of the Petition are in any way related to an unlawful activity. The CA is required to act within twenty-four (24) hours on the Petition. The freeze order is effective for a maximum period of six (6) months and covers not only those accounts which are particularly identified therein, but also “*related accounts*” (i.e., accounts, the funds and sources of which originated from and/or are materially linked to the monetary instruments or properties subject of the freeze order).

Section 11 of the AMLA, as amended, authorizes the AMLC to inquire into the bank deposits and investments with any banking institution or non-bank financial institution. If the unlawful activity involves drugs, kidnapping for ransom or terrorism, the AMLC only needs to issue a Resolution to inquire into the said account or investment. For other unlawful activities, the AMLC needs to file, through the OSG, an *ex parte* Application for Bank Inquiry with the CA to obtain the records of the said account or investment. If the CA finds probable cause that the bank account or investment is related to an unlawful activity, it will grant the Application and issue an order allowing bank inquiry. In the course of a bank inquiry, AMLCS investigators may discover related accounts for which the AMLC needs to issue a supplemental Resolution, or file a supplemental application for the issuance of a Bank Inquiry order with the CA.

Table 42. Bank Inquiry via AMLC Resolutions

Particulars	2011	2012	2013	2014	Total
AMLC Resolutions authorizing the conduct of Bank Inquiry	6	8	7	4	25

Table 43. Court-Based Application for Bank Inquiry

Cases Filed	2011	2012	2013	2014	Total
Applications for Bank Inquiry filed before the Regional Trial Court/Court of Appeals	13	12	15	28	68

In the course of the bank inquiry and prior to the expiration of the freeze order, the AMLC files a Petition for Civil Forfeiture with the RTC pursuant to Section 12 of the AMLA, as amended, to forfeit and confiscate proceeds of an unlawful activity.

If the RTC finds probable cause in the Petition for Civil Forfeiture, it will issue *ex parte* a Provisional Asset Preservation Order (PAPO) immediately forbidding any transaction, withdrawal, deposit, transfer, removal, concealment or other disposition of the subject monetary instrument or property. The PAPO is effective only for twenty (20) days, within which a summary hearing will be conducted where the respondent may show good cause why the

PAPO should be lifted. Within the same 20- day period, the RTC will determine whether an Asset Preservation Order (APO) should be issued to cover the funds and properties during the pendency of the Petition. The Civil Forfeiture is non-conviction based, unlike in criminal forfeiture where the guilt of the accused has to be established first by proof beyond reasonable doubt prior to the forfeiture of his assets.

The following table shows the number of Petitions for (1) Issuance of Freeze Order; and (2) Civil Forfeiture filed by the AMLC from 2011 to 2014:

Table 44. Freeze Order and Civil Forfeiture

Cases Filed	2011	2012	2013	2014	Total
Petitions for the Issuance of Freeze Order filed before the Court of Appeals	14	9	8	9	40
Petitions for Civil Forfeiture filed before the Regional Trial Court	6	8	5	8	27
Total	20	17	13	17	67

Amounts subject of Freeze Order and Petitions for Civil Forfeiture for the period are as follows:

Table 45. Petitions for the Issuance of Freeze Order filed with the Court of Appeals

Year	No. of Petitions Filed	Amount Subject of Freeze Order (in Millions)
2011	14	Php541.48
2012	9	Php614.90
2013	8	Php614.63
2014	9	Php416.85

Table 46. Petitions for Civil Forfeiture filed before the Regional Trial Court

Year	No. of Petitions Filed	Amount Subject of Civil Forfeiture (in Millions)
2011	6	Php584.05
2012	8	Php148.02
2013	5	Php370.63
2014	7	Php416.85

The following table shows the number of Freeze Orders terminated and Petitions for Civil Forfeiture decided for the period 2011 to 2014:

Table 47. Freeze Orders terminated and Petitions for Civil Forfeiture decided

Particulars	2011	2012	2013	2014	Total
Freeze Orders terminated	7	13	9	8	37
Petitions for Civil Forfeiture decided by the Regional Trial Court	3	-	-	-	3

Total	10	13	9	8	40
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II.F.2. Capacity of Asset Forfeiture Investigators

Inasmuch as it is also the AMLC which conducts investigations for the purpose of filing criminal cases for money laundering, as well as for asset forfeiture, please refer to discussion under Section II.C.2. on Capacity of Money Laundering Investigators.

II.F.3. Integrity and Independence of Asset Forfeiture Investigators

Inasmuch as it is also the AMLC which conducts investigations for the purpose of filing criminal cases for money laundering, as well as for asset forfeiture, please refer to our comments on Section II.C.3. on Integrity of Financial Crime/Money Laundering Investigators.

II.F.4. Asset Forfeiture Orders

The authority of the AMLC to file Petitions for Civil Forfeiture under Section 12 of the AMLA, as amended, enables the recovery of proceeds of crime without the necessity of conviction. An Order of Civil Forfeiture allows the early recovery of the said proceeds independently of the criminal action for the predicate crime or for money laundering since it only requires preponderance of evidence. The funds and properties recovered from the Civil Forfeiture case is turned over to the National Treasury or returned to the rightful owners if they are able to prove their claims before the RTC.

Prior to the issuance of an Order for Civil Forfeiture, funds and properties representing proceeds of crime are preserved through Freeze Orders issued by the CA, and during the pendency of the Civil Forfeiture case, through PAPOs and APOs issued by the RTC. These orders effectively prohibit the withdrawal, dissipation and transfer of the funds and properties prior to its forfeiture. These orders are considered as speedy and timely remedies as they are required by law or regulation to be decided in a short span of time.

Since the passage of the AMLA in 17 October 2001, the AMLC has filed cases for the freezing of over Php4.2 Billion worth of funds and properties:

Table 48. Statistics on Asset Forfeiture Orders as of 31 December 2014

Particulars	Amount (in Billions)
Subject of Pending Civil Forfeiture Cases	Php2.284
Subject of Pending Freeze Order	.038
Forfeited and Remitted to the Philippine Government	.043
Forfeited and Turned Over to the Office of the Ombudsman	.092
Forfeited and Returned Over to the Families of the Victims	.002
Forfeited but Pending Execution (Judgment Final and Executory)	.021
Subject of Other Forfeiture Actions	.027

Lifted and Returned to the Victims	1.498
Amount in Lapsed Freeze Order	.218
Total	PhP4.223

Although Petitions for Civil Forfeiture present an innovative method for recovering proceeds of crime, the AMLC has also identified the lack of an Asset Management Office in charge of the proper administration of real or personal properties subject of the civil forfeiture pending proceedings or order as a challenge.

While bank accounts and Investments subject of an FO, PAPO or APO remain in the possession of the bank and other financial institutions, real or personal properties subject of the FO, PAPO or APO remain with the owners or possessors of these properties who continue to use these properties, subject to the restriction that he/she may not transfer its ownership. This presents a significant problem in the diminution of the value of these properties (e.g., business establishment, motor vehicles) through force majeure, depreciation or even ordinary wear and tear. By the time an Order of Civil Forfeiture is promulgated by the RTC, it is possible that these properties may already be rendered worthless.

II.F.5. International Cooperation in Asset Forfeiture

Pursuant to Section 13 (b) of the AMLA, as amended, the AMLC has the power to act on a request for assistance from a foreign state to seize or confiscate assets alleged to be proceeds of any unlawful activity or predicate crime. On the other hand, Section 13 (c) authorizes the AMLC to request assistance from a foreign state for purposes of asset recovery. For both types of requests, the AMLC has to file a Petition for Civil Forfeiture under Section 12 of the AMLA, as amended. Civil forfeiture and asset preservation order are discussed under item II.F.1 above. Such requests are usually made through a Mutual Legal Assistance Treaty and coursed through the Department of Justice (DOJ) as the Central Authority for MLATs in the Philippines. In the absence of treaty, the AMLC may act on a request for assistance, or by itself, request a foreign state for assistance based on the provisions of Section 13 of the AMLA, as amended.

The legal and procedural framework for international cooperation and asset forfeiture are existing and compliant with international AML/CFT standards and the AMLC has the capacity to assist any jurisdiction for the forfeiture of proceeds of crime or money laundering. However, the lack of an asset management agency may be an area of concern for asset forfeiture and the Philippines should consider the establishment of such agency through legislation.

For the period 2011 to 2014, the AMLC acted on two (2) MLAT requests related to asset forfeiture, detailed as follows:

Table 49. MLAT Requests from other Jurisdictions

Requesting State/ Date of the Request (Month & Year)	Unlawful Activity	Approximate Amount Subject of Civil Forfeiture (in Millions)	Action/s Taken by the AMLC
Netherlands/ July 2012	Estafa/ Human Trafficking	PhP10.056	Conducted Bank Inquiry and obtained a Freeze Order from the CA on the bank accounts of the respondents. Said bank accounts are currently subject of civil forfeiture proceedings
United States/ December 2014	Estafa	PhP0.030	Conducted Bank Inquiry and obtained a Freeze Order from the CA on the bank accounts of the respondents. No Petition for Civil Forfeiture was filed due to the minimal balance of the bank accounts frozen

MLAT Requests from foreign jurisdictions may also involve requests for bank documents and other financial information which may eventually lead to asset forfeiture in the foreign state. An example is a request from the United States for production of bank documents in relation to a large corruption case being investigated by the AMLC and the Office of the Ombudsman. The said request was made in connection with forfeiture proceedings initiated by the United States for the forfeiture of properties, as well as the eventual turnover to the Philippines of the proceeds of the sale of said properties with an estimated total value of USD12.5 Million.

With respect to MLAT requests to foreign jurisdictions for asset forfeiture, the AMLC made two (2) MLAT requests related to asset forfeiture from 2011 to 2014:

Table 50. MLAT Requests by AMLC

Requested State/Date of the Request (Month & Year)	Unlawful Activity	Approximate Amount Subject of Request	Action/s Taken by the Requested State
Malaysia/ February 2013	Estafa	US\$1.622 Million	The Attorney General's Chambers of Malaysia, through the Philippine DOJ, informed the AMLC that Malaysian law requires an order of forfeiture issued by a court in the requesting state in order to restrain properties located in Malaysia.
Hong Kong/ July 2014	Estafa	HK\$0.562 Million	The High Court of Hong Kong Special Administrative Region issued an inter-partes restraint order prohibiting dealing with property over the bank accounts of the subject with a bank based in Hong Kong. Said order was manifested before the Regional Trial Court in Manila in August 2014.

II.G. Overall Sector Vulnerability

The overall National Vulnerability Module is composed of two major parts: the national vulnerability/combating ability and the overall sectoral vulnerability, which is determined by the outcomes of the vulnerability assessments of the various sectors.

	Rating
National Combatting Ability	Medium/High
Banking Sector	Medium
Securities Sector	Medium
Insurance Sector	Medium
Other Financial Institutions	Medium
Designated Non-Financial Businesses and Professions	Medium

II.F. Recommended Action Plan

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
AML Policy and Implementation			
Identify problems in the implementation of AML laws, rules and regulations	AMLC	BSP SEC IC	4 th Quarter, 2016
Create policy-making research group that would study applicability of best practices in other jurisdictions to the Philippine setting			1 st Quarter, 2017
Review and update periodically AML laws, rules and regulations to meet challenges			Continuous
Formalization of Economy			
Make formalization easy by simplifying existing and/or proposing new regulations and schemes. This may involve enhancement of <i>GoNegosyo</i> dedicated for micro-entrepreneurs.	BSP CDA		1 st - 2 nd Quarter, 2017
Provide incentives for transfer from informal to formal economic activity by increasing alternative financial service providers, and creating partnerships with microfinance institutions and other providers for combined delivery of basic services to the poor			
Capacity of Financial Crime Prosecutors			

Assign or hire more financial crime prosecutors since capacity of financial crime prosecutors is affected by the lack of manpower	DOJ OSG Office of the Ombudsman	AMLC	August - September 2016, 1 st Quarter 2017
Conduct of trainings for prosecutors to familiarize them with how the AMLC conducts financial investigation	AMLC	DOJ OSG Office of the Ombudsman	Every 3 months
STR Data Analysis			
Increase the number of financial analysts and financial investigators	AMLC		August 2016 - January 2017
Identify problems in STR analysis process, which may require amending the current STR classification and prioritization, and STR format			August – December 2016
Identify potential training sources and materials. This may require updating of training manuals to cope up with the new ML trends.			4th Quarter, 2016
Improve analysis systems or acquire new analytical tools			August 2016 - July 2017
Continuously improve on the training of covered persons and closely supervise and monitor their AML systems and practices			Continuous

III. BANKING SECTOR

The banking sector plays vital roles in the country's financial system and economy, such as financial intermediation and payments processing, among others.

As of 31 December 2014, the banking system's assets (PhP11.169 Trillion⁹²) accounted for 87.7% of the country's GDP (PhP12.735 Trillion⁹³) and 80.8% of resources of the Philippine financial system.

The banking sector, with its role as financial intermediary and wide network coverage, is inherently vulnerable to ML/TF. The products and services they offer to clients are among the means favored by money launderers to obscure the illegal source of their funds. This vulnerability is, however, mitigated and addressed by the continuing joint efforts of the various stakeholders, composed of the government, regulatory agencies, as well as banks and financial institutions, to prevent the use of the banking sector as channel for ML/TF. Legal and regulatory frameworks consistent with international standards, including appropriate mechanisms to enforce their implementation and assess compliance thereon, are in place. Most banks have established ML/TF risk management system appropriate to their risk profile and complexity.

In this regard, the overall banking sector vulnerability is rated **MEDIUM**.

III.A. AML Policies and Procedures

III.A.1. AML Regulations - High

The Bangko Sentral ng Pilipinas (BSP) issued various AML/CFT rules and regulations to implement the AMLA, as amended, and its Revised Implementing Rules and Regulations (RIRRs). Foremost to these rules and regulations is BSP Circular No. 706 dated 5 January 2011⁹⁴, which provides the updated and consolidated AML/CFT guidelines and requirements, as well as corresponding sanctions and penalties for non-compliance therewith.

BSP Circular No. 706 is broad and covers significant AML/CFT risk areas such as (a) risk management system; (b) risk-based and tiered customer acceptance policy and due diligence standards; (c) reporting requirements and ongoing monitoring system; (d) record-keeping; and (e) AML training program, among others.

⁹² Status Report on the Philippine Financial System, Second Semester 2014.

⁹³ <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD> (Philippine 2013 GDP at USD284.777 billion, converted to PhP at P44.72 to USD, PDS closing rate on 29 Dec 2014).

⁹⁴ Incorporated as Part 8 of the Manual of Regulations (MOR) for Banks and MOR for Non-Bank Financial Institutions.

BSP Circular No. 706 is generally in accordance with international AML/CFT standards. However, it needs to be updated to include recent amendments to the AMLA and RIRRs and the latest international AML/CFT best practices.

In 2012, the BSP implemented the AML Risk Rating System (ARRS)⁹⁵, which is a primary tool to understand whether the risk management policies and practices, internal controls of banks and other covered institutions to prevent ML/TF are in place, well-disseminated and effectively implemented. This also enables the BSP to focus efforts and resources on entities and areas exhibiting higher or elevated AML risk. The ARRS considers four (4) components, namely: (i) Efficient board of directors and senior management oversight; (ii) Sound AML policies and procedures embodied in the MLPP; (iii) Robust internal controls and audit; and (iv) Effective implementation.

III.A.2. Management’s Commitment and Leadership - High

The rating of high on management’s commitment and leadership was derived from the assessment of the various factors under item III.A.2 and other relevant factors.

a. *Commitment to Good Corporate Governance*

Most banks have created a well-defined compliance organizational structure headed by an officer with a senior position in the bank. Complex banks recognize the need to appoint a dedicated AML/CFT Compliance Officer, with a senior management position, given their size and operational complexity. However, where the resources of the covered person do not permit the hiring of an AML Compliance Officer, the Chief Compliance Officer may also be designated as the AML/CFT Compliance Officer.

Initial examinations using the AML Risk Rating System (ARRS) framework showed majority of overall ratings assigned at “2” (vulnerable). However, there was notable improvement in the number of banks which were granted a component rating of “3” since 2012⁹⁶ [17 Universal Banks (UKBs) were assigned “3” rating for Board/Management oversight; 17 rated as “2”, with 9 UKBs’ ratings improved]. This showed their continuous commitment to improve governance, particularly for AML/CFT risk exposures, given the initiatives and strong support noted in terms of investments in systems and resources dedicated to AML risk management.

To facilitate the evaluation of the fitness and propriety of the director or officer, the BSP also maintains a watch list of persons disqualified to be a director or officer of banks.

⁹⁵ Supervision Guidelines 2014-04.

⁹⁶ ARRS Component I rating of “2” indicates “less than adequate oversight” while a rating of “3” indicates “adequate oversight.”

b. Market Pressure to Meet AML Standards

The Philippine banking industry is cognizant of the increasing pressure coming from international and domestic markets which require strict adherence to AML/CFT laws and regulations. Philippine banks are expected to exhibit firm commitment in continuously strengthening their AML/CFT standards to be aligned with global best practices. Other parties exerting influence on the industry include local and foreign regulators, government enforcement agencies, credit rating agencies, inter-governmental agencies, business partners, and international counterparty financial institutions.

The series of AML/CFT sanctions and imposition of hefty monetary penalties on big foreign banks by the US and UK regulatory bodies in 2011-2014 instilled strong awareness and discipline among Philippine banks to implement a robust AML/CFT compliance framework in accordance with the existing regulations.

III.A.3. Compliance Function - High

The BSP issued guidelines for the effective AML compliance function that supports a high level of compliance within the banking sector⁹⁷. Under Subsection X805.1.a of BSP Circular No. 706, the compliance officer shall have the primary task of management of the implementation of the covered person's Money Laundering Prevention Program (MLPP). Compliance officers are required to be at least of senior management level⁹⁸. To ensure the independence of the office, it shall have a direct reporting line to the board of directors or any board-level or approved committee on all matters related to AML/CFT.

Universal/commercial banks have created AML Specialist Reviewer Teams to perform independent reviews on the level of AML/CFT Compliance, conducted in several levels. On a day-to-day basis, business units, through independent AML specialist reviewers, perform AML self-assessment certifications. A second-level of independent review of AML practices is conducted by an independent quality assurance testing and review department. On an annual basis, the independent internal audit group's dedicated AML specialist reviews AML policies, procedures, and practices against the board approved AML compliance programs. Some banks have engaged external service providers to conduct independent specialized AML reviews.

III.B. Quality of AML Operations

III.B.1. Customer Due Diligence Framework - Medium/High

The rating of **medium/high** on customer due diligence framework was derived from the assessment of the various factors under item III.B.1.

⁹⁷ § X805.1.a of Circular No. 706.

⁹⁸ § X805.2.8 of Circular No. 706.

a. Identification Infrastructure

Covered persons are required to establish the true and full identity of customers by obtaining the prescribed information about the customer and validating the same from official documents, such as government-issued identification documents. In cases of corporate and juridical entities, banks are required to verify their legal existence, organizational structure as well as the authority and identification of all persons purporting to act on their behalf. Moreover, banks are required to adopt a risk-based process of identifying clients.

Even in the absence of a national ID system which would have facilitated the conduct of customer identification, the results of examination for the past four (4) years disclosed improving efforts of banks to consistently obtain minimum information from customers and to validate the same from reliable sources.

In 2010, the Government released the Unified Multi-Purpose ID (UMID), which covers members of the Government Service Insurance System (for those employed in the government or its agencies and instrumentalities), Social Security System (for those employed in the private sector), the Philippine Health Insurance Corporation and the Home Development Mutual Fund (for both government and private sector employees). This is a reliable source of identification, which contains information on the member's complete name, date of birth, sex and address.

b. Availability of Independent Information

To address the challenges on verifying information on the client, the Credit Information Corporation (CIC) was established, albeit it has yet to be fully operational. The CIC, a government-owned and -controlled corporation created under the Credit Information System Act, is a central credit registry which collects positive and negative credit data on borrowers and provides consolidated basic credit information to individuals, businesses, financial institutions, private credit bureaus and other entities. It will collect credit information from various sources such as banks, financial institutions, insurance companies, financing companies, credit cooperatives, as well as utility companies and other businesses that extend loans.

c. Corporate and Trust Transparency

Information given by clients on the structure, management, control, and beneficial interests in corporations, trusts and similar vehicles can be verified from the General Information Sheet filed with the SEC. Publicly listed entities are also required to post their top 100 stockholders.

Banks' compliance with this requirement is checked during examination and appropriate enforcement actions are implemented in cases of violation. Employees, specifically the front-liners, are aware of their respective responsibilities and carry them out in accordance with culture of compliance.

There is, however, a challenge in the determination of foreign beneficial ownership as this is not required under existing SEC rules. The enhancement of the existing system to identify and verify ultimate beneficial ownership will be considered in coordination with the industry.

III.B.2. AML Monitoring - Medium High

Most banks have AML/CFT monitoring systems relative to their size and operations. These systems are capable of monitoring and screening of clients who fall under the sanctions lists, as well as high-risk clients. Likewise, it can generate red flags or alerts for transactions, which are unusual or inconsistent with client profiles in relation to reporting of suspicious transactions.

It was noted, however, that there is a need to improve transaction monitoring systems of banks. It must be enhanced to timely identify possible suspicious transactions, refinement of alerts parameters set by banks to align with the risk, product and customer profile, taking into consideration financial information and historical transactions of the customer. The process of investigating alerts should be streamlined to facilitate timely and quality disposition and reduce ML risk of the bank.

III.B.3. Staff Compliance - Medium/High

The rating of **medium/high** on staff compliance was derived from the assessment of the various factors under item III.B.3.

a. Quality of AML Supervision

The BSP exercises AML supervision through the issuance of policies and regulations, continuing off-site supervision and the conduct of regular or special examination, including structured meetings and dialogues with supervised institutions.

The BSP conducts regular or periodic examination once a year, with an interval of twelve (12) months from the last date thereof, and/or special examinations when authorized by the Monetary Board with an affirmative vote of five (5) members. All banks are subjected to a periodic examination.

The BSP established the Anti-Money Laundering Specialist Group (AMLSG), a technical unit in the BSP's Supervision and Examination Sector (SES) that specializes in the examination, review and assessment of the AML/CFT framework of BSP-covered persons. Currently, there are 30 AML examiners in the AMLSG. Consistent with risk-based supervision, the AMLSG examiners prioritize banks/FIs to be examined based on risk rating and materiality.

To facilitate uniform conduct of AML examination, the Revised Examination Manual for AML/CFT Activities (REMACA) was approved by the Monetary Board in 2013. It contains specific

procedures to be performed for AML examination across supervised institutions, with due consideration to proportionality to ensure that procedures are relevant to the business and complexity of the entity examined. The REMACA facilitates consistent conduct of AML examination across institutions and examination departments.

The AML Risk Rating System (ARRS)

The BSP adopted risk-based approach to supervision through the implementation of AML Risk Rating System (ARRS)⁹⁹. Details on the ARRS are discussed in assessment of the AML regulations under **B.1.a**.

b. Staff Integrity

Staff integrity is satisfactory given the existence of appropriate legal and regulatory provisions prescribing fit and proper rule for directors and officers, including qualifications anchored on integrity, probity, capacity, and experience. Banks are required to adopt their own policies and procedures prescribing the nomination of directors and hiring process for officers and employees, as well as code of conduct. Hiring process involves background investigation and verification of information/documents.

Based on 2010 – 2014 data of crimes and losses, the number of insider perpetrator cases represents a minimal percentage of the total workforce within the banking sector. This is partly attributable to the stringent hiring process, internal controls and sanctions for erring employees. Appropriate disciplinary actions were taken on erring personnel. Overall, banks generally perceive that their employees are not easily corrupted by criminals.

c. Staff Knowledge

Since 2011, there is a notable increase in the number of AML training hours and participants reported by banks. This data showed strong commitment of banks to improve the AML knowledge of their officers and employees. Moreover, results of regular BSP examination showed that banks continuously improve their training programs.

The AML training program includes refresher trainings to remind employees of their obligations and responsibilities as well as update them of any changes in AML laws, rules and internal policies and procedures.

However, training needs some improvement. The training should focus on relevant AML areas, such as customer acceptance and identification process, record-keeping, covered and suspicious transaction reporting and internal control processes. There should be appropriate training designed for new hires and refresher courses for personnel that are relevant and

⁹⁹ Supervision Guidelines 2014-04.

appropriate to their respective AML functions.

d. Penalties and Enforcement of AML Obligations

BSP AML examinations resulted in the imposition of penalty amounting to PhP3.18 Million against 18 banks/NBFIS due to noted weaknesses in AML/CFT risk management system. Non-monetary enforcement actions ranging from requirement to execute and submit Board-approved letter of commitment containing specific measures to address the weaknesses noted were also taken. The BSP also issued reprimand to ten (10) officers for violation of their AML-related responsibilities. In addition, the officers who were issued a reprimand or dismissed by the banks were included in the BSP's negative data file and/or watchlist disqualification file, respectively. There were also pending administrative cases as a result of AML examination.

It was also noted that banks have their own internal administrative process to sanction their personnel for violation of internal policies and guidelines. Those found guilty of AML/CFT violations are meted sanctions and penalties ranging from reprimand to termination of erring employees. Banks also imposed administrative sanctions (ranging from issuance of written reprimand, suspension, and termination) against 25 bank officers.

The AMLC pursues criminal cases against erring bank officers for violation of the AMLA.

III.C. Product and Service Vulnerability

After considering AML/CFT controls in place, the vulnerabilities of bank products are as follows:

1. Private Banking - Medium

With the inherent high value of transactions per client, some of which have minimum prescribed investment or deposit levels, private banking/wealth management is naturally vulnerable to ML. It is an attractive channel to money launderers since large volume of cross-border transactions may be done. Inherent risk, however, is mitigated by appropriate AML controls, starting from customer acceptance to strict monitoring of transactions that requires application of enhanced due diligence to ensure that transactions are valid and with underlying legal or trade obligation. Further, banks do not allow customers to maintain anonymous accounts or engage in omnibus transactions, thus, identity of private/wealth banking clients are properly established at the onset. In addition, the private banking/wealth management unit within the bank is generally subject to periodic audits by the bank's internal audit unit and also covered during periodic BSP examination given the high-risk nature of products/services offered to private banking clients.

2. Deposits - Medium

Deposit products, comprising of savings, time and demand deposits, represent 87% of total liabilities of banks as of end of 2014. Depositors with balance of Php2 Million and above represent only 1% of the total number depositors, but their aggregate deposits represent 74% of total deposits, and these depositors pose high ML risk for banks. For top universal banks surveyed, the bulk of their outstanding deposits are from corporate clients (50%), followed by individual clients (36%), and the rest are from micro-depositors (14%, which are low-income clients). Residents compose 98.8% of the total number of depositors.

The aforesaid statistics on deposit liabilities of banks show that ML vulnerability of deposit products is mainly attributed to only few depositors who maintain significant level of deposits. Moreover, in terms of the average transaction size of deposits, survey on banks disclosed that risk is medium to high. Deposit products are vulnerable to ML and financial abuse since depositors may use it as a medium to facilitate domestic and cross-border funds/wire transfer. For politically exposed persons (PEPs), risk is medium. It is also noted that technological advances are among the reasons for the increasing vulnerability of deposit products, enabling some depositors to use internet/electronic banking, make withdrawals through ATMs and facilitate fund/wire transfers within a very short period of time. These various features of deposit products make it highly vulnerable to ML/TF risk, as compared to other products (private/wealth banking, remittances and trust products).

3. Remittance - Medium

In 2014, the Philippines ranks third in the world among the top recipients of migrant remittances inflow, after India and China. Total remittances from abroad amounted to USD24.3 Billion in 2014¹⁰⁰, representing 8.5% of the Philippine GDP (\$284.777 Billion).

Volume or amount of remittances depends upon the intended purpose. The volume or amount of remittance is high when used for trade purposes (export and import). On the other hand, inward remittances coming from Overseas Filipino Workers (OFWs) to their beneficiaries/relatives in the Philippines, involve small amounts which may not be high-risk. Most remittances relate to the inward remittances of OFWs. Whether for trade or non-trade purposes, remittances pose inherently high ML vulnerability because of the risk that the bank may be facilitating fund/wire transfer across continents or jurisdictions for illegal purposes/activities. For remittances coming from high-risk jurisdictions, transactions are generally subject to enhanced due diligence. In addition, remittance transactions are generally cash-intensive and banks have the ability to process large volume and number of transactions within a very short period of time, over that of stand-alone money transfer operators.

¹⁰⁰ Selected Philippine Economic Indicator 2014.

The inherent ML risk is mitigated due to existence of general and specific AML/CFT controls, which are appropriately in place, particularly for customer acceptance and identification and ongoing monitoring of transactions. Thus, overall ML risk for remittances is medium.

4. Trust - Medium

Trust and fiduciary business of a bank is separate from regular banking operations consistent with existing BSP regulations. In terms of volume, the risk is high considering that trust placements may be directed by clients, particularly the so-called “Investment Management Account” or “IMA.” With regard to average transaction size, the risk is medium, considering that trust transactions may be a mixture of relatively low amount and some high amount for trust products which require minimum placement or investment. Since some trust transactions may be carried-out for investment purposes, results showed that availability of product for investment is high, while client profile is generally low. Other vulnerabilities for trust products include its use for domestic and international fund/wire transfers, making it highly vulnerable for financial abuse or fraud activities. However, risk is mitigated due to the existence of general and specific AML/CFT controls, which is very high. Therefore, for trust products and services, inherent risk is medium. After considering AML/CFT controls, residual risk is medium low.

III.D. Recommended Action Plan

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Propose amendments to the BSP Charter, giving BSP explicit authority to supervise and regulate electronic money issuers, credit card companies and money transfer operators (money changers/FX dealers and remittance agents)	BSP	Senate, Congress	2 nd Semester, 2016
Amend BSP Circular No. 706 dated 11 January 2011 to align with the updated RIRRs of the AMLA, as amended by RA 10365, and for the BSP to proactively issue AML guidelines to help implement the RIRR, FATF 40 Recommendations and other international best practices	BSP	AMLC	
Sustain capacity-building within the BSP by increasing number of AMLSG examiners and providing continuing education and training to AML supervisors/examiners	BSP		Ongoing
AML Monitoring, Data Collection and Record-Keeping Systems			
Continuously give capacity-building programs to covered	BSP	AMLC,	Ongoing

persons with focus on KYC requirements, customer due diligence, reporting of transactions and record keeping		Associations under the BSP (ABCOMP, BAP, CTB, RBAP, ABROI, etc.)	
Conduct full mapping of bank monitoring systems and determine overall quality of such systems to improve functionality and capability of the AML system to generate quality alerts or red flags, based on appropriate and relevant parameters identified by the banks. There should also be industry-wide sharing of alert parameters and improved identification of linked/related accounts to enable aggregation			2017
CDD Framework: Corporate Trust and Transparency, Identification Infrastructure and Availability of Independent Sources			
Create a nationwide information bureau, which shall maintain a database of client information to aid identity verification of persons/corporate representatives/stockholders/directors/beneficial owners, where financial institutions are provided secure access	BSP, SEC, IC	CIC, Industry Associations under the BSP, SEC and IC	August 2016 - December 2017
Develop an independent, comprehensive, accessible and reliable source of stockholders, beneficial owners information			

IV. SECURITIES SECTOR

The regulatory scope of the Securities and Exchange Commission (SEC) for the capital market consists of policy formulation, rule-making, and supervision of market intermediaries, issuance of securities, and the protection of the investing public pursuant to the Securities Regulation Code or SRC (R.A. No. 8799) and its Revised Implementing Rules and Regulations, Investment Houses Law (P.D. No. 129), Investment Company Act (R.A. 2629), and the Corporation Code of the Philippines (B.P. Blg. 68), among others.

The SEC also registers Self Regulating Organizations (SROs), which are the frontline regulators of their members who are Broker/Dealers. The SEC performs oversight functions over entities registered as an SRO.

The volume of securities transactions for 2014 amounted to PhP3.78 Trillion.

IV.A. AML Policies and Procedures

IV.A.1. AML Regulations - High

The SEC assists the AMLC in the implementation of the AMLA, as amended, and its RIRRs.

In 2010, the SEC issued Memorandum Circular (M.C.) No. 2, Series of 2010 (*Revised Guidelines in the Preparation of the Anti-Money Laundering Manual for SEC Covered Institutions*), which provides the guidelines for covered persons in revising and reformulating their own AML/CFT Operating Manual, taking into consideration their corporate structure. It also provides specific procedures and policies aimed at achieving international best practices in the implementation and enforcement of the AML/CFT measures.

It was observed that M.C. No. 2 - 2010, needs some updating as it does not adopt a risk-based approach in conducting customer identification procedures and does not specifically outline rules applicable to Politically Exposed Persons (PEPs).

IV.A.2. Management's Commitment to Leadership

The rating of **medium/high** on management's commitment and leadership was derived from the assessment of the various factors under item IV.A.2 and other relevant factors.

a. *Commitment to Good Corporate Governance*

The Securities Regulations Code or SRC (R.A. No. 8799) and the Code of Corporate Governance (SEC M.C. 6 - 2009) complement the measures required by the AMLA, as amended, in combatting money laundering in the Philippines.

Covered persons under the supervision of the SEC are mandated to adopt a manual of corporate governance and submit the same to the SEC pursuant to SEC M.C. No. 6 – 2009. They regularly submit annual certification and other compliance reports to the SEC.

The board of publicly listed corporations is required to have at least two independent directors or such number of independent directors that shall constitute at least twenty percent (20%) of the total members of the Board, whichever is lesser. All other companies are encouraged to have independent directors as well.

b. *Market Pressure to Meet AML Standards*

Market intermediaries associated with foreign entities are required to comply with international AML/CFT regulations.

IV.A.3. Compliance Function - Medium/High

While the SEC does not perform on-site AML/CFT examinations on covered persons, the following were noted in a survey conducted:

- a. 100% of the respondents have designated compliance officers tasked to implement their respective AML programs. 87% have AML units delegated with the function of implementing and enforcing AML measures.
- b. Compliance officers of 92% of the respondents maintain a manual of compliance procedures and ensure compliance by staff with the AML/CFT regulations.
- c. 71% of the respondents instituted an audit function or procedure to test the system and ensure compliance with their AML program.

The BSP conducts AML examinations on market intermediaries affiliated with banks to ensure compliance with AML/CFT regulations. Further, the examination being conducted by Capital Markets Integrity Corporation (CMIC) on broker-dealers members of the Philippine Stock Exchange (PSE) ensure, to a certain extent, compliance with AML/CFT regulations.

IV.B. Quality of AML Operations

IV.B.1. Customer Due Diligence Framework - Medium/High

The rating of **medium/high** on customer due diligence framework was derived from the assessment of the various factors under item IV.B.1.

a. Identification Infrastructure

The SEC does not conduct AML/CFT examination of its covered persons. Thus, compliance with CDD framework was determined through a survey conducted. The results are as follows:

- a. 100% of respondents interview prospective clients personally, require the presentation of at least one valid identification document, and obtain necessary information from clients by requiring them to fill out Customer Account Information Forms.
- b. 95% of respondents ensure that corporate clients have not been dissolved, struck-off, wound-up or terminated.
- c. 24% of respondents allow prospective clients to open accounts through the Internet, post or telephone, but they ensure compliance with the requirements of SEC M.C. No. 2 - 2010 on clients on-boarded without face-to-face contact.
- d. 62% of respondents have policies and procedures specifying reliance on intermediaries or third parties who are covered persons for CDD requirements but they undertake to comply with the requirements of M.C. No. 2 – 2010 on third-party reliance.

Due to the absence of a national identification system, there is a challenge in verifying identification papers submitted by customers. However, covered persons employ other methods to verify identity and institute processes to minimize the use of fake documents.

The SEC has adopted the AML/CFT rules and regulations that enumerate valid and acceptable identification documents.

b. Availability of Independent Information

Notwithstanding the limited availability of independent, reliable sources to support the verification of the client ID and determine transaction pattern of clients, covered persons have some mechanisms in place to verify the identity of clients.

Information from independent sources is obtained as follows:

- a. Covered persons require clients who were on-boarded without face-to-face contact to submit utilities statements to validate the information they provided.

- b. Clients are required to open an account in the clients' name with a banking institution and for payments to be carried out through said bank account, who undertakes similar CDD on the same clients.
- c. Non-resident clients are required to submit documents authenticated by the Philippine Embassy or consulate.

c. *Corporate and Trust Transparency*

Covered persons determine whether their clients are acting on behalf of another person as a trustee, nominee or agent.

Information on beneficial owner is also disclosed to securities brokers/dealers and, to a limited extent, trustees. There are, however, instances where securities brokers/dealers refuse to share said information to the regulators and issuers.

IV.B.2. AML Monitoring - Medium

SEC M.C. No. 2, Series of 2010, requires continuing CDD and monitoring of transaction.

Results of the survey conducted revealed the following

- a. 29% of respondents in the survey risk profile their clients, (i.e, low-, medium- and high-risk)
- b. 61% - 79% of respondents monitor complex, unusual large transactions, or unusual patterns of transactions, transactions with clients from countries that do not have or insufficiently apply AML measures, and transactions of clients included in the list of suspected terrorists.
- c. 89% of respondents have a policy of reporting to AMLC transactions deemed suspicious.
- d. 58% of respondents have policies and procedures on reporting to the AMLC transactions of clients whose beneficial owners cannot be determined by competent evidence.
- e. 87% of respondents maintain a register of all reports of suspicious transactions submitted to their respective compliance officers.

IV.B.3. Staff Compliance

The rating of medium on staff compliance was derived from the assessment of the various factors under item IV.B.3.

a. *Quality of AML Supervision*

The SEC supervises market intermediaries. The current examination setup, however, is geared towards the implementation and enforcement of the SRC, Investment Houses Law,

Investment Company Act, and Corporation Code and not on the AMLA, as amended, and its RIRRs.

Further, the SEC lacks manpower, facilities and resources to enable it to check and examine compliance of market intermediaries with AML/CFT regulations. The SEC has no dedicated department or division to conduct this function. It only has an AML/CFT desk, attached function to its Enforcement and Investor Protection Department, addressing questions and inquiries related to AML/CFT measures.

The SEC performs oversight supervision over Brokers/Dealers through the Capital Markets Integrity Corporation (CMIC), an SRO whose mandate is to monitor and supervise Brokers/Dealers who are members of the PSE. The CMIC conducts examination of PSE brokers and dealers to determine compliance with the customer identification and record-keeping requirements, as well as the existence of an AML/CFT manual. The CMIC submits its reports containing examination findings and possible violation of the SRC to the SEC.

b. *Staff Integrity*

Most covered persons were determined to have a screening procedure to ensure high standards in hiring employees.

There was a reported isolated case of connivance between the management and staff of a brokerage firm. The PSE filed a case against the responsible persons for violation of the Securities Regulations Code. The court convicted the accused, but instead of serving a jail term, they were ordered to pay the victims a penalty amounting to PhP2 Million.

c. *Staff Knowledge*

The SEC regularly conducts seminars for salesmen and associated persons of Brokers/Dealers, and an annual refresher course and training program are required to be submitted to the SEC for the renewal of license of market intermediaries. The SEC also provided updated AML/CFT regulations to covered persons.

Most covered persons disseminate updates on relevant AML rules and regulations to their officers and employees during meetings and trainings, and through issuances of memoranda.

d. *Penalties and Enforcement of AML Obligations*

From 2009 to 2014, the AML/CFT examination of the CMIC resulted in the imposition of three (3) reprimands and seven (7) monetary penalties. Also, from 2010 to 2014, the BSP has referred to the AMLC six (6) Reports of Examinations (ROEs) on investment houses affiliated with banks, and thirteen (13) ROEs on banking groups with identified broker-dealers affiliates.

IV.C. Product and Service Vulnerability

Input variables gathered from market intermediaries that were used to assess the products and services available in the sector include the following:

1. brief description of the product/service;
2. total assets associated with the product/service;
3. total liabilities associated with the product/service;
4. total premium income associated with the product/service;
5. total turnover associated with the product/service;
6. volume of transactions per product/service;
7. average transaction size per product/service;
8. number of PEPs and other risky customers availing the product/service;
9. number of international transactions, transactions with offshore centers/tax havens, high-risk regions, etc. for each product/service;
10. number of AML trainings given to officers and staff;
11. number of officers and staff who benefited from the AML trainings;
12. AML/CFT measures in place for each product/service; and
13. risk profiling and monitoring system in place of each product/service.

Based on the foregoing input variables, the ML and TF vulnerabilities of the products and services available in the sector were rated as follows:

PRODUCTS AND SERVICES	FINAL VULNERABILITY
Equities trading	Medium Low
Mutual funds	Medium Low
Securities underwriting	Medium Low

IV.D. Recommended Action Plan

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Quality of AML Supervision			
Create a new AML division dedicated to monitor AML/CFT compliance by SEC-regulated entities	SEC		August 2016 - July 2017
AML Monitoring Systems			

Formulate guidelines on risk-based policy for customer identification procedures, guidelines on CDD procedures for local and foreign PEPs, and guidelines on market intermediaries' obligations where freeze orders are issued	SEC	AMLC	August 2016 - January 2017
Require newly registered entities applying for secondary license to first register with the AMLC before secondary license will be issued. Those already registered with the SEC will be given time to register with the AMLC.			August - December 2016
Adopt a table of administrative fines and penalties to be imposed for non-compliance with AML/CFT regulations			August 2016 - July 2017
Develop an AML/CFT compliance audit program		August 2016 - October 2017	

V. INSURANCE SECTOR

The insurance sector in the Philippines, comprising of the life and non-life sectors, has a rapidly growing and continuously developing market. As of end of 2014, the combined assets of the insurance sector amounting to PhP1.166 Trillion¹⁰¹ increased by 90.07% from the 2009 balance of PhP554.7 Billion.

The growth of the sector is also noted based on the substantial increase of the Insurance Penetration Rate (IPR) and Market Penetration Rate (MPR). In 2014, the IPR, which defines the contribution of the entire insurance sector to the Gross Domestic Product (GDP) of the country, grew to 1.56% compared to the 1.02% in 2009, or a 54.90% increase. On the other hand, the MPR or the percentage of insured lives compared to the total population has increased to 37.39% in 2014 from 14.08% in 2009.

With its continuous growth, the insurance sector plays a significant role in the financial market. For this reason, there is a need for constant review of the rules and regulations to further strengthen the prevention of money laundering and financing of terrorism.

V.A. AML Policies and Procedures

V.A.1. AML Regulations - High

The Insurance Commission (IC) issued guidelines and circular letters to ensure compliance of the AML/CFT requirements by the insurance companies and other covered institutions supervised and regulated by the Commission. These AML/CFT rules and regulations are likewise in compliance with the Insurance Core Principle (ICP) No. 22 issued by the International Association of Insurance Supervisors (IAIS), which requires the insurers and intermediaries to take effective AML/CFT measures.

Further, the IC, as a member of the International Association of Insurance Supervisors (IAIS), adheres to the Insurance Core Principle (ICP) on AML/CTF.

Covered persons of the Insurance Commission (IC) are required to comply with the following requirements on:

- a. Institution of effective policies, procedures, and internal control to combat money laundering and financing of terrorism;
- b. Conduct of Customer Due Diligence (CDD);
- c. Record-keeping;

¹⁰¹ Combined assets of Life Insurance, Non-Life Insurance and Professional Reinsurance, and Pre-need Companies and Mutual Benefit Associations.

- d. Submission of covered transaction and suspicious transaction reports;
- e. Designation of AMLA Compliance Officer; and
- f. Compliance, training, and internal audit.

V.A.2. Management's Commitment and Leadership - High

The rating of high on management's commitment and leadership was derived from the assessment of the various factors under item V.A.2 and other relevant factors.

a. *Commitment to Good Corporate Governance*

The IC, in its Circular Letter 2015-23 dated 8 May 2015, prescribed the adoption of the ASEAN Corporate Governance Scorecard (ACGS). The Guidelines on Compliance with ACGS provide for the five (5) core principles of good corporate governance, to wit, (1) rights of the shareholders; (2) equitable treatment of shareholders; (3) role of stakeholders; (4) disclosure and transparency; and (5) responsibilities of the board.

Based on the above guidelines, companies should disclose material corporate information. Related-party transactions (RPTs), firm ownership structure, financial information, and other information about company performance are all considered significant items to be disclosed.

The members of the board of directors of covered persons are qualified and have a clear understanding of their roles in corporate governance and are able to exercise sound judgment on the affairs of the insurance firm. There is regular reporting to the board and the reports given by the auditors are properly communicated and necessary actions are taken.

b. *Market Pressure to Meet AML Standards*

This general input variable may not be applicable at present in the insurance industry. The life and non-life products are generally available only domestically. However, reinsurance transactions, marine hull and marine cargo insurance cannot be covered by Philippine insurance companies due to the huge risks involved. Thus, these are transacted internationally.

The pre-need and mutual benefits association (MBA) sectors, which are significantly smaller than the life and non-life sectors, maintained that their clientele are only from the domestic market. Hence, the pressure to comply with AML standard comes mainly from the regulators and not from the market.

V.A.3. Compliance Function - Medium

IC Circular 2015-13 requires that compliance officers to be senior level officers. Each company is also required to have money laundering prevention program (MLPP), which would include a system of effective internal/external audit.

The IC noted the usual non-compliance issues of covered persons which include non-submission of the list of AML compliance officers, non-registration with the AMLC reporting portal, registered but under their old corporate name, corporate mergers not communicated to the AMLC and lack of AML trainings of directors, officers, and staff.

V.B. Quality of AML Operations

V.B.1. Customer Due Diligence Framework - Medium

The rating of medium on customer due diligence framework was derived from the assessment of the various factors under item V.B.1.

a. Identification Infrastructure

While companies maintain a reliable system to verify the identity/profile of their clients and members, there exists a possibility that identification documents (IDs) presented are fake. This is coupled with the fact that the country has no national ID system. Despite this, verification is done through the issuing institution/agency. Commonly used IDs include those issued by the Philippine Regulation Commission (PRC) for professionals, Social Security System (SSS) for private employees, Government Service Insurance System (GSIS) for government employees, Land Transportation Office (LTO) as driver's licenses, and the Department of Foreign Affairs (DFA) as passports.

Notwithstanding the foregoing, the payment of benefits and/or claims is through checks which are deposited or encashed through a bank which will then conduct its own verification process.

b. Availability of Independent Information

While there are only a few available independent sources of comprehensive, reliable historical information on clients, there are databases which can help determine or verify their identity, transactional patterns and commercial history such as those maintained by credit bureaus. For instance, some companies in the pre-need industry use the services of the Credit Management Association of the Philippines (CMAP), at a cost, to verify prospective agents. In some instances, companies utilize internet search engines, such as Google, to get online information about the client. In the case of MBAs, they verify their members through their

membership forms, government-issued IDs, specimen card, payroll slip and personnel certification. For Micro-Mutual Benefits Associations (MI-MBAs), their partner Micro-Financing Institution (MFI) conducts a thorough background check on their potential clients by validating the information written in the application forms. Despite these efforts, the industry is of the view that a reliable and effective national identification system will deter money laundering and terrorist financing.

c. Corporate and Trust Transparency

The IC, in its Circular Letter 32-06, requires, among others, the identification of the “Beneficial Owners” in contracts and policies issued by covered persons. Further, the nature of insurance product requires the insurers to identify the beneficial owners. It also follows the unique concept of insurable interest where the owner must prove that he has an insurable interest over the insured before said purchases can be allowed.

Likewise, the benefits for the policy holders or owners of insurance products are separate from the benefits given to the beneficiaries. Thus, if the appropriate or ultimate owner cannot be identified, then the benefits will not be given.

To date, there has been no reported entity which is used to hide beneficial interests. However, comprehensive information on the structure, management, control and beneficial interests in corporations, trusts and similar vehicles is not readily available to the regulator and to AML-regulated entities.

V.B.2. AML Monitoring - Medium/High

There are adequate and appropriate information systems to support the insurance firm’s AML policies and procedures. Appropriate internal controls are in place to identify and report any suspicious and unusual transactions.

Some multinational covered persons use a shared network of information, which allows the identification of domestic and foreign PEPs, terrorist financiers, money launderers and high-risk entities. The MBA sector, on the other hand, has information systems which facilitate the monitoring of their members. The system supports the effectiveness of PEP screening and CDD requirements. Similarly, MI-MBAs also have information systems, made available through the partner Micro Finance Institutions (MFIs), which facilitate the monitoring of client transactions.

Covered persons who fail to submit Covered and Suspicious Transaction Reports to the AMLC are directed to explain such violation. The creation of the IC’s Anti-Money Laundering Division (AMLDD) in 2015 hastens the enforcement of AML obligation.

V.B.3. Staff Compliance

The rating of medium on staff compliance was derived from the assessment of the various factors under item V.B.3.

a. *Quality of AML Supervision*

The IC ensures that covered persons under its jurisdiction are compliant with AML regulations. Covered persons are subject to a mandatory annual examination. AML examination is incorporated on a risk-based approach. AML examination is focused primarily on high-risk value life insurance products with high investment level.

AML examinations were done by the Financial Examination Division¹⁰² through on-site audit and offsite examination of the companies using a mix of both compliance-based and risk-focused supervisory and examination techniques. The common findings include non-submission of the list of AML compliance officers, non-registration with the AMLC reporting portal, registered but under their old corporate name, corporate mergers not communicated to the AMLC and lack of AML trainings of directors, officers, and staff. Due to the lack of staff and resources, findings and evaluation related to AML compliance were not thoroughly monitored. However, with the establishment of the focused unit, the IC expects that compliance on AML will have further systematic supervision and examination.

b. *Staff Integrity*

Covered persons have established their own Code of Conduct for their employees and agents.

On 4 November 2013, the IC issued Circular Letter No. 2013-33, which requires the adoption and implementation of the Market Conduct Guidelines for Life Insurance companies to maintain the highest standards of professional and ethical conduct among its agency force.

Some covered persons perform background check prior to the hiring of employee or prior to acceptance of membership to an association. While some entities claim that no incidence of theft or fraud occurred, there is no statistical data provided on this matter. Moreover, it could be possible that there were incidences of theft, fraud, collusion with criminals or other acts undermining AML controls but were not reported and the covered person involved might have dealt with these internally to preserve its reputation and public integrity.

¹⁰² Prior to 2015, the IC does not have a dedicated unit for the AML supervision.

c. Staff Knowledge

In a survey conducted, it was noted that AML trainings were given mainly to their compliance officers. Nevertheless, these trainings were echoed to staff.

Examination on covered persons also revealed that there are still some with deficiency in AML training and education requirement for their staff, personnel, directors and officers. After being sanctioned, these covered persons addressed the deficiency in AML training.

d. Penalties and Enforcement of AML Obligations

The AMLA, as amended, and its RIRRs provide appropriate penalties for non-compliance with its provision. The penalties are sufficient to deter breach of AML regulations. As of 2014, no criminal cases have been filed against any of the covered entities in the insurance sector.

The examination of the companies however, have shown administrative violations such as non-submission of reportorial requirements, lack of compliance officer, lack of AML trainings of officers and directors, and failure of the covered persons to register with AMLC. These violations do not warrant any criminal investigation.

In 2013, the IC issued Circular Letter 2014-15 New Fees and Charges, increasing the fees and charges imposed on erring companies. Thereafter, the IC AML Division issued circular letters providing administrative sanctions for non-compliance. The common findings include deficiency in the training requirement; absence of an assigned compliance officer; or failure to register with the AMLC. Pursuant to IC's directive, these compliance issues were already addressed by the companies that were examined.

V.C. Product and Service Vulnerability

After considering the AML/CFT controls in place, the product vulnerabilities of the insurance sector are as follows:

1. Life Ordinary - Medium Low

Ordinary life insurance products provide the protection which many consumers look for when they consider a financial product.

In ordinary life insurance, full benefits of the product can be availed of only upon death of insured. Because of this feature, the clients who purchase this product are considered low-risk. Investment/deposit feature is not available in this ordinary life insurance product.

However, a considerable high cash surrender value accumulated over the years may be considered an attractive deposit feature for money launderers.

2. Life Variable - Medium

Variable Life products have been steadily increasing as the insurance product of choice, due to its versatile use and the improving sophistication and financial literacy of the insurance market. This can be seen by the increasing number of agents having variable license and the number of variable products in the market. In 2013, variable products accounted for 47.93% of total new businesses in the insurance industry. This is an almost 300% increase from year 2009.

3. Pre-Need, Pension and Education Plans - Medium Low

Insurance and pre-need products are sold only in the jurisdiction where they are registered, thus, it is very unlikely that off shore centers will be encountered. Also, insurance products are subject to underwriting of the insuring company. These underwriting considerations include financial underwriting where insurers need to make sure that the client has sufficient financial capacity to pay the product they are purchasing. If the funds are sourced from anonymous accounts or unverifiable offshore accounts, the financial underwriting could be denied.

V.D. Recommended Action Plan

Based on the identified weaknesses and deficiencies in the priority variables of the sector, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Improve dissemination of AML/CFT policies to industry associations and covered persons by emailing directly the compliance officers.	IC	Industry Associations under the IC	August 2016, continuous
Strictly implement the requirement on AML/CFT trainings to relevant officers and employees, especially for newly established/licensed covered persons	IC	AMLC, Covered Persons, Industry Associations	August 2016, continuous
Coordinate regularly between the AMLC and the IC-AML Division to ensure that newly licensed entities, as well as covered persons subject of mergers or who changed their names, are likewise registered with the AMLC	IC AMLC	Covered Persons, Industry Associations	August - December 2016
Issue circular providing for graduated sanctions/penalties for non-compliance	IC	AMLC	August 2016 - January 2017

VI. OTHER FINANCIAL INSTITUTIONS SECTOR

The other financial institutions in the Philippines consist of the following:

1. Non-Stock Savings and Loan Associations (NSSLAs);
2. Money Service Businesses (MSBs);
3. Pawnshops (with remittance/money changing businesses);
4. Electronic-money (e-money) issuers; and
5. Lending/financing companies.

Sector's vulnerability to ML/TF after considering controls is rated as **LOW**.

Table 51. OFI Vulnerability Rating

Other Financial Institutions	Vulnerability to ML			Vulnerability to ML (after taking the controls into account)						Weight Vulnerability	
	High	Medium	Low	Very High	High	Medium	High	Medium	Low		Low
NSSLAs	H							M			Medium
Stand-Alone MSBs	H				H						High
Pawnshops (with remittance/ money changing business)		M							ML		Medium Low
E-money issuers (non- banks/others)			L							L	Low
Lending/ financing companies*			L							L	Low
Sector Vulnerability											Low

*Including stand-alone financing/leasing companies.

VI.A. NON-STOCK SAVINGS AND LOAN ASSOCIATIONS (NSSLAs)

NSSLAs include any non-stock, non-profit corporation engaged in the business of accumulating the savings of its members and using such accumulations for loans to members only. Membership in an NSSLAs is confined only to a well-defined group of persons¹⁰³.

NSSLAs are regulated and supervised by the BSP and considered covered persons under the AMLA, as amended.

¹⁰³ A well-defined group consists of any of the following:

- (1) employees, officers, and trustees of one company, including member retirees;
- (2) government employees belonging to the same office, branch, or department, including member-retirees; and
- (3) immediate members of the families up to the second degree of consanguinity or affinity of those falling under Items 1 and 2 above.

VI.A.1. Money Laundering/Terrorism Financing Risk

At the onset, NSSLAs are not prone to Money Laundering/Terrorism Financing (ML/TF) since its membership is confined only to certain group of persons. However, due to emerging risks associated to ML, NSSLAs have become more vulnerable, particularly those in the military and police sectors. NSSLAs in these sectors are being used to disguise proceeds of graft and corruption, plunder, bribery, malversation of public funds¹⁰⁴, among others. Military and police NSSLAs are headed by high-ranking military/police officials who are considered politically exposed persons (PEPs).

Thirteen (13) out of the 81 existing NSSLAs belong to the military/police sectors. However, their assets of PhP112.3 Billion comprise around 74% of the total NSSLAs asset of PhP152.2 Billion, PhP152.55 Billion and PhP166.07 Billion as of end-2013, 2014 and 2015, respectively. These 13 NSSLAs are examined annually by the BSP.

The common exceptions/violations include unreported covered and suspicious transactions, failure to conduct proper CDD, lack of appropriate training, absence of or lack of AML compliance testing and insufficient manpower complement of the compliance office.

VI.A.2. Vulnerabilities

The following are the noted vulnerabilities of the NSSLAs:

1. Fraud in the acceptance of members, acceptance of members beyond the membership criteria.
2. Weak implementation of member identification process (KYC policy) and ongoing process of monitoring members' transactions. Enhanced due diligence (EDD) procedures are not strictly implemented, specifically by those in the military and police sectors.
3. Seventy-four percent (74%) of the NSSLAs are owned and managed by retired military officials. There is a high rate of non-reporting of Suspicious Transactions Reports (132 suspicious transactions) due to high deference to the transactions made by high-ranking military officials.
4. Despite the asset size and considerable number of members in NSSLAs, specifically in the military and police sectors, BSP Circular 706, Series of 2011, does not require NSSLAs to have an electronic ML monitoring and reporting system capable of monitoring risks associated with ML/TF, as well as generating timely reports. The requirement of AML Electronic Monitoring system is mandatory only for universal and commercial banks.

¹⁰⁴Malversation is defined and penalized under Article 217 of the Revised Penal Code. The acts punished as malversation are: (1) appropriating public funds or property, (2) taking or misappropriating the same, (3) consenting, or through abandonment or negligence, permitting any other person to take such public funds or property, and (4) being otherwise guilty of the misappropriation or malversation of such funds or property.

Recent BSP special examinations disclosed that NSSLAs were used as a conduit for ML through the use of various individual who are not eligible as members pursuant to Section 4 of R.A. No. 8367. High-ranking military and police officers used various individuals who are not immediate members of their families or up to the second degree of consanguinity, to launder the proceeds of the predicate crime graft and corrupt practices. The money borrowed from the NSSLAs would be used to pay kickbacks or to bribe high-ranking government officials.

VI.A.3. AML/CFT Controls

Being a covered person under the BSP, NSSLAs are strictly monitored and supervised. They are also subject to both periodic and special inspections by the BSP to determine compliance with the AMLA, as amended, its RIRRs and BSP Circular 706, Series of 2011.

VI.A.4. Recommendations

1. Strengthen NSSLAs' acceptance and identification process of members (taking into account the membership limitation under RA 8367) and observance of enhanced due diligence (EDD) procedures for those classified as high-risk
2. Revised BSP Circular No. 76 to require NSSLAs, depending on their asset size, to have an AML Electronic Monitoring System capable of monitoring risks associated with ML/TF and generating timely reports (AML electronic monitoring and reporting system)
3. Strengthen AML compliance through regular compliance testing and audit on the NSSLAs compliance of AML and its related laws and regulations

VI.B. MONEY SERVICE BUSINESSES (MSBS)

MSBs include large sophisticated chains with international and nationwide operational facilities that focus on providing financial services, such as the issuance of electronic cash cards (electronic money issuers), lending (pawnshops), money transmission (remittance agents), and foreign exchange transactions (money changers) to various customers.

MSB chains (e.g., pawnshops and remittance agents) usually maintain several organizational levels in order to conduct their business. Each level is authorized to approve certain transactions. The number of authorization levels may vary depending on the amount of customer transactions and the number of branches.

This section covers stand-alone MSBs which are not affiliated with banks, pawnshops, and other BSP-supervised entities. These are stand-alone: (1) MCs/FX dealers, and (2) RAs.

Stand-Alone Money Changes/Foreign Exchange (MCs/FX) Dealers

Stand-alone MCs/FX dealers¹⁰⁵ refer to entities that are not affiliated with any BSP-supervised entities and regularly engage in the business of buying and/or selling foreign currencies. For this purpose, the term MCs can be interchangeably referred to as FX dealers.

A BSP-supervised covered person that has a MC/FX dealer¹⁰⁶ customer shall require the latter to submit a copy of its certificate of registration issued by the BSP as part of the customer identification documents. The certificate of registration shall be for each head office, branch, agent, sub-agent, extension office or business outlet of MC/FX dealer [also applicable to remittance agents (RAs)]. Aside from having a MC/FX dealer license, MCs/FX dealers can also simultaneously register as RAs.

In the Philippines, the biggest stand-alone MCs/FX dealers are corporations. But those formed as sole proprietorships have weekly average transaction volume ranging from over a hundred million to billions of pesos.

Stand-Alone Remittance Agents (RAs)

Stand-alone RAs¹⁰⁷ refer to persons or entities that are not affiliated with BSP-supervised entities. They offer the services of remitting, or transferring money, on behalf of any person, to another person and/or entity. They include money or cash couriers, money transmission agents, remittance companies, and the like.

Legal Framework

Stand-alone MSBs are required to register with the BSP pursuant to BSP Circular No. 471 dated 24 January 2005 and are subject to the requirements for covered persons set by the AMLA, as amended, and its RIRRs.

They are also required obtain all necessary local business licenses prior to initiating operations pursuant to the aforesaid BSP Circular. However, due to lack of a regulatory framework, BSP's authority over them is limited to registration only. It does not include on-site examinations.

Pursuant to the Memorandum Circular 2009-70 dated 2 June 2009 of the Department of Interior and Local Government, the city or municipal government shall issue a business license or permit to stand-alone MSBs, subject to the submission of application for registration with the BSP, prior to the start of operations. For existing stand-alone MSBs, they are required to

¹⁰⁵BSP Circular No. 471 dated 24 January 2005.

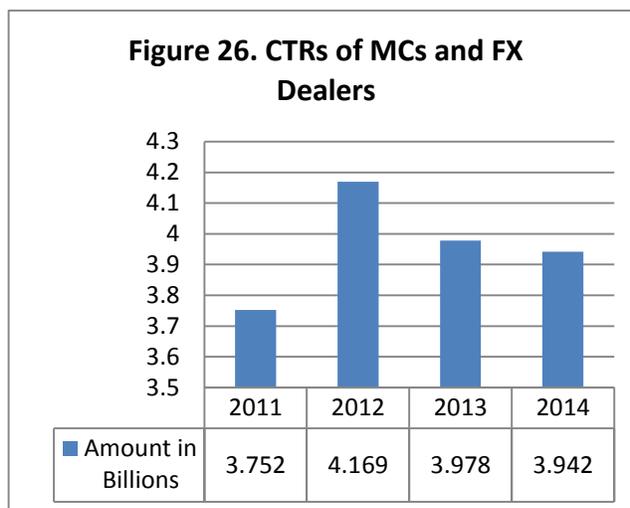
¹⁰⁶BSP Manual of Regulations for Banks Subsection X806.2.1.

¹⁰⁷BSP Circular No. 471 dated 24 January 2005.

present a copy of the Certificate of Registration (COR) issued by the BSP prior to the renewal of their business license or permit.

Scope Limitation

Since stand-alone MSBs are not supervised entities¹⁰⁸ under the BSP and they are not required to submit financial statements/results of operations, in effect, no available data can be obtained. Thus, the indirect method to secure industry information was used. Based on the determination of high-volume and high-value transactions on the CTRs submitted by banks covering these entities, the top 15 of these stand-alone MSBs have been determined. Their transactions for the four-year period (2011 to 2014) are illustrated Figure 26.



VI.B.1. Money Laundering/Terrorism Financing Risk

a. Stand-Alone MCs/FX Dealers

ML risks for this sector are inherently high as money changers handle large amounts of physical cash and transact mainly with walk-in and one-off customers. The large number of customers, including Politically Exposed Persons (PEPs), and the short time taken to complete individual transactions pose significant challenges in identifying suspicious transactions. This is especially so when transactions can be broken down into multiple transactions of smaller amounts to avoid the reporting thresholds.

Stand-alone MCs/FX dealers are becoming the favorite channel for laundering proceeds from illegal drugs, graft and corruption, frauds/estafa, and other predicate crimes. Also, there is no known industry association that actively coordinates/cooperates with regulatory bodies as a forum to improve AML compliance. There is significant non-reporting of CTRs/STRs due to non-registration of these stand-alone MSBs with the AMLC. It was also noted that owners of stand-alone MCs/FX dealers often use their personal bank accounts, instead of using accounts under the name of the registered MCs/FX dealers, in conducting their money changing business. MCs/FX dealers, which are not BSP-registered RAs, also facilitate the remittance/transfer of funds on behalf of their clients to obscure the sources and destination of funds.

¹⁰⁸ MSBs are required to register with the BSP, but they are not required to submit prudential reports.

Overall, the ML risks for stand-alone MCs/FX dealers are relatively higher than other financial sub-sectors due to lack of on-site examinations, non-submission of reporting requirements to any supervising authority especially for sole proprietorship or DTI-registered entities, and very low turn-out of registration with AMLC for the submission of CTRs/STRs.

b. Stand-Alone RAs

RAs typically cater to individuals, expatriate professionals, and small and medium enterprises. The channels used for the remittance of funds to beneficiaries overseas include local and foreign banks, pawnshops, other registered remittance agents and informal networks, such as overseas agents.

The cash-intensive nature of remittance transactions, the low cost of remittance, and the swiftness of processing a large number of transactions attract potential money launderers to move their illicit funds. Cross-border fund flows also pose a greater risk of illicit funds being introduced into the financial system. For instance, there have been cases where proceeds derived from scams and online frauds/cybercrimes were transferred to and from the Philippines through remittance agents.

Overseas remittance agents that transact with BSP-registered RAs and banks often do not disclose the identity of their overseas customers or sources of funds. Consequently, this may increase the industry's exposure to ML risks. In particular, smaller remittance agents may not have adequate resources and systems to put in place additional risk mitigation measures. Common control weaknesses noted in remittance agents include failure to conduct comprehensive customer due diligence and establish the source of funds, as well as inadequate monitoring system to identify unusual and/or suspicious transactions.

Similar to the stand-alone MCs/FX dealers, ML risks for stand-alone RAs are relatively high due to lack of on-site examinations, the common use of cash, higher exposure to overseas customers, use of informal overseas networks that may not be regulated, and very low turn-out of registration with AMLC for purposes of CTRs/STRs submissions.

VI.B.2. AML/CFT Controls

MCs/FX dealers are required to comply with the provisions of the AMLA, as amended, and the RIRRs, and BSP Circular Nos. 471, S. of 2005 and 706, Series of 2011.

Banks are also required to verify the registration of stand-alone MSB customers prior to allowing the opening of accounts for their money changing/FX dealing and remittance operations as required by Circular No. 706. The limited resources at the disposal of the BSP are mitigated by a Memorandum of Agreement with the Department of Interior and Local Government to ensure that only BSP-registered MSBs are issued business permits. BSP's lack of

formal authority to conduct on-site examinations on MSBs is being addressed through proposed amendments to Circular No. 471.

Transactions of MSBs with Philippine banks are closely monitored since the latter treat them as high-risk and therefore subject to enhanced due diligence procedures. Given the inherent ML/TF risks in the money changing and remittance business, particularly those done through stand-alone MCs/FX dealers and RAs, and the increasing sophistication of ML/TF techniques, stand-alone MSBs are expected to implement strong AML/CFT controls commensurate with the nature, size and complexity of their business activities. Another initiative of the BSP is to subject the MSBs to regular AML/CFT examinations to cover areas of weaknesses, including recommended controls to strengthen their AML/CFT framework.

VI.B.3. Recommendation

1. Amend the New Central Bank Act to grant the BSP the regulatory and supervisory authority over stand-alone MSBs;
2. Amend of BSP Circular No. 471, dated 24 January 2005, to mandate periodic on-site examinations of stand-alone MSBs; and
3. Amend of BSP Circular 706, Series of 2011, requiring AML electronic monitoring and reporting system on stand-alone MSBs, depending on asset size and complexity of operation.

VI.C. PAWNSHOPS WITH REMITTANCE AND MONEY CHANGING BUSINESSES

A "pawnshop" refers to a person or entity engaged in the business of lending money on a personal property delivered as a security for loans. It is synonymous to and used interchangeably with "pawnbroker" or "pawn brokerage." In the Philippines, it is the usual mode of having fast cash especially in cases of unforeseen and immediate need of the unbanked and under-banked sector.

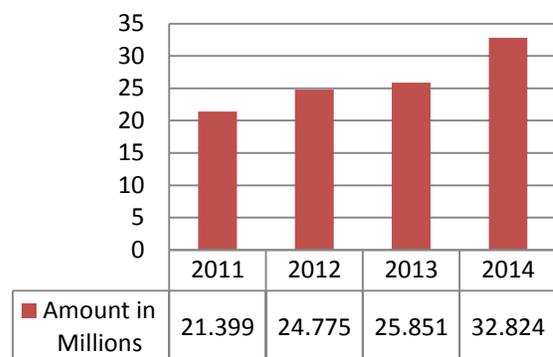
Pawnshops with remittance and money changing businesses, on the other hand, refer to those, which, on top of the pawning activity, likewise offer to the public remittance services and money changing or foreign exchange dealership as corollary businesses. They maximize, and take advantage of, the network and portfolio that have been established and already available for the pawnshop business.

The industry of pawnshops with remittance and money changing businesses is one that provides significant contributions to the economy. For the years 2011 to 2014, the total recorded assets of the top 20 pawnshops with remittance and money changing businesses represent around 60% of the total assets of the industry. Figure 27 provides the combined assets of these 20 pawnshops for the year 2011-2014.

The growth of the pawnshop industry carries an increased ML/TF risk, owing to the industry's tendency for expansion and greater complexity of operation, especially in the areas of money changing and remittance businesses.

Presidential Decree No. 114 and the Manual of Regulations for Non-Bank Financial Institutions-Pawnshop are the legal and regulatory frameworks for pawnshops, respectively. The BSP regulates and supervises pawnshops, thus, are considered as covered persons under the AMLA, as amended.

Figure 27. Assets of Top 20 Pawnshops



VI.C.1. Vulnerabilities

Owing to the sector's potential for further growth, vis-à-vis the inherent high risk in the money changing business as well as operational complexity in the remittance activity, there is a projected challenge in the monitoring of reportable transactions.

Additionally, the sector continues to encounter the following ML/TF associated transactions:

a. Pawnshop

1. PEPs pawning high-value pieces of jewelry;
2. Pawning personal effects, as jewelry and watches, related to or representing proceeds of theft and robbery;
3. Small-time pawnshops pawning customers' pawned items to other pawnshops to sustain the operations of these small-time pawnshops;
4. Vault items stolen by branch personnel for resale and/or pawning;
5. Violation of the Anti-Fencing Law in cases where the customer is unable to present proof of ownership; and
6. Fictitious pawn transactions processed by branch personnel without actual collateral.

b. Remittance Agent

1. Fraudulent transactions arising from online purchases and romance scams; and
2. Fraudulent claims using counterfeit identification documents.

c. Money Changer

1. Use of counterfeit bills; and

2. Multiple transactions of one client using different government-issued IDs bearing different names.

VI.C.2. AML/CFT Controls

The organization and operation of pawnshops with remittance and money changing businesses are governed by Presidential Decree No. 114 - The Pawnshops Regulations Act and the relevant AML/CFT circulars issued by the BSP particularly BSP Circular Nos. 471 and 706.

Being a covered person under the regulatory and supervisory authority of the BSP, they are subject to periodic on-site and off-site examinations, particularly on matters pertaining to AML/CFT issues.

In sum, the vulnerability to ML/TF of pawnshops with remittance and money changing businesses is MEDIUM. But after taking into account the controls mentioned, the vulnerability is reduced to **MEDIUM LOW**.

VI.C.3. Recommendation

To further mitigate the vulnerability of the sector, BSP Circular 706, Series of 2011 should be amended to require electronic transaction monitoring system among pawnshops with remittance and money changing businesses, depending on asset size and complexity of operation.

VI.D. NON-BANK E-MONEY PROVIDERS

In view of facilitating the development of an electronic payment mechanism in the Philippines, the BSP issued Circular No. 649, which governs the issuance and operations of e-money. There are two pioneering non-bank institutions providing major e-money services in the Philippines.

Transactions carried out in this sector are highly cash-intensive. Under BSP Circular No. 649, e-money issuers can only operate domestically, for local transactions and in Philippine currency only. Commissions are paid by the customer at cash top up and/or cash withdrawal. The maximum amount that a customer can have in their electronic wallet is PhP100,000 per month (approximately USD2,300). Customers can send money up to a maximum of PhP50,000 (USD1,200) per day, which can be a combination of utility bills payments, online payments, Point of Sale payments, airtime load purchases, subscription payments and ATM withdrawals.

The assets and volume of transactions of EMIs are minimal compared to the total assets and transactions of the whole Other Financial Institutions (as shown below):

Table 52.a. Assets (in millions)

	2014	2013	2012	2011
EMI	9,173.50	8,077.82	5,851.55	3,814.91
Other FIs	185,398.10 ¹⁰⁹	266,180.83	263,710.81	199,763.72
Total	194,571.60	274,258.65	269,563.36	203,578.63

Table 52.b. Transaction Volumes (in millions)

	2014	2013	2012	2011
EMI	1,057.309	533.28	593.44	479.09
Other FIs	33,453.97 ¹¹⁰	45,945.44	42,475.67	33,964.33
Total	34,511.279	46,478.71	43,069.11	34,443.41

VI.D.1. Vulnerabilities

The identified risks associated in the issuance of e-money compared to cash are as follows:

Table 53. Identified Risks and Controls of Cash vs. E-Money

Risk Type	Cash	E-Money	Controls
Anonymity - lack of identity of the customer	Anonymous	Even in the worst-case scenario, where an e-money customer is not registered, transactions are less anonymous than cash since they can be linked to a mobile number and unique handset ID that can trace and record transactions.	<ul style="list-style-type: none"> - KYC required during registration and/or when a transaction is allowed - Transaction records secured and stored both electronically and physically for a minimum of five (5) years
Elusiveness - to avoid the tracing of the origin of funds funneled through the financial system/economy	Untraceable	E-money transactions are clearly traceable in the system. The unique handset ID, time, and amount of transactions are known.	<ul style="list-style-type: none"> - Aggregate load limit of PHP100,000 per month. - Robust risk alert reporting system which includes, among others, velocity checks, trend analysis, and customer profiling
Rapidity - the speed by which funds are moved from one person to another	Slow due to the nature of cash which needs to be transported physically	Over the distance, the electronic character of e-money can move transactions effortlessly than cash. Rapidity is the biggest risk factor in e-money services in cases	<ul style="list-style-type: none"> - Aggregate load limit of PHP100,000 per month - Robust risk alert reporting system which includes, among others, velocity checks, trend analysis, and customer profiling

¹⁰⁹Exclusive of FCs and LCs due to lack of data.

¹¹⁰Exclusive of FCs and LCs due to lack of data.

Risk Type	Cash	E-Money	Controls
		where there are no automated internal controls.	- Real-time blocking and suspension of e-money transactions and accounts
Lack of Oversight - failure to review, monitor, and supervise programs, activities, and policies governing e-money issuers	Difficulty in performing oversight activities in regulating the movement of physical cash	E-money issuers are regulated by the BSP.	- Issuance of applicable regulations on e-money issuers (i.e., BSP Circular Nos. 471, 649, 704, 706, 808, 859, and RIRR 9194, as amended) - Periodic audits conducted by the BSP

a. Analysis and Risk Assessment

Since the e-money service sector is still at a developing stage in the Philippines, the value of a transaction is low. Most of the customers are individuals who are in low-income categories. The possibility of involvement of high-risk customers, such as PEPs and non-resident customers, is low, with private banking customers at nil. There are only two STRs that have been reported in 2014. This indicates the effectiveness of awareness on the framework of AML/CFT for e-money services. There is no reported use of e-money for TF purposes.

E-money issuers and service providers are regulated and supervised by the BSP. Circular Nos. 471, 608, 649, 704 and 706 issued by the BSP covers the AML/CFT aspect as well. These guidelines specify requirements relating to customer due diligence (KYC), record-keeping, and reporting CTRs/STRs. The BSP is authorized to conduct on-site and off-site surveillance on business relating to payment cards and/or mobile/payment systems of any licensed e-money issuer and service provider.

b. AML Issues noted on E-Money Services

1. Not all AML minimum regulatory provisions and existing practices/procedures were included/documented in the MLPP¹¹¹ (covered person's AML/CFT Manual), such as proper identification of high-risk customers
2. Lack of effective implementation of the MLPP, particularly on the risk profiling and application of corresponding customer due diligence procedures
3. Lack of periodic monitoring and review on counterparties engaged in the conduct of KYC process such as face-to-face contact
4. Lax monitoring on the outsourcing arrangement, particularly on the gathering of minimum information and documents of customers (incomplete information, duplicate records, multiple customer profiles assigned to one customer)

¹¹¹ Money Laundering and Terrorism Financing Prevention Program.

5. Input validation controls on batch upload processing of customer profiles in the KYC database for enhancement

The accounts related to e-money are maintained with the custodian bank. These custodian banks are subject to supervision by the BSP.

STRs reported by e-money issuers and service providers to the AMLC:

Table 54. STRs Reported

Year	Total
2011	322
2012	287
2013	71
2014	2
Grand Total	682

VI.D.2. AML/CFT Controls

The e-money services sector in the Philippines is currently in its developing stage compared to the other sectors. All the transactions of this sector are entirely handled by the majority of local customers and most of the transactions are small in value. The volume of transaction and the number of customers are in increasing trend. Control measures are at a satisfactory level.

Considering the above factors, the sector vulnerability has been rated as **low**.

VI.E. FINANCING AND LENDING COMPANIES

A lending company (LC) refers to a corporation engaged in granting loans from its own capital funds or from funds sourced from not more than 19 persons, but excludes banking institutions, investment houses, savings and loan associations, financing companies, pawnshops, insurance companies, cooperatives, and other credit institutions already regulated by law. The term “lending company” shall be synonymous with “lending investor.”¹¹²

A financing company (FC) refers to corporations other than banks, investment houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized or operating under other special laws for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases,

¹¹² Implementing Rules and Regulations of Republic Act (RA) No. 9474, as amended, §2(I); Revised Guidelines in the Preparation of the Anti-Money Laundering Operating Manual for Covered Institutions, § 1.4.11.

chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property.¹¹³

Lending and financing companies are distinguished as follows::

Table 55. Distinctions between LCs and FCs

	Lending Company	Financing Company
Lending Purpose	Direct lending only	<ul style="list-style-type: none"> - Extending credit facilities by direct lending - Discounting or factoring commercial papers or accounts receivable - Direct buying and selling of contracts, leases, chattel mortgages, etc. - Financial leasing
Form of Legal Entity	Stock corporation	Stock corporation
Corporate Name	Lending Investor Lending Company Lending Corporation	Financing company
Capitalization	PhP1 Million, irrespective of its location of the principal office Branch office: Metro Manila and 1 st class cities PhP500,000	PhP10 Million - Metro Manila and 1 st class cities PhP5 Million - 2 nd class cities PHP2.5 million - other cities
Foreign Capitalization Allowed	Up to 49%	Up to 60%
Governing Law	Republic Act No. 9474	Republic Act No. 8556

Generally, LCs and FCs are not authorized to accept deposits. However, under the General Banking Act, the BSP may authorize these companies to engage in quasi-banking functions¹¹⁴. Only six (6) financing companies were engaged in quasi-banking functions as of 2013.¹¹⁵

Scope and Limitations

This assessment covers only LCs and FCs under the supervision and regulation of the SEC and the period under review is 2011-2013.

¹¹³ § 3(a), Rep. Act No. 8556. *See also* § 1.4.10, Revised Guidelines, *supra*.

¹¹⁴ Section 95, Quasi-banking shall mean borrowing funds for the borrower's own account through the issuance, endorsement or acceptance of debt instruments of any kind other than deposits, or through the issuance of participations, certificates of assignment, or similar instruments with recourse, trust certificates, or of repurchase agreements, from twenty or more lenders at any one time, for purposes of relending or repurchasing of receivables and other obligations. Provided however, That commercial, industrial, and other non-financial companies, which borrow funds through any of these means for the limited purpose of financing their own needs or the needs of their agents or dealers, shall not be considered as performing quasi-banking functions.

¹¹⁵ Bangko Sentral ng Pilipinas, *Briefer, Non-Banking Institutions with Quasi-Banking Functions*, 1st Semester, 2013.

The tables below show the proportion of reporting lending and financing companies to their total number:

Tables 56-57: Table of LCs and FCs with Financial Information

Year	Active LCs	With Financial Information	% with Financial Information
2011	1,120	263	23
2012	1,364	678	50
2013	1,509	532	35

Year	Active FCs	With Financial Information	% with Financial Information
2011	561	195	35
2012	575	356	62
2013	597	299	50

The dramatic decline in the net income of LCs in 2012 may be accounted in part by the collapse of two investment scams in Mindanao, the Philippines' second largest island located in the south. According to sources, large numbers of individuals, attracted by the high returns of these unlicensed schemes, borrowed heavily from small lending firms, including LCs. The National Bureau of Investigation (NBI) estimated that the combined investments in these scams amounted to over PhP20 Billion.¹¹⁶

Given that the Philippines, which has been classified as a Newly Industrialized Country¹¹⁷ and has enjoyed strong Gross Domestic Product (GDP) growth in the last ten years, is projected to sustain this growth within the next few years, financial activities, including those with LCs and FCs, are expected to rise accordingly in the long term in view of increases in economic activity and in the number of retirees and pensioners.¹¹⁸

VI.E.1. Vulnerabilities

LCs and FCs pose low risks for money laundering and terrorist financing because:

1. LC and FC transactions are generally low in cash value. These companies typically release checks to customers, or credit the amount loaned through their customers' bank accounts. Customers may withdraw cash from their accounts through automated teller machines (ATMs) maintained by commercial and universal banks.

¹¹⁶ The AMLC has since filed petitions for issuance of freeze order and civil forfeiture against the perpetrators of these scams.

¹¹⁷ Cf. Paweł Bożyk, "Newly Industrialized Countries," *Globalization and the Transformation of Foreign Economic Policy*. Ashgate Publishing, Ltd. (2006), p. 164; Mauro F. Guillen, "Multinationals, Ideology, and Organized Labor". *The Limits of Convergence*. Princeton University Press (2003), pp. 126 (Table 5.1).

¹¹⁸ See discussion on money laundering risks and financing of terrorism vulnerability, *infra*.

2. The customers of LCs and FCs are mostly retirees and pensioners, and salaried employees, police, military officers and school teachers. Loanable amounts are restricted by the value of their pensions, salaries, or deposits. This translates to values well below the threshold amount for covered transactions, and to nil or non-existent international transactions.
3. LCs and FCs have limited range of products and services, restricting possible avenues for money laundering and terrorist financing.
4. Unlike universal, commercial and some of the larger rural banks, LCs and FCs have low capitalization requirements, restricting available funds for lending and financing, and rendering their operations less attractive to money launderers.
5. LCs and FCs are typically family businesses, and hence, subject to the prohibition of lending to directors, officers, stockholders, and related interests (DOSRI), which prevents commission of certain unlawful activities such as *estafa*.
6. Customers with higher risks (PEPs, non-resident customers, etc.) in other financial institutions represent only five percent of total customers, which suggest that transactions involving these persons involve other financial institutions, in particular, banks.
7. Although some FCs are engaged in quasi-banking functions, and are authorized to accept deposits, their use as avenues for money laundering and terrorist financing by high-risk individuals and entities is highly unlikely. Such persons usually transact in high volumes more typical in larger financial institutions. Given the low profile of customers in LCs and FCs, transactions, especially if multiple, by these high-risk individuals and entities may indicate red flag activities.

Weaknesses

Compliance by some LCs with the KYC rule has been deficient, particularly those in the rural areas for social/sociological and cultural reasons, where personalism and exceptionalism are the norms. These LCs typically approve loans to customers on the understanding that submission of documentary requirements would follow.

There is difficulty of monitoring of compliance by FC and LC with AML requirements due to the limited number of its audit staff relative to the combined number of LCs and FCs under supervision. The conduct of audit is sporadic and limited to desk. Also, no report of examination concerning AML violations of LCs and FCs has ever been referred to the AMLC for investigation.

Regular submission of annual reports remains a challenge, with less than half of LCs and FCs submitting their financial statements yearly.

While LCs and FCs are mandated to adopt their respective AML manuals, there is lack of sufficient data to determine whether there is an acceptable level of awareness and familiarity with the AML preventive measures under the AMLA, as amended, among officers and employees of LCs and FCs. Nonetheless, the AMLC Secretariat has been conducting lectures throughout the country.

The occurrence of investment scams in the southern Philippines exposed the vulnerability of LCs as one of the possible sources of investments borrowed by the swindled investors. Most of the swindled funds made their way to banks, with a much smaller amount to insurance companies. This suggests that the greater vulnerability to ML lies with banks.

VI.E.2. AML/CFT Controls

Under the AMLA, LCs and FCs are covered persons under the jurisdiction of the SEC. Thus, they are obliged to comply with the requirements on customer identification, record-keeping and reporting of covered and suspicious transactions.

VI.E.2. Recommendations

Supervision of LCs and FCs should be strengthened in order to mitigate ML/CFT risks. Correspondingly, there is a need for more complete and accurate information on LCs and FCs for purposes of monitoring compliance with the AMLA, as amended, and its RIRRs, and the AML/CFT measures of the SEC. Strengthening supervision of these businesses may involve increased staff complement of the SEC's audit staff for LCs and FCs. The SEC and the AMLC should pursue coordinative or joint efforts toward accomplishing the above purpose.

Despite the small number of audit staff for LCs and FCs, the SEC may adopt the risk-based approach supervision. The AMLC may consider assisting the SEC, even as the latter retains the sole power to audit LCs and FCs. The AMLC and SEC may institute a test case against erring LCs and FCs for the occurrence of any unlawful activity under the Securities Regulation Code.

The AMLC and the SEC should also coordinate in obtaining additional information on LCs and FCs to determine and manage risks more effectively that could form the basis of future evaluation of risks.

RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in controls of other financial institutions, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Amend BSP Charter to place stand-alone MSBs under regulatory and supervisory authority of the BSP	BSP		2 nd semester, 2016
Amend BSP Circular 706 to require NSSLAs, stand-alone MSBs and pawnshops to adopt AML electronic monitoring system, depending on asset size and complexity of operation	BSP		2 nd semester, 2016
Amend BSP Circular No. 471 to provide for adequate regulatory framework covering stand-alone MSBs	BSP		2 nd semester, 2016

VII. DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSION

In 2013, Republic Act No. 9160, or the “Anti-Money Laundering Act of 2001” was further amended by Republic Act No. 10365, thereby extending AML/CFT obligations to most of the Designated Non-Financial Businesses and Professional (“DNFBPs”). Dealers of precious metals and stones as well as company service providers are now considered as covered persons.

Efforts to include casinos under the ambit of AML regulation are ongoing. There are pending bills before Congress which seek to include casinos as a covered person under the AMLA, as amended.

In this assessment, the DNFBPs sector was examined and assessed as follows:

Sector	Vulnerability to Money Laundering
Casino	Very High
Real Estate	Medium High
Dealers of Precious Metals and Stones	Medium High
Lawyers and Notaries	Medium
Accountants	Medium
Trust Companies	Medium Low
Company Service Providers	Medium
Car Dealers	Medium High

The estimated size of DNFBPs subject of the study is at around PhpP4 Trillion, or 30% of the GDP for 2014. The figure excludes lawyers, notaries, accountants, trust and company service providers, whose revenues/volume of turnover are not available.

VII.A. CASINO SECTOR - Very High

Casinos are inherently vulnerable to money laundering. This assessment identifies significant gaps in awareness of money laundering, in regulatory and law enforcement responses, and issues of control over junkets/VIP programs.

Casino and online gaming remains to be unregulated for purposes of AML/CFT compliance. Further, a law enforcement unit in charge of casino crimes investigation is non-existent. The sector has yet to understand the risks posed by money laundering.

Some of the challenges include the following:

1. Casinos are a cash-intensive business, often operating 24 hours a day, with high volumes of cash transactions taking place very quickly.

2. Casinos offer financial services such as account remittance, foreign exchange, credit facilities, cash issuing, etc., but they are not regulated as financial institutions.
3. The movement of funds associated with gaming-related tourism is poorly understood and may pose ML risk particularly on international movement of funds for casino junket operators.
4. Casino personnel lack competencies in detecting possible money laundering activities as a result of the absence of AML training programs.

Casinos undertake high-volume/-speed financial activities that are similar to financial institutions, but in an entertainment context. Casinos are generally large cash-based businesses. Foreign exchange facilities and reduced transparency of high rollers in VIP rooms present substantial challenges. The use of foreign holding accounts, where funds in one jurisdiction are available for use in a casino in another jurisdiction without the need for a cross-border remittance, presents further issues.

Casino-based tourism or “junkets” are also vulnerable as they involve the cross-border movement of people and funds and often target high-net worth/VIP clients. Transparency of the movement of funds is an issue with junkets due to gaps in controls and weak implementation and supervision. With respect to VIP rooms and high-roller customers, vulnerabilities are noted with identifying source of funds and movement of funds. In many casino markets, high-roller clients make up a large majority of casino turnover, yet only a very small percentage of casino patrons.¹¹⁹

VII.A.1. Assessment

The Philippine Amusement and Gaming Corporation (PAGCOR), a government-owned and -controlled corporation under the Office of the President, regulates the operations of casinos. While PAGCOR is the regulator, it is also authorized to operate casinos in the country by virtue of Presidential Decree No. 1067-A. PAGCOR was given the power to grant license to private operators under PD No. 1869. Its authority to issue licenses covers the whole archipelago except in the Cagayan Economic Zone, where authority is lodged with the Cagayan Economic Zone Authority (CEZA).

As of 2014, there are 38 casinos, of which three (3) are operated by private sector licensees and the rest by PAGCOR. As of 30 September 2014, there are over 102 e-games cafés that are being operated by private entities licensed by PAGCOR, with Philweb as the technology provider. Philweb posted revenues of PhP1.49 Billion in 2013 and PhP1.64 Billion in 2014.

The gross gaming revenue collected by the government from casino gaming and e-games cafés amounted to PhP109 Billion in 2014, PhP93 Billion in 2013 and PhP85 Billion in 2012. The figures represent around 0.9% of the country’s nominal GDP for each year.

¹¹⁹ The Asia/Pacific Group on Money Laundering / Financial Action Task Force. (2009). *Vulnerabilities of Casinos and Gaming Sector*. Paris Cedex 16, France: FATF/OECD and APG.

In the Cagayan Economic Zone, CEZA appointed First Cagayan Leisure & Resort Corporation (FCLRC), a private company, as its master licensor, with the authority to regulate and monitor all activities pertaining to the licensing and operations of interactive games.¹²⁰ In 2014, FCLRC reported that there were 84 locators in the Cagayan Economic Zone with gross revenue of Php1.4 Billion, which is higher by Php493.2 Million than the revenues in 2013. The figures, however, do not reflect the amount of money being played in the games regulated by the FCLRC. CEZA failed to submit vital information relevant in the conduct of this risk assessment despite the NRA Working Group's formal representation.

The estimated amount of money played in the casino amounted to Php2 Trillion in 2012. This grew to almost Php2.5 Trillion in 2014 or around 22% of the 2014 GDP. Data from PAGCOR revealed that most transactions were in cash. Excluding figures from CEZA, 20% or over Php500 Billion of the amount being played in 2014 can be attributed to foreign players or junket operations, whose funds were either physically brought in the country or wired from foreign countries.¹²¹ The source of funds and profiles of casino players, however, are largely unknown for purposes of AML/CFT regulation since casinos are not obligated to conduct CDD, much less share information with the AMLC and LEAs.

The profile of casino players is also not known. It is not known whether PEPs and other high-risk persons go to casinos. Government personnel are however prohibited from entering the gaming areas of casinos.¹²² Figures on foreign PEPs are also not available due to the absence of regulation or policy to monitor their presence in the gaming areas of casinos.

For the period 2011-2014, there were no official reports from LEAs that casinos are being used for money laundering in the country. There were reports and findings that loan sharks are operating in casinos even if they are prohibited by operators in their premises. It is difficult to monitor them and prevent them in conducting their business transactions.

Considering the above, casino and online gaming vulnerability to ML in the country is **High**.

Measures to reduce ML in the industry are currently absent due to lack of legislation. Thus, the sector's total vulnerability to ML is rated **Very High**.

¹²⁰ The Asia/Pacific Group on Money Laundering / Financial Action Task Force. (2009). *Vulnerabilities of Casinos and Gaming Sector*. Paris Cedex 16, France: FATF/OECD and APG.

¹²¹ The percentages were based on the reports extracted from the Casino Management System of casinos submitted to PAGCOR.

¹²² Office of the President, Memorandum Circular No. 8, 28 August 2001.

VII.B. REAL ESTATE BROKERS - Medium/High

In the Philippines, only real estate brokers can engage in the business of acting as an agent of a party in a real estate transaction, more particularly if it has to do with sale, purchase, exchange, mortgage, lease or joint ventures, or other similar transactions on real estate or any interest therein¹²³. Thus, this assessment is focused on real estate brokers.

Investment in the real estate sector offers advantages both for law-abiding citizens and for criminals. Real property has historically appreciated in value. For criminals, the sector provides a facility to obscure the true source of the funds and the identity of the (ultimate) beneficial owner of the real property, which are two key elements of the money laundering process.

The real estate sector is therefore of extraordinary importance to the economy in general and the financial system in particular. The widespread use of mechanisms allowing households to access the property market, the elimination of personal limitations on ownership, economic development and growth of tourism in many regions have led to exponential growth in the number of financial transactions linked to real estate. The wide range of possibilities for misusing these processes also allows criminals to integrate and enjoy illegally obtained funds.

Through the implementation of international standards in recent years, countries have put various measures into place within their formal financial sector—which includes, among others, banks and credit unions—in order to prevent money laundering and terrorist financing. Because of the tendency of illegal activity to move to other financial/economic areas with less formal oversight or with relatively less potential for detection, AML/CFT measures must be extended to other parts of our economies if we want to respond successfully to this threat. For the real estate sector, this would necessarily include such key players as real estate brokers, legal advisors and notaries.¹²⁴

VII.B.1. Assessment

No AML regulation in the real estate sector is in place.

R.A. No. 9646 (RA No. 9646) or the Real Estate Service Act (RESA) made the real estate profession a regulated profession, just like the practice of medicine and law. They are required to take a licensure exam with the Professional Regulations Commission (PRC) - Board of Real Estate Service and to adhere to their Code of Ethics and Responsibilities. Those already licensed by the Department of Trade and Industry (DTI) at the time the law was passed were required to

¹²³ The Financial Action Task Force (FATF) recommended the inclusion of Real Estate Agents as part of the Designated Non-Financial Businesses and Professions (DNFBP) because of its inherent vulnerability to ML/TF.

¹²⁴ Financial Action Task Force / Organisation for Economic Co-operation and Development. (2007). *Money Laundering and Terrorist Financing Through the Real Estate Sector*. Paris Cedex 16, France : FATF / OECD.

secure their licenses from the PRC without taking the examination. However, real estate brokers are not required to renew their licenses, making it difficult to check the number of licensed brokers that are currently active.

The Real Estate Brokers Association of the Philippines, Inc. (REBAP), an association registered with the Securities and Exchange Commission (SEC), reported that they have around 1,200 active members spread in their 27 chapters throughout the country. On the other hand, the Philippine Association of Real Estate Board (PAREB) has a membership of around 3,600. REBAP and PAREB are just two (2) of the many organizations with a larger membership of real estate brokers in the Philippines.

The sector predominantly conducts business using non-cash transactions such as checks or other services provided by banks. Cash payment is generally discouraged for control purposes. Internal financing arrangements also require the posting of postdated checks that will be drawn against the client's bank deposits. Cash transactions, however, are not absent, especially for those who are selling their own properties.

According to the Philippine Statistics Authority (PSA), the volume of turnover of the sector is around Php357 Billion and Php400 Billion in 2013 and 2014, respectively. This volume translates to around 3% of the country's nominal GDP for 2014. On the other hand, Philippine banks' exposure to real estate as of end of 2012 was at Php821.7 Billion and has grown to Php1.5 Trillion as of end-2015. The difference in the amounts reported can be attributed to the loans granted by banks to both real estate developers and buyers. Further, this data supports the assumption that real estate purchases are predominantly made through the banking sector.

In a survey conducted by the Urban Land Institute and Pricewaterhouse Cooper, Manila was ranked as the fourth real estate investment destination in the Asia-Pacific.¹²⁵ Aside from the fast growing economy and improvements in transparency and governance issues, the real estate sector is also seen to be benefitting from strong capital inflows from overseas Filipino workers (OFWs). According to KMC Mag Group's Midyear Report (2014), condominium production has shifted to serve the middle-income market, with OFWs comprising the bulk of the buyers from this bracket.

As a general rule, foreigners are not allowed to own real estate in the Philippines. The only exceptions are in cases where the title passes through hereditary succession or in cases of condominium corporations, wherein foreigners can purchase not more than 40% interest as a whole in the condominium project.

Access on actual data as to the amount and frequency of international transactions relating to the sector are not readily available. However, it is safe to assume that money coming

¹²⁵ Emerging Trends in Real Estate 2014, https://www.pwc.com/sg/en/publications/assets/aprealestemerging_2014.pdf.

from abroad is captured for AML reporting purposes by banks, wireless money transfers and remittance agents.

Statistics on the number of PEPs who purchase real estate under their names is not readily available because monitoring is not required by law. Ownership information, however, can be easily retrieved as the AMLA requires the Land Registration Authority (LRA) and all its Registries of Deeds to submit reports on all transactions in excess of PhP500,000. Furthermore, the AMLC can request information and relevant data from the LRA in the course of its ML investigations.

No money laundering activities involving real estate brokers have been reported. There are, however, forfeiture proceedings on some real estate properties owned by individuals charged with ML and/or predicate crimes. As of December 2014 the total value of real properties subject of civil forfeiture was estimated at PhP363 Million, which is not significant in relation to the volume of turnover.

Considering all of the foregoing, plus factoring in the licensing requirements and the Code of Conduct for real estate brokers, offset by the fact that real estate brokers are not covered persons under the AMLA, as amended, the vulnerability of real estate brokers for ML is rated at **Medium/High**.

The total ML vulnerability is rated at **Medium/High** despite the measures or regulation to mitigate ML because of the existence of licensing and presence of a code of conduct.

VII.C. DEALERS IN PRECIOUS METALS AND PRECIOUS STONES - Medium/High

The high value per gram of gold and diamonds and the ease by which they can be transferred makes them attractive to criminals. The AMLA, as amended by Republic Act No. 10365, which came into effect in April 2013, included Dealers of Precious Stones, Metals, and Jewelries as covered persons.

VII.C.1. Assessment

Dealers of precious metals and stones became evasive and non-cooperative during the conduct of the NRA when they learned that the Bureau of Internal Revenue (BIR) was part of the NRA. According to an association of dealers, some of their members were harassed by BIR officials when the latter learned what industry they were in, particularly those whose registered name contains the words “jewelry,” “precious metals,” “precious stones” and the like. Thus, as much as possible, they do not want to be involved in any undertaking where the BIR is a part of.

The sector is currently unregulated as an industry. Thus, it is difficult to get accurate figures from the industry players. The reports submitted to the BIR are also not accurate

because industry players register themselves as trading companies. Registered names would not contain any indicator that they are engaged in the trade of jewelry, precious metals or stones. Information available from the Bureau of Investment (BOI) is also not representative of the sector because only those who are interested in taking advantage of BOI programs are submitting documents where information on imports and exports can be determined.

It was gathered from the industry that there are around 10,000 dealers in precious metals and stones in the country and it is possible that they are accepting cash payments.

Data from the PSA show that the annual domestic turnover of the sector for 2012 was only at PhP3.93 Billion for fine jewelry and PhP1.22 Billion for costume jewelry, while export was at PhP1.1 Billion or USD24.77 Million. These figures are far from the figures used in the previous mutual assessment.

Data on PEPs and other ownership or customer information are not available because the sector was only included in the AML regime in 2013 and the rules have yet to be implemented in said sector. It is not known whether KYC requirements are being complied with.

There are no reports on the sector being used for money laundering. However, there are reports that smuggling is rampant in this sector.

Based on the foregoing, the vulnerability is set at **Medium**.

The vulnerability of the sector after taking the controls into account is at **Medium/High** as the sector has yet to comply with the AMLA, as amended, and its RIRRs. The challenge in the implementation is due to lack of supervising authority or an SRO to implement regulations.

VII.D. LAWYERS AND NOTARIES - Medium

Under the AMLA, as amended by RA 10365, lawyers and notaries are considered covered persons with respect to the following services:

- (i) management of client money, securities or other assets;
- (ii) management of bank, savings or securities accounts;
- (iii) organization of contributions for the creation, operation or management of companies; and
- (iv) creation, operation or management of juridical persons or arrangements, and buying and selling business entities.¹²⁶

¹²⁶ Section 3(a)(7), Republic Act 9160 as amended by Republic Act 10365.

As financial institutions have put AML measures into place, the risk of detection has become greater for those seeking to use the global banking system to launder criminal proceeds. Increasingly, law enforcement sees money launderers seeking the advice or services of specialized professionals to help them with their illicit financial operations.¹²⁷

Typology suggests that criminals would seek out legal professionals in their money laundering schemes for purposes of completing certain transactions. Launderers also need to access specialized legal and notarial skills and services which could assist in laundering the proceeds of crime and in the financing of terrorism. Legitimate legal services commonly employed and abused as ML/TF methods are the following:

- a. use of client accounts
- b. purchase of real property
- c. creation of trusts and companies
- d. management of trusts and companies
- e. setting up and managing charities

The use of legal professionals provides a veneer of respectability to the client's activity, and access to the legal professional's client account is attractive to criminals. There is also the perception that legal professional privilege/secrecy can delay, obstruct or prevent investigation or prosecution by authorities.

With respect to TF, there are a few case studies which specifically mention the involvement of legal professionals. The case studies also mention the use of companies, charities and the sale of property. From here, it can be seen that similar methods and techniques could be used to facilitate either ML or TF, although the sums in relation to the latter may be smaller, and therefore the vulnerability of legal professionals to involvement in TF cannot be dismissed.¹²⁸

VII.D.1. Assessment

While lawyers and notaries are covered persons with respect to certain services, the legal profession remains to be outside the AML regime. It bears noting, however, that the present Rules of Court and Code of Professional Responsibility for lawyers do not allow them to hide behind privileged communication so as not to report criminal activities, including money laundering and all its predicate offenses.

Currently, there are around 54,000¹²⁹ active lawyers in the country, majority of whom are working in the government. This is followed by solo practitioners, with a handful working in the private sector and law offices.

¹²⁷Financial Action Task Force . (2004). *Report on Money Laundering Typologies 2003-2004*. Paris: FATF.

¹²⁸Financial Action Task Force. (2008). *Risk Based Approach Guidance for the Legal Sector*. Paris: FATF.

¹²⁹ Integrated Bar of the Philippine (Johas, 2014).

Based on the survey conducted, only 3.5% of the total services performed by the profession involve international transactions. The number of PEP-clients is insignificant compared to the total number of clients. The percentage of legal professionals performing activities covered by the AMLA, as amended are as follows:¹³⁰

Services	Percentage
Management of client money, securities or other assets	5.4%
Management of client's bank, savings or securities accounts	2.1%
Organization of contributions for the creation, operation or management of companies	9.5%
Creation, operation or management of juridical persons or arrangements, and buying and selling business entities	11.5%
Not offering the services covered under the AMLA, as amended	81.6%

Although the percentage of lawyers engaged in the service of organization and creation of legal person is quite high, at 9.5% and 11.5% respectively, current regulation on registration of legal person requires the disclosure of nominees and beneficial ownership. Further, it is still not significant considering that it is only 3.5% of the whole legal profession.

The vulnerability to ML of this sector is rated at **Low** after considering the above information.

The overall vulnerability however, after considering the AML controls is **Medium** due the existence of an efficient SRO and a Code of Professional Responsibility for Lawyers.

VII.E. ACCOUNTANTS

Accountants, for purposes of AML regulation, refer to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to “internal” professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML measures. The latter classification of accountants often refer to professional or other alternative sources of guidance on the appropriate action to take in relation to suspected illegal activity by their employer or a third party.

Accountants in practice may provide a very wide range of services to a very diverse range of clients. For example, services may include but are not limited to:

¹³⁰ Survey conducted by the NRA Sub-Group on DNFBPs during the 15th National Lawyers Convention, Waterfront Cebu City Hotel & Casino, Cebu City, March 20, 2015.

- a. Audit and assurance services;
- b. Bookkeeping and the preparation of annual and periodic accounts;
- c. Tax compliance work and advice on the legitimate minimization of tax burdens;
- d. Internal audit and advice on internal control and risk minimization;
- e. Regulatory and compliance services, including outsourced regulatory examinations and remediation services;
- f. Insolvency/receiver-managers/bankruptcy related services;
- g. Advice on the structuring of transactions, and succession advice;
- h. Advice on investments and custody of client money; and
- i. Forensic accountancy.

In many countries, an accountant is often the first professional consulted by many small businesses and individuals for general business advice and for a wide range of regulatory and compliance advice. Where services are not within their competence, accountants advise on an appropriate source of further assistance.¹³¹

Some of the functions performed by accountants that are the most useful to the potential launderer include:

- a. Financial and tax advice - Criminals with a large amount of money to invest may pose as individuals hoping to minimize their tax liabilities or desiring to place assets out of reach in order to avoid future liabilities.
- b. Creation of corporate vehicles or other complex legal arrangements (trusts, for example) - Such structures may serve to confuse or disguise the links between the proceeds of a crime and the perpetrator.
- c. Buying or selling of property - Property transfers serve as either the cover for transfers of illegal funds (layering stage) or else they represent the final investment of these proceeds after their having passed through the laundering process (integration stage).
- d. Performing financial transactions - Sometimes, accountants may carry out various financial operations on behalf of the client (for example, cash deposits or withdrawals on accounts, retail foreign exchange operations, issuing and encashing checks, purchase and sale of stock, sending and receiving international funds transfers, etc.).
- e. Gaining introductions to financial institutions.¹³²

¹³¹ The European Federation of Accountants (FEE) has issued a study on market access across the Member States of the European Union, which gives an indication of the types of services provided by accountants, and the ways in which they can vary between countries.

¹³² Financial Action Task Force. (2008). *RBA Guidance for Accountants*. Paris: FATF.

VII.E.1. Assessment - Medium

While accountants are covered persons with respect to certain services, they remain to be outside the AML regime. The practice of accountancy, however, is one of the highly regulated professions in the country. It is regulated by the PRC - Board of Accountancy (Board) by virtue of Presidential Decree 692, as amended by Republic Act No. 9298, or the Philippine Accountancy Act of 2004. In 1999, PRC reported that there were about 100,689 certified public accountants (CPAs). There is an average of 6,000 new CPAs annually.

The Board works with Philippine Institute of Certified Public Accountants (PICPA), the duly accredited professional organization of CPAs to further strengthen the profession. PICPA reported that accounting services were computed or estimated at around 0.03% of the nominal GDP of the country in 1998. The percentage appears to be not significant on the country's GDP.

The data on the percentage of international transactions is not available, because accountants believe that this involves confidential information covered by accountant-client relationship. It may be assumed, however, that there are only a few transactions conducted or related to foreign transactions since foreign clients also transact through their local representatives, thus making the transactions domestic.

PICPA rated their sector **Medium** as regards the percentage of clients who are PEPs. The rating is based on the fact that several government officials were charged with corruption and that they have no way of ascertaining the extent of involvement of accountants on said transactions. Nevertheless, there are no reports as to the direct participation of CPAs in money laundering and/or its predicate offenses.

Although the sector remains to be outside the AML regime, accountants are guided by a Code of Conduct and the International Ethics Standard for Accountants (IESA), the international standards of ethics for accountants. Under the Code, accountants are required to undertake engagement acceptance procedure if the transaction would involve holding the client's money. Accountants shall inquire about the source of assets, consider all legal and regulatory obligations and to seek legal advice if necessary.¹³³

Further, the SEC has launched a program which requires accreditation of auditors. Only those accredited by SEC are allowed to sign audited financial documents of legal persons and partnership under its jurisdiction. It is also worthy to mention that accounting firms are required to be registered with the Board for monitoring and regulation.

The vulnerability to ML of this sector is rated at **Low** after considering the above information.

¹³³ Accountants, I. E. (2013). *Handbook of the Code of Ethics f*

The vulnerability of the sector after taking controls is **Medium**. The rating is anchored on the fact that the sector is not yet compliant with AML requirements and the only measure in place is the strong commitment of the Board and PICPA.

VII.F. TRUST AND COMPANY SERVICE PROVIDERS

VII.F.1. Assessment of Trust Companies - Low

The trust sector is under the supervision and regulation of the Bangko Sentral ng Pilipinas and remains to be a highly regulated business. To date, there is only one money laundering case which involved the trust sector. The subject was able to invest in the unit investment trust fund product of the trust department of one bank.

The sector has strong measures relating to existing AML/CFT regulation, compliance monitoring by the BSP and existence of sufficient resources to check compliance based on a defined risk based approach. The sector also adheres to high ethical standards and has transaction monitoring and reporting procedures installed.

The sector is rated both **Low** on ML vulnerability and vulnerability after taking measures.

VII.F.2. Assessment of Company Service Providers - Medium

In 2013, the AMLA, as amended by R.A. 10365 included Company Service Providers (CSPs) in the AML regime of the country specifically transactions arising from the following:

- a. acting as a formation agent of juridical persons;
- b. acting as (or arranging for another person to act as) a director or corporate secretary of a company, a partner of a partnership, or a similar position in relation to other juridical persons;
- c. providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; and
- d. acting as (or arranging for another person to act as) a nominee shareholder for another person.

Based on internet research, there are twenty-six (26) companies that can be considered as CSPs. All of these companies provide virtual office and office services, while only five (5) of them act as a formation agent by providing incorporation and compliance services.

Regus is the first CSP that provided information on its transactions, with 65% percent of payments done through credit card and zero cash payments. As to value, payments involving

large amounts were done through wire transfer, majority of which were international transfers. Regus does not handle transactions on behalf of their clients/customers.¹³⁴

Though CSPs are already considered as covered persons, the RIRRs of the AMLA has yet to be updated to provide regulations for DNFBPs including CSPs. Nevertheless, CSPs perform due diligence on their client as well as keep records as part of their international compliance. Most of the CSPs have operations in other jurisdictions that require AML compliance. Reporting procedures, however, are not yet implemented in the sector. Information on PEP clients is not yet available because this is not yet part of their monitoring procedure.

The vulnerability to ML of this sector is rated at **Low** based on the foregoing circumstances.

The overall vulnerability however, after considering the AML controls is **Medium**.

VII.G. CAR DEALERS - Medium

For the purpose of this study, trade-based money laundering is defined as the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimize their illicit origins. In practice, this can be achieved through the misrepresentation of the price, quantity or quality of imports or exports. Moreover, trade-based money laundering techniques vary in complexity and are frequently used in combination with other money laundering techniques to further obscure the money trail.¹³⁵

Studies in other jurisdictions revealed that one of the most prevalent property subject of a trade based money laundering is the sale of high value items more particularly motor vehicle, thus the conduct of this assessment on the sale of motor vehicles.

VII.G.1. Assessment

There are currently more than 270 dealers of brand new vehicles who are members of the Chamber of Automotive Manufacturers of the Philippines, Inc. (CAMPI) and around 200 independent dealers of pre-owned vehicles.

In 2013, approximately 300,000 units were sold with value of PhP550 Billion. The car dealers' transactions represent around 4% of the GDP. The value of cash transactions received annually is not available. During interviews with several sales executives, it was noted that they do not verify the identity of their clients and that they accept payments in cash. Car dealers also do not ask their customers' sources of funds when cash payment are made. Customers only

¹³⁴ The assessment made is based on the information gathered from Regus, Inc. ("Regus"), a company identified by the Securities and Exchange Commission ("SEC") as a CSP, and information gathered from the internet.

¹³⁵ Financial Action Task Force. (2006). *Trade Based Money Laundering*. Paris: FATF/OECD.

undergo robust Customer Due Diligence (CDD) if purchases of vehicle are through loans from financial institutions. The CDD, however, is due to the fact that banks and financing/lending institutions are covered by the AMLA.

Around USD3.4 billion is generated from export transactions. The payment, however, for these transactions are made using bank facilities, thus, export or international transactions are considered as low risk.

Car dealers are not covered persons under the AMLA, as amended. Thus, they are not complying with the AML preventive measures. There is little reliable information about the percentage of high-risk customers (such as PEPs, non-resident and private banking customers, trusts, bearer shareholders, etc.). However, the study suggests that there are only a small number of customers who are foreign nationals and PEP.

There are a number of vehicles which are currently subjects of civil forfeiture or asset recovery proceedings because they appear to have been purchased using proceeds from unlawful activities. Usually, these vehicles are either recovered from or discovered to be owned by persons subject of money laundering cases. AMLC records reveal that as of end of 2014, the value of motor vehicles subject of civil forfeiture is estimated at PhP126 million. While this amount may be insignificant compared to the size of the industry and volume of transactions, it does not dispute the sector's vulnerability to money laundering.

The following are the known industry risks:

- a. failure to conduct robust and thorough CDD appropriate to the level of risk a customer presents;
- b. cash payments are encouraged for additional discounts;
- c. cash-based transactions;
- d. rogue employees may be a part of the workforce because the sector does not have a strict pre-employment requirements;
- e. beneficial owners of transactions where cash payments were made are not inquired;
- f. failure to identify the real owners of funds when transactions are paid in cash;
- g. car dealers believe that their industry is low risk in terms of being used for money laundering

Vulnerability to ML of the sector is rated as **Low** based on the foregoing circumstances. Counter measures to reduce ML in the industry is currently absent due to lack of legislation. Thus, the sector's total vulnerability to ML is rated **Medium**.

VII.H. RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in controls of other financial institutions, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Submit proposals for amendment of AMLA to include casinos, real estate brokers and car dealers as covered persons			August 2016
Update RIRRs of the AMLA for the implementation of the law as to dealers in precious metals and stones, lawyers and notaries, accountants, trust services and company service providers	AMLC	BSP SEC IC IBP PICPA	July - September 2016

VIII. FINANCIAL INCLUSION

The Philippines defines financial inclusion as a state wherein there is effective access to a wide range of financial services for all Filipinos. The government deems financial inclusion as an important element of its inclusive growth agenda. Access to savings, credit, payments, remittance and insurance can potentially make a positive impact on people's lives, deepen and diversify the financial system and contribute to broad-based economic growth. Supportive of the Philippine Development Plan, the BSP and key government agencies adopted in 2015 a National Strategy for Financial Inclusion, which serves as a platform for collaboration among public and private sectors to achieve financial inclusion objectives. As a policy objective, financial inclusion is considered interdependent with financial stability, integrity and consumer protection. The policymaking approach is to balance these objectives through proportionate regulations that enhance financial access; protect their rights as consumers; and ensure safety, soundness and integrity of the financial system¹³⁶.

As of end 2014, 36% of municipalities (covering 12% of the population) do not have a banking office. This is significant considering that banks account for 80% of the total resources of the financial system and serve as the primary distribution channels of financial services. It is recognized however, that there are other financial service providers that also deliver financial services such as cooperatives, lending companies, financing companies, among others.

In terms of physical network, banks and ATMs continue to experience sustained growth.¹³⁷ There are, however, regional disparities in the distribution of access points. Bank offices have the natural and economic tendency to concentrate in highly populous and urbanized regions such as National Capital Region (NCR), Cavite, Laguna, Batangas, Rizal, Quezon (CALABARZON), and Central Luzon. Likewise, concentration of deposits and loans is skewed toward these regions. As of end 2014, NCR alone accounted for 42% of the total number of deposit accounts, 70% of total peso volume of deposits and 85% of the total outstanding loans in the banking system. On the other hand, regions with low banking penetration include Autonomous Region of Muslim Mindanao (ARMM), Cordillera Administrative Region (CAR), Eastern Visayas, and Zamboanga Peninsula.¹³⁸

The presence of alternative financial service providers (FSPs), such as off-site ATMs, pawnshops, remittance agents, money changers/foreign exchange dealers, e-payment service

¹³⁶ This policy approach embodied in the overall policy and regulatory environment for financial inclusion is one that has been recognized globally. The Economist Intelligence Unit has recognized the Philippines as the best in Asia and top three globally in terms of having a conducive environment for financial inclusion.

¹³⁷ The number of domestic banking offices increased from 7585 (2001) to 10315 (2014). An even faster expansion was observed in the distribution of ATMs, which significantly increased from 3,882 (2001) to 15,692 (2014).

¹³⁸ Banking penetration refers to number of banking offices in the region. While some regions have relatively small number of banks and ATMs, taking into account the percentage share of habitable land and population provides a more meaningful insight on the state of financial inclusion in the area. For instance, banking presence in CAR may be deemed just proportionate to its adult population and habitable area.

providers mobile banking agents, non-stock savings and loans associations (NSSLAs) and credit cooperatives, helps significantly in increasing the access to financial services of the unbanked and unserved areas in the Philippines. Their presence translates to more than 50,000 access points in addition to banks. This number does not yet reflect the branch network of microfinance non-government organizations (NGOs), which also provide financial services for low income households and their microenterprises. Since microfinance institutions include various types (banks, credit cooperatives, and microfinance NGOs) which are under the oversight of multiple regulatory and supervision regimes, there is a need for continuing data-sharing among relevant regulators.¹³⁹

Despite the gains in increasing access points for financial services, the use of financial services still leaves much to be desired. According to the 2014 World Bank Findex, only 31% of the adult population has an account in a formal financial institution. While this is an improvement from 26% in 2011, it leaves majority of the adult population unserved. The Nationwide Baseline Survey for Financial Inclusion likewise underscores that of those Filipino adults who save, 68% keep their savings at home¹⁴⁰. Moreover, compared with its peers, the country is behind in the usage of bank accounts and savings while being slightly ahead with respect to formal credit (i.e., percentage of adult population in East Asia and Pacific with formal accounts is 69%; for lower income countries, 42.7%).

To move the financial inclusion agenda further forward, the Philippine Development Plan specifically recognizes the need to craft a national financial inclusion strategy that officially defines financial inclusion, the medium-term strategies to be undertaken and the responsibilities or accountabilities of all stakeholders both government and private. In 2015, the BSP, together with key government agencies, shepherded the crafting and adoption of this National Strategy for Financial Inclusion, which brings together key stakeholders to plan and implement, in a coordinated and complementary manner, the strategic policies and programs that promote financial inclusion objectives. The national strategy provides a framework to enable government and the private sector to take a coordinated and systematic approach toward a clear vision for financial inclusion.

The overall vision is a financial system that is accessible and responsive to the needs of the entire population toward a broad based and inclusive growth. This financial system should also serve the traditionally unserved or marginalized sectors of the population.

VIII.A. Regulatory Framework

Proportionality is the key in defining the regulatory approach for financial inclusion. Useful innovations need not be stifled but instead be allowed to operate in an environment where the risks associated with such innovations are adequately understood and addressed

¹³⁹ Section lifted from the draft National Strategy for Financial Inclusion.

¹⁴⁰ BSP National Baseline Survey on Financial Inclusion 2015.

and where there is a judicious and proportionate application of sound principles. For these to work, it is important that all players and financial service providers are properly and proportionately regulated to ensure consumer protection, financial system stability and integrity.

Below are some examples of the practice of proportionality specifically for AML/TF rules. Other examples of the proportionate approach for other financially inclusive products are annexed.¹⁴¹

(a) Updated AML/TF Rules Issued by the BSP (Circular 706 Series of 2011)

The updated regulations include the basic principle to “know sufficiently your customers at all times and ensure that the financially and socially disadvantaged are not denied access to financial services while at the same time prevent suspicious individuals or entities from opening or maintaining an account or transacting with the covered institution (CI)¹⁴² by himself or otherwise.” Given that, CIs are with the flexibility in risk profiling their clients. For example, in the case of microfinance clients classified as low-risk, reduced due diligence procedures would suffice. The tiered classification of customers allows CIs to focus attention and resources on systemically significant transactions and higher-risk clients. These rules also provide CIs with a unique opportunity to outsource to authorized third parties the customer identification process, including the face-to-face requirement for KYC and the gathering of documents for account opening. CIs can now acquire new clients that were outside the physical reach of their branches at lower costs, without sacrificing its KYC obligations. This is a clear illustration of the balance between inclusion and integrity. Below are some of the specific provisions:

Customer Acceptance

BSP Circular No. 706 allows for a risk-based, tiered customer acceptance policy. Each covered institution shall develop a clear graduated acceptance policy to ensure that the financially and socially disadvantaged are not denied access to financial services.

1. Low-risk customers are those with regular employment or economically productive activity, with small account balance and transactions, are residents in the area where the covered institution is located.
2. For low-risk customers, less information is required (name, present address, date/place of birth, nature of work/name of employer, contact details, specimen signature and source of

¹⁴¹ Annex A.

¹⁴² The term “covered institution” shall refer to Banks, Offshore banking units, quasi-banks, trust entities, non-stock savings and loans association, pawnshops, foreign exchange dealers, money changers, remittance agents, electronic money issuers and other financial institutions which according to special laws are subject to BSP supervision and/or regulation including their subsidiaries and affiliates (Section X802, Circular No. 706, Series of 2011).

funds). Collection of other information (permanent address, nationality, TIN/SSS/GSIS, beneficiary information, if applicable) may be deferred.

Outsourcing of Face-to-Face

1. A covered institution can outsource the required face-to-face and gathering of minimum information to open new accounts provided that the outsourcing arrangement is formally documented, subject to existing outsourcing rules.
2. Outsourcing can be to a covered institution or to a non-covered institution. The covered institution shall ensure that employees of the contractor (if not a covered institution) has undergone appropriate training for the conduct of the face-to-face verification. The covered institution shall also monitor the performance of the contractor party.
3. For gathering of information, the ultimate responsibility of knowing the customer and keeping the documents remains with the covered institution. The documents shall be turned over to the covered institutions no later than 90 calendar days.
4. This outsourcing provision allows banks to outsource to institutions, such as e-money agents, merchant networks, other banks, other financial institutions, remittance companies, other private entities.

Reliance on Third Party

1. A covered institution can rely on the representation of a third party that already conducted face-to-face for its own customers.
2. A covered institution that relies on the collection of identification documents must have the ability to obtain the documents upon request without delay.
3. The third party must have a sworn certification that they conduct the requisite customer identification including the face-to-face requirement and that it has custody of all identification documents.
4. The third party is a covered institution or a financial institution operating outside the Philippines (in a country with equal or more stringent policy on customer identification) but conducts business operations and activities similar to covered institutions. The covered institution must conduct due diligence on this third party and gather necessary information about the group to which it belongs, nature of business and other pertinent information.
5. This reliance on a third party allows banks to rely on institutions such as e-money agents, merchant networks, other banks, other financial institutions, remittance companies (even those abroad) and other private entities.

Liberalized ID Requirements

1. Requires only one (1) photo-bearing ID issued by an official authority or private entities duly registered, supervised or regulated by the BSP, SEC or the IC.
2. Contains an exhaustive list of IDs including barangay (village) certification

VIII.B. Financial Inclusion Products

In the Philippines, inclusion-friendly products include microfinance loans (microenterprise, micro-agri, housing microfinance, microfinance plus); micro-deposits; microinsurance; pawning services; and low value payment services through electronic money (e-money) stored in a cash card or a mobile phone e-wallet.

VIII.B.1. MICROFINANCE LOANS

Microfinance loans are small value loans targeting micro-entrepreneurs. There are different types of loans depending on the activity that is financed (i.e., microenterprise loans, loans to growing microenterprises, housing microfinance, micro-agriculture). Clients are generally poor and low-income micro-entrepreneur individuals, and those who come from basic sectors that are generally unserved/underserved by formal financial institutions (e.g., farmers and fishermen, urban poor, seasonal workers).

Microfinance loans are offered by three (3) types of entities collectively known as microfinance institutions (MFIs): 1) Banks with microfinance operations under BSP supervision; 2) Savings and credit cooperatives under the supervision of the Cooperative Development Authority (CDA); and 3) Microfinance non-government organizations (NGOs) registered under the SEC.

While microfinance NGOs are not prudentially regulated by the SEC, they are required to: (1) register as a non-stock corporation with the SEC; (2) indicate in the primary purpose clause of their Articles of Incorporation that they will engage in microfinance; (3) submit corresponding annual reports such as the Audited Financial Statements and General Information Sheet (GIS); and (4) if they are already registered and engaged in microfinance, indicate in the GIS the types of financial products that they offer. The regulatory environment for microfinance NGOs is also strengthened by the passage of Republic Act 10693 in November 2015. The SEC is working on the implementing rules and regulations in consultation with the industry.

Microfinance loans can also be offered by financing companies and lending companies.

Money Laundering Risk for Microfinance Loans - Low

The ML risk for microfinance loans is generally low due to the following:

1. Small size of the loan and the prescribed threshold amounts and the clearly defined product features;
2. Granted by providers licensed by government regulators;
3. Conduct of CDD prior to customer on-boarding; and

4. Transactions are generally face-to-face and often conducted on-site (in or near clients' place of residence) by authorized loan officers.

Terrorist Financing Risk for Microfinance Loans - Low

The TF risk for microfinance loans is generally low because loan products are availed only by resident Filipino citizens. The credit cooperatives and microfinance NGOs only lend to their members within the communities they serve. There is no utilization of banking correspondents or agents and there are no cross-border transactions as well. Hence, there is no possibility of transactions to and from high-risk jurisdictions.

Notably, there is no history or record of financial crimes. Banks with microfinance operations, which are regulated and supervised by the BSP, have no cases of financial crimes related to microfinance loans in the past fourteen (14) years, as validated by bank examiners.

VIII.B.2. MICRO-DEPOSITS

A micro-deposit account, which is distinct from a regular deposit account, is designed to cater to the needs of the basic sectors, low-income and unserved/underserved clients. It is priced to fit the needs and capacity of the target market. It has a minimum maintaining balance of not exceeding PhP100; not subject to dormancy charges; and for clients whose average daily savings account balance does not exceed PhP40,000.¹⁴³

Micro-deposits can only be offered by banks¹⁴⁴. Cooperatives can accept deposits only from their members - shareholders.¹⁴⁵ Microfinance NGOs cannot accept public deposits, but they may collect compulsory savings embedded in their loan products, provided that the total compulsory savings collected by these NGOs is less than their total amount of loans at any given time (National Strategy for Microfinance). NGOs must therefore remain a net-lender at all times or they will be in violation of banking laws. Lending investors, which are credit-only institutions regulated by the SEC, are also not allowed to take deposits from the public.

Money Laundering Risk for Micro-deposits - Low

The ML risk for micro-deposit is generally low because of the following:

1. low value threshold;
2. provided only by banks, which are prudentially regulated and supervised by the BSP;
3. accounts cannot be opened without KYC and face-to-face compliance; and

¹⁴³ BSP Circulars 694, as amended by Circular 796.

¹⁴⁴ General Banking Law of 2000.

¹⁴⁵ Cooperative Code of 2008.

4. while the number of micro-deposit transactions is unlimited, the average daily balance threshold must be observed. Compliance is verified through supervision and examination.

Micro-deposits, like microfinance loans, are offered only to resident Filipino citizens. Deposits in cooperatives are limited to members-owners, who must first attend a membership seminar before being accepted as a member/shareholder. Institutional funds of cooperatives are usually deposited in banks. NGOs, meanwhile, can only serve the members of the community within their area of operation, and the compulsory savings collected is embedded as a feature of their microfinance loan product.

Terrorist Financing Risk for Micro-Deposits - Low

The TF risk for micro-deposits is generally low due to the value thresholds and the existing risk-mitigants for the product. This product is not offered to non-residents and cross-border transaction is not possible. Transfers to micro-deposit accounts by a third party (e.g., overseas Filipino worker) are possible through electronic channels, but the KYC aspect for the remitter is undertaken by remittance agents.

Cooperatives can only transact with their members, who are usually limited to residents near their areas of operation, and cross-border transaction is not possible. Hence, there is no possibility of transactions to and from high-risk jurisdictions. NGOs also only transact with members of the community where they operate while cooperatives and microfinance NGOs are regulated by and/or registered with the CDA and SEC, respectively.

There is data challenge in terms of assessing whether financial crimes have been committed through these entities or their products. CDA continues to improve its data management and cooperative reporting structures while SEC has drawn up an initial but incomplete list of NGOs engaged in microfinance.

VIII.B.3. MICRO-INSURANCE

Micro-insurance is basically composed of insurance products which are tailor-fit to meet the risk protection needs of the low-income sector.¹⁴⁶

To ensure that micro-insurance products¹⁴⁷ remain affordable, premiums on a daily basis are mandated not to exceed 7.5% of the minimum daily wage rate of non-agricultural

¹⁴⁶ See also study of Asian Development Bank on Microinsurance in the Philippines. Features of sample microinsurance products are in Annex B.

¹⁴⁷ See Annex B for list of sample microinsurance products.

workers in Metro Manila¹⁴⁸. Correspondingly, micro-insurance products have maximum allowable benefits not exceeding 1,000 times the minimum daily wage rate of non-agricultural workers in Metro Manila¹⁴⁹. Given the transaction ceilings, micro-insurance businesses do not have covered transaction reports.¹⁵⁰

Micro-insurance providers are given the prerogative to limit the number of micro-insurance policies that clients may avail of. However, clients may avail of various micro-insurance policies from more than one micro-insurance provider. It is generally offered to residents and citizens only due to its small value and the nature and purpose of the products. Hence, the client or customer risk is very low. Moreover, the risk of funds being received from high-risk jurisdictions is almost negligible.

Since the premiums are relatively low, there is reduced customer due diligence in availing of micro-insurance products. However, anonymous purchases of a micro-insurance policy is not allowed as the client/applicant must personally fill out the application form and present one (1) photo-bearing identification card or any acceptable substitute document. The same relaxed procedure is observed for claims processing especially when the insured/beneficiaries are usually known to the management. Simplified claims requirements enable micro-insurance providers to comply with the regulation of settling claims within ten (10) working days upon filing of claim and submission of required documents.

Accredited insurance companies, cooperative insurance societies and mutual benefit associations provide micro-insurance products. The distribution of these products must be through licensed micro-insurance brokers or agents. Legal persons or entities such as microfinance institutions (MFIs) and cooperatives may also be licensed as agents provided that they offer or sell micro-insurance products to their customers or members only.¹⁵¹ MFIs, including banks with MFI operations, may be licensed as agents of micro-insurance products, subject to regulations of both the BSP and the IC.¹⁵²

While brokers and agents are aware of their CDD and reportorial obligations, there is a need to ascertain whether they undergo adequate training on how to identify unusual and suspicious transactions.

¹⁴⁸ Based on the current rate of Php480, that would mean a daily premium of Php 36.00 or roughly Php1,080.00 a month, maximum.

¹⁴⁹ About P480,000 based on the Php480 minimum wage rate.

¹⁵⁰ Sec. 3(b) and 9(c) of Republic Act 9160 or the Anti-Money Laundering Act, as amended defines covered transactions and reportorial requirements governing the same.

¹⁵¹ *Id*, note 6.

¹⁵² Subsection 2361.8, MORB.

Money Laundering and Terrorism Financing Risks for Micro-Insurance - Low

The ML/TF risk for micro-insurance is generally **low** due to size, clearly defined product features suited to the target market, and existing risk mitigants. It is not offered to non-residents, and anonymous use of the product is not possible. Basic KYC is required, although the process/documentation is simplified to accommodate the targeted low-income clients. Moreover, the product is generally offered to Philippine residents only.

The usage of micro-insurance products to perpetrate ML/TF activities is not known nor are there any reported cases that relate these products to financial crimes or activities. Micro-insurance products sold in the market must adhere to the rules and regulations set by the IC and must have an approval prior to distribution. Given that there are strict procedures prior to the rolling out these products and that this product caters to the low-income sector, fraudulent activities using this product are very low. Notwithstanding the low risk, licensed agents or brokers for micro-insurance products should be trained in ML/TF in order to identify and/or control possible ML/TF threats.

VIII.B.4. ELECTRONIC MONEY (E-MONEY)

Technology plays an important role in promoting inclusion to unbanked areas, to the untapped segments of the markets such as the poor, women, and persons with disability. Mobile phone SIM penetration has been increasing rapidly in the Philippines, from 98% in 2011 to 117% in 2014.¹⁵³ This is quite high compared to the bank penetration rate of only 27%. Filipinos are also found to be highly literate in using mobile phones, which makes the idea of using mobile money more appealing to them. With the wider access to mobile phone technology, the Philippines was able to promote inclusion in mobile banking and mobile payments.

BSP regulations define e-money as electronically stored monetary value; fully convertible to cash; and acceptable as payment for goods and services by participating merchants. As a digital channel for retail payments, an e-money account is distinct from a deposit account to safeguard public deposits. It is non-interest bearing and not covered by deposit insurance. This distinction allows even non-banks like telecommunication subsidiaries to be licensed as e-money issuers (EMIs), subject to proportionate requirements in capital (e.g., PHP100 Million minimum paid-up capital) and licensing (e.g., licensed as remittance agent).

The distinction also makes outsourcing and agent accreditation possible for all EMIs, whether bank or non-bank, provided that EMIs remain accountable to BSP for their counterparties' adherence to applicable regulations (e.g., KYC in every cash-in/cash-out

¹⁵³ GSMA Intelligence, Country Overview of the Philippines, December 2014.

transaction of agents; reporting of covered/suspicious transactions for AML) and appropriate risk management.

To ensure liquidity, the amount of electronic values issued by EMIs must be equivalent to the actual cash maintained in a depository or settlement bank (e.g., for non-bank EMIs: cash in bank and liquid investments like government securities/for bank EMIs: e-money issued is booked as accounts payable). EMIs are likewise required to establish acceptable redress mechanisms for the resolution of e-money customer complaints.¹⁵⁴

It may be noted that EMIs may offer products with transaction limits above the PhP100,000 threshold, subject to approval by the BSP to ensure that appropriate risk management mechanisms are observed. An example of this product is payroll e-money account of employees receiving monthly salaries above PhP100,000. The e-money accounts or “e-wallets” of cash-in/cash-out agents naturally have higher transaction limits because they cater to a multitude of end-clients. These agents are subject to CDD during the accreditation process conducted by EMIs. EMIs are required to submit the list of their counterparties, including accredited agents, to the BSP. The BSP may spot-check accredited agents during on-site examination.

At present, there are only two mobile providers which provide e-money products.

The demand for financial services has enabled mobile operators to design new business models and product offerings in line with the financial needs of their customers. For example, mobile operators first tapped on remittance and payment services as a basis for their initial business experiments. As these experiments became successful, more mobile platforms were used to target other services.

Money Laundering Risks for E-Money - Low

The ML risk for E-money is generally low because of a low value threshold and existence of risk mitigants. The BSP placed an aggregate monthly load limit on e-money instruments amounting to PhP100,000. EMIs are required to ensure compliance with AML requirements. They even provide training for individual retailers in compliance with the BSP rules and regulations. For products that do a non-face to face account transaction, CDD is applied to those who are potentially low- or normal-risk clients. However, whenever a customer cashes in and out in the e-money system, CDD procedures are performed. Customers also receive SMS notification for every transaction so they can track activities in their e-wallet.

The number of STRs filed by the sector is relatively low as against the total e-money transactions. Nonetheless, potential exposure to financial crimes and abuse of the product for

¹⁵⁴Part VII. Electronic Banking Services and Operations, MORB.

scam purposes remains a concern that regulators continue to address with commensurate consumer protection rules, advisories and financial education.

Terrorist Financing Risks for E-Money - Low

The cross-border transaction could expose the sector to TF risks. It might be possible for terrorist groups to channel the funds for their activities using e-money transfer, although the proportion of ML/TF cases using e-money and the total e-money transaction is very negligible. Given a lower aggregate threshold amount per month and the current average transaction amount per area is very low, the risk of TF is reduced. EMIs are also required to have the capacity to monitor the transactions and make the necessary reports.

VIII.B.6. PAWNING

Pawning is the practice of lending money on personal property delivered as collateral. This business is undertaken by pawnshops, which could either be owned by an entity or a natural person. Property includes only such personal property as may actually be delivered to the control and possession of the pawnshop such as jewelry, gadgets and appliances.¹⁵⁵ Pawnshops play a vital role in meeting short-term financial needs of many Filipinos. Unlike banks, they do not impose as many documentary requirements before releasing cash to customers. They are found even in remote areas where banks do not operate.¹⁵⁶

In view of the increasing remittance activity of pawnshops (among others), the BSP is currently amending regulations for pawnshops (as well as remittance agents) to tighten supervision over the industry, including enforcement of AML/CFT rules and consumer protection standards.

Money Laundering and TF Risks

In 2014, there were 5,934 registered pawnshops, but only nine (9) entities reported covered and suspicious transactions. The ML and TF risks for the pawning service are generally low because loans are secured by personal properties delivered to the pawnshops. These pawning loans are usually short term involving small amounts, which are generally carried out by those from the low-income bracket. The value of the personal property that may be offered as collateral has no limit. In addition, no limit has been placed as to the number of transactions a customer may have for a particular period. This is considered reasonable since pawnshops cater primarily to low-income groups.

Non-face-to-face transactions are also not allowed, with pawners required to come personally to the pawnshop. Basic KYC is required, but the process/documentation is simplified

¹⁵⁵ Presidential Decree No. 114.

¹⁵⁶ <http://business.inquirer.net/96065/why-do-many-go-to-pawnshops-more-than-banks>.

to fit the targeted low-income and small borrowers. Juridical persons are allowed to pawn, but since pawnshops cater primarily to low-income groups, borrowers are mostly natural persons. Cross-border transactions are not allowed, as well as the use of banking correspondents or agents.

One identified risk on pawning is the issue of ownership of the personal property offered as collateral. There were instances where personal properties obtained through robbery or theft were pawned. This risk can be mitigated by current industry practice of conducting the necessary due diligence to determine ownership of the item to be pawned and blacklisting those who pawn items which are found to be sourced from illegal activities. BSP's ongoing amendments of pawnshop regulations have potential to address these issues.

The ML/TF risks for remittance services by pawnshops are generally low to medium because no cap has been placed on the amount that can be remitted as well as on the number of transactions a customer may have for a particular period. Big pawnshops have partnered with international remittance companies, making it possible to remit money into and outside of the Philippines. While there is no limit on the amount and number of transactions, in general, these remittances are relatively low. Domestic remittances amount to around PhP2,000 and international remittances amount to around PhP5,000 to PhP10,000, which are typically the profile of remittances sent by Overseas Filipinos to their families. Some remittances also have regularity (i.e., twice a month) with recipients already known to the pawnshop.

STRs were submitted on individuals who made huge dollar payouts to Nigeria, a high-risk jurisdiction. There were also reports on Internet purchase scams where fraudsters pretended to sell items online and use pawnshops to receive the payments. They presented fictitious IDs and used different names to avoid detection. The pawnshops were able to detect and report these suspicious transactions, indicating their ability to determine risks associated with transactions.

Aside from the forthcoming enhancements in the pawnshop regulations, another action point could be evaluating a possible transaction/value limit on low value remittances that seem to fit the parameters of a financial inclusion product and its market. This can ascertain its low-risk nature. Enhanced CDD needs to be conducted on remittances involving large amounts especially on cross-border transactions. The blacklisting mechanism should be strictly enforced. BSP's ongoing amendments of pawnshop regulations, as well as remittance agent regulations, have potential to address these issues.

VIII.C. RECOMMENDED ACTION PLAN

Based on the identified weaknesses and deficiencies in controls on these financial products, the following are the recommended action points:

ACTION PLAN	PRIMARY AGENCY	SECONDARY AGENCY	TIMELINE
Adopt new licensing framework for pawnshops	BSP		August 2016 - March 2017
Introduce different classification of license that the BSP will issue depending on the type and/or level of complexity of the pawnshop business			
Introduce new minimum capital requirement for each type of license to be issued by the BSP			
Set a limit on borrowings of a pawnshop business			
Require pawnshop businesses to adopt internal control standards, risk management system, recording and reporting standards/system, consumer protection mechanism and comply with the AMLA		AMLC	
Adopt the BSP Supervisory Enforcement Policy and provided for specific grounds for revocation of the BSP-issued license			
Provide for a two- (2-) year transitory period for existing pawnshop operators to secure an authority to operate a pawnshop business from the BSP			

ANNEX A - PROPORTIONATE REGULATIONS

A. The following examples show how the BSP proportionately applied the Basel Core Principles (BCPs) in the **regulation of microfinance activities**. There was no need to add new principles or change existing ones, only some tailor-fitting due to peculiar characteristics of microfinance.

<i>Standards</i>	<i>BSP Experience in Applying Proportionality</i>	<i>Benefits to Financial Inclusion</i>
Capital Adequacy; Licensing Requirements	Banks that provide microfinance services comply with same standards and requirements for capital adequacy and licensing as other similar types of banks	Several microfinance NGOs have formalized to become/or have established microfinance-oriented banks.
Good Governance	Banks must observe good governance standards (e.g., separate board and management, as well as transparent transactions between the bank and its affiliate microfinance NGO, if any) Board and management are specifically required to have the necessary experience and track record in microfinance, considering that it is an activity that requires specialized knowledge that is different from traditional banking	
Credit Risk	Even with lighter documentary and security requirements, banks must establish clear underwriting standards (written in a product manual) for microfinance products/services to ensure that embedded risks are adequately addressed and appropriate internal controls are in place.	These include micro-deposits, microenterprise loans, microfinance plus, micro-agri loans, housing microfinance and microinsurance.
Financial Reporting	Banks are required to establish high-frequency monitoring systems of the microfinance portfolio-at risk, considering the nature of microfinance loans (e.g., short-term, frequent amortization, cash flow-based, not collateralized)	MBOs now serve municipalities that previously had no bank branches.
Risk Management; Problem Assets; Provisioning	The provisioning requirements for microfinance loans are proportionate to the risks (e.g., more stringent than regular loans considering the cash flow of low-income borrowers and lack of collateral)	
Operational Risk	Banks can establish Micro-Banking Offices (MBOs) or scaled-down, simple offices to deliver microfinance and other services targeted at low-income population in areas where a full bank branch is not economically feasible, provided they demonstrate strength, capacity and a clear strategy to sustainably carry out MBO operations/ services; and commensurate risk management measures (e.g., daily cash limits, vault and security, record-keeping and reconciliation) are instituted depending on the level of MBO activity	
Supervisory Approach	The BSP developed specialized knowledge to appropriately supervise microfinance activities (e.g. MSME Finance	

<i>Standards</i>	<i>BSP Experience in Applying Proportionality</i>	<i>Benefits to Financial Inclusion</i>
	Specialist Group, Manual of Examination Procedures for Microfinance) and required appropriate reporting standards.	

B. **BSP regulations on e-money** are likewise aligned with the proportionate application of BCPs and Financial Action Task Force (FATF) guidance. For example:

<i>Standards</i>	<i>BSP Experience in Applying Proportionality</i>	<i>Benefits to Financial Inclusion</i>
Permissible Activities	We clearly defined e-money as a low value retail payment channel and surrogate for cash which makes it distinct from deposits. As a retail payment instrument, e-money can be provided by banks and non-banks that are duly licensed as e-money issuers (EMIs). Because of the clear definition of e-money, non-bank EMIs are not considered as deposit-taking entities	The e-money regulations facilitated the development of a retail payments system using e-money as main instrument.
Capital Adequacy; Licensing Requirements	Non-banks interested to provide e-money services must be duly licensed as EMIs. They are proportionately regulated (e.g., requirements for capital, risk management, liquidity reserves, reporting, etc. are less stringent than banks since their operations are dedicated to just e-money services).	
Use of Agents	Bank and non-bank EMIs are allowed to outsource to technology providers and link to agent networks while bearing full responsibility for the behavior of their agents. This enabled EMIs to expand the e-money ecosystem for greater outreach.	
Liquidity Risks	Liquidity risks are managed through the 1:1 ratio between the issued e-money and the e-money float, as well as the imposition of transaction limits	
AML/CFT Risks	AML/CFT risks are addressed through KYC at every cash-in/cash-out point and reporting requirements	
Consumer Protection	Consumer protection and counterparty risks are managed by ensuring that EMIs are fully liable for their agents' behavior (with BSP retaining the ability to conduct spot checking of agents)	

C. The FATF guidance likewise provided scope for the BSP to allow proportionate application of **regulations on anti-money laundering**:

<i>Standards</i>	<i>BSP Experience in the Applying Proportionality</i>	<i>Benefits to Financial Inclusion</i>
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<i>Standards</i>	<i>BSP Experience in the Applying Proportionality</i>	<i>Benefits to Financial Inclusion</i>
Customer Due Diligence (CDD); and Record Retention	<p>Provide scope for banks to have a risk-based and tiered system of classifying customers as low-, average-, or high-risk</p> <p>Establish a framework for applying reduced, average and enhanced CDD and record retention based on the risk classification of customers</p>	<p>Banks can rely on agents located in bankable yet unbanked areas to facilitate customer onboarding the financially excluded clients while retaining the responsibility to decide to open accounts/ provide credit</p> <p>Decreased transaction cost in customer identification (e.g., acceptance of photo-bearing barangay certificate) and record-keeping, particularly for clients classified as low-risk (e.g., microfinance clients)</p> <p>Previously unbanked clients can now have interface with/access to formal financial services through agents located near their place of residence/business/work.</p>
CDD; and the Use of Agents	<p>Allows outsourcing or reliance on duly authorized agents for the face-to-face requirement under KYC, and the gathering of information/documents to facilitate account opening or credit provision</p>	

D. We deem that our **micro-insurance regulation** is in accordance with general principles espoused by International Association of Insurance Supervisors (IAIS). This regulation was coordinated with our counterpart regulator, the Insurance Commission (IC).

<i>SSB Standards</i>	<i>BSP Experience in the Application of Standards</i>	<i>Benefits to Financial Inclusion</i>
Licensing Requirements; Formalization	<p>BSP micro-insurance regulations allow rural/thrift banks to market, sell and service IC-authorized micro-insurance products of duly licensed insurance providers to their microfinance clients.</p> <p>These banks must amend their articles of incorporation to reflect this service as a secondary purpose relative to</p>	<p>Microfinance clients, which are highly vulnerable to contingent events (e.g. sickness, accident,</p>

	its banking activities. Employees of banks with micro-insurance services are licensed as insurance agents and must undergo IC training.	death in the family) can access microinsurance as safety net, from banks that have been authorized to distribute the microinsurance products of IC-licensed insurance providers.
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ANNEX B - SAMPLE MICRO-INSURANCE PRODUCTS

Financial Inclusion/Micro-Insurance (FI/MI) Products Offered by Life Insurance Companies

FI/MI PRODUCTS	DESCRIPTION
1. Group Yearly Renewable Term (GYRT) Life Insurance	<ul style="list-style-type: none"> • Provides benefit for death due to any cause • Renewable yearly • Requires minimum number of participants
2. Group Personal Accident	<ul style="list-style-type: none"> • Basically the same as GYRT except that benefit is provided for death due to accidents only
3. Credit Group Life Insurance Plan	<ul style="list-style-type: none"> • Pays loans of the insured upon death
4. Yearly Renewable Term	<ul style="list-style-type: none"> • Renewable yearly • Does not require minimum number of participants • Provides benefit for death due to any cause
5. Group Yearly Renewable Hospitalization Plan	<ul style="list-style-type: none"> • Basically the same as GYRT except that the benefit is hospital reimbursement
6. Whole Life Plan	<ul style="list-style-type: none"> • Payment of sum insured upon death of insured
7. Endowment Plan	<ul style="list-style-type: none"> • Payment of sum insured upon death or maturity if the insured remains alive on maturity death

Remarks:

Available riders to the above plans are:

1. Accidental Death;
2. Accidental Death and Disablement;
3. Group Surgical Expense;
4. Accidental Medical Reimbursement; and
5. Total and Permanent Disability.

Financial Inclusion/Micro-Insurance (FI/MI) Products Offered by Non-Life Insurance Companies

FI/MI PRODUCTS	DESCRIPTION
1. Buhay, Bahay at Kabuhayan (BBK)	<ul style="list-style-type: none"> • Provides risk cover on life, property, and livelihood
2. Crop Insurance	<ul style="list-style-type: none"> • Provides insurance on crops upon purchase of fertilizer from accredited distributors
3. Personal Accident	<ul style="list-style-type: none"> • Provides benefit for death caused by accident
4. Catastrophe Insurance	<ul style="list-style-type: none"> • Pays credit balance to cooperatives whose members' crops have been devastated by catastrophes

**Financial Inclusion/Micro-Insurance (FI/MI) Products
Offered by Mutual benefit Associations (MBAs)**

FI/MI PRODUCTS	BASIC BENEFITS	OTHER BENEFITS
1. Basic Insurance Plan	<ul style="list-style-type: none"> • Death benefit <ul style="list-style-type: none"> • Due to natural causes • Due to accident • Total Permanent Disability (TPD) • Savings from Equity 	<ul style="list-style-type: none"> • Hospitalization Benefit (Medical Reimbursement) • Motor Vehicle Accidental Hospitalization Benefit • Funeral benefit
2. Group Credit Life Insurance Plan (GCLIP)	<ul style="list-style-type: none"> • Payment of loans (either outstanding balance or principal) 	

Note:

The following features are common to all of the above products offered by MBAs:

1. Group insurance; and
2. Required provisions