

MEMORANDUM ORDER NO. 24-013 
Series of 2024

SUBJECT: ADDENDUM TO MEMORANDUM CIRCULAR NO. 23-002 ON PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING FRAMEWORK FOR THE CAGAYAN ECONOMIC ZONE AUTHORITY (CEZA).

By the authority vested upon the Cagayan Economic Zone Authority (CEZA) to implement measures as may be necessary and justified to counteract money laundering and terrorism financing, Memorandum Circular 23-002 was approved by the CEZA Board of Directors that warrants CEZA the power to authorize or undertake and regulate the establishment, operation and maintenance of services and to issue rules and regulations consistent with the provisions of the Republic Act No. 10927 also known as Anti-Money Laundering Act of 2001 (AMLA), as amended and its implementing rules and regulations.

In cognizance with the Enforcement Action Guidelines issued by the Anti Money Laundering Council, CEZA hereby adopts the following rules and regulations to supplement the abovementioned Memorandum Circular.

The Enforcement Actions are meant to ensure compliance by CPs with the AMLA, as amended, the Terrorism Financing Prevention and Suppression Act of 2012 (TFPSA), their respective Implementing Rules and Regulations (IRRs), as well as issuances, orders and directives of the AMLC by providing a mechanism by which measures are exhausted at the level of the Task Force to immediately correct AML/CTF violations/deficiencies and possibly defer, if not totally avoid the filing of a Formal Charge under the RPAC. This allows CEZA and the CPs to save resources and the CPs' Board and Senior management to take timely actions to correct the violations/deficiencies.

Section 1. Applicability

These Guidelines describe the CEZA's approach to exhaust, whenever appropriate, enforcement actions at the level of the CEZA AML/CFT Task Force (Task Force). Such approach shall allow the CEZA and the CPs to save resources and the CPs' Board and Senior management to take timely actions to correct the violations/deficiencies.

These Guidelines cover the Task Force's assessment procedures and enforcement actions for any AML/CTF non-compliance issues of CPs, including, but not limited, to the following:

- a. Absence of, or inadequate, Board of Directors and Senior Management Oversight;
- b. Absence of, or deficiencies in, Money Laundering and Terrorism-Financing Prevention Program (MTPP);
- c. Absence of, or inadequate, Internal Audit and Control;
- d. Violations on Risk Profiling and Customer Due Diligence (CDD) or Know-Your- Customer (KYC) procedures;
- e. Non-submission or delayed submission to the CEZA of KYC documents pursuant to the exercise of its functions under Sec. 7(2) of the AMLA, as amended;
- f. Deficiencies on customers, accounts, and transactions monitoring;
- g. Non-filing or late filing, or deficiencies on completeness and accuracy, of Covered Transaction Reports and Suspicious Transaction Reports (CTRs/STRs);
- h. Non-submission or delayed submission to the CEZA of CTRs/STRs pursuant to an order under Sec. 7(1) of the AMLA, as amended;
- i. Failure to comply with record-keeping/retention requirements;
- j. Absence of, or inadequate, continuing education and training program;
- k. Such other violations under the AMLA, as amended, the TFPSA and their respective IRRs, as well as issuances of the CEZA; and
- m. Failure to comply with any order or directive issued by the CEZA.

Section 2. Sources of Information

The Task Force may take action on any non-compliance issue upon information from any of the following:

- a. Compliance issues discovered during on-site or off-site compliance checking or testing, as well as during the course of monitoring of compliance conducted by Task Force;
- b. Complaints from industry stakeholders, Law Enforcement Agencies (LEAs) or whistleblowers;
- c. Voluntary Disclosures of non-compliance by CPs;

- d. Reports of Examination (ROEs), Compliance Checking Reports (CCRs), or referrals from various interested parties;
- e. Media Reports from reputable sources;
- f. Reports and complaints from the general public; and
- g. Other reliable sources of information.

Section 3. Types of Enforcement Actions

The CEZA may impose any, or all of the following Enforcement Actions, as warranted:

- i. **Warning** - An enforcement action involving a letter addressed to the Head of the CP and/or through its Compliance Officer (CO), that effectively puts the covered person on guard against the consequence of impending or future violations.
- ii. **Compliance Letter (CL)** - Generally used to correct minor violations or to request periodic reports addressing certain aspects of a CP's AML operations. Through the CL, the Task Force formally informs the CP, through the Head of the CP and/or through its CO, of the matters that need attention, or may require the CP to take actions such as reviewing its internal systems or transactions for a certain period, conducting enhanced AML/CTF training for employees, etc.
- iii. **Explanation Letter (EL)** - Letter sent to the Head of the CP and through its CO providing the CP opportunity to explain their non-submissions or non-compliance to the directives of CEZA through the Task Force.
- iv. **Notarized Compliance Commitment (NCC)** - An Enforcement Action of moderate severity. It generally represents a number of notarized commitments made by the CP's Board of Directors (BoD), or its equivalent, and incorporated into the CP's minutes of the meeting as certified by the corporate secretary or its equivalent. The commitments will often require the CP's BoD, or its equivalent, to develop plans, procedures, or policies to facilitate corrective action. An NCC does not constitute a contract between the CP and

CEZA, but is a means to initiate corrective action.

- v. **Look-Back** - On a case-to-case-basis, the CP may be required to conduct a thorough review of all business transactions covering a certain period not to exceed five (5) years. The requirement for a look-back shall include a directive to the CP to furnish the CEZA with a detailed report under oath that sufficiently describes how the review was conducted and the result of the exercise or findings.
- vi. **Compliance Testing** - This Enforcement Action requires a CP to conduct compliance testing of its systems, processes and procedures to check their effectiveness and efficiency. Corollary to such requirement, the CP should furnish the CEZA with a detailed report under oath on the results of such compliance testing.
- vii. **Audit by an Independent External Auditor** - The CP may be required to engage the services of an external auditor to conduct an independent audit of the systems, processes and procedures to determine the extent and severity of the issues therein and prescribe recommendations to address the same. The CEZA shall be furnished a copy of the Audit Report in this case.
- viii. **Public Advisory** - this Enforcement Action involves the issuance by the CEZA of an advisory on its official website in relation to the non-compliance by a CP with the provisions of the AMLA, as amended, the TFPSA and their respective IRRs (e.g, non-registration by a CP with the AMLC, operating/performing the functions of a CP under the AMLA, as amended)

Section 4. Enforcement Actions Procedures

A. Detailed Procedure

Flowchart attached as Annex A

1. Notice of Full Compliance Checking or Targeted Financial Sanctions Thematic Review

Pursuant to the directive given to the Task Force to conduct assessments relative to the CPs AMLA compliances and its IRR, the Task Force may as deem necessary notify through a Memorandum for the conduct of Full Compliance Checking (FCC) or Targeted Financial Sanctions Thematic Review (TFS TR).

CPs subjected to FCC or TFS TR are determined through the surveys such as but not limited to vulnerability assessments bi-monthly conducted to ascertain the risk involved to each CP.

2. Compliance Checking Assessment

Within ten (10) working days from receipt of information from any of the sources in Section 2, the Task Force shall conduct an initial assessment, based solely on available information and documents on hand, on the non-compliance of the CP to ascertain the reliability and validity of relevant details (e.g. dates, number and types) of the violations. Considering risk and materiality of the findings from the initial assessment relative to the size of the CP or its risk profile, the Task Force shall prepare a Report to the Administrator and Chief Executive Officer (ACEO) or its representative who is duly authorized by the CEZA Board of Director to recommend either to:

- a. Open an Enforcement Action Proceeding based on reasonable ground that the CP has not complied with the regulatory requirements; or
- b. Archive the information and take no further action.

3. Validation and Evaluation

a. Release of EL

Within ten (10) working days from opening an Enforcement Action Proceeding, the Task Force shall prepare an EL addressed to the CP. The EL shall indicate the alleged violations committed or non-compliance issues. The CP will be given ten (10) working days from receipt of the EL to submit its Explanation/Comment, attaching all pertinent documents supporting the same. Failure of

the CP to file its Comment within the prescribed period shall be deemed a waiver by the CP to file the same.

b. Clarificatory Meeting

The Task Force may, on its own initiative or upon request of the CP, call a meeting with the concerned CP to discuss and clarify the issues, and any request for consideration in the CP's Explanation/Comment to the EL.

The result of the clarificatory meeting may vary upon the discussions of the Task Force and the CP, it may be either:

- a. Resolution of the issues/ matters concerned within the said meeting; or
- b. Direct the CP to comply with the EL within the period prescribed.

c. Conduct of Validation and Evaluation Procedures

Within ten (10) working days from receipt of the Explanation/Comment from the CP or lapse of the period to Explanation/Comment, the Task Force may perform any or all of the following:

1. Issue invitation to the CP and/or its representative/s for a meeting to be conducted by Task Force, and to require such person to provide records relevant to a matter which is subject of assessment;
2. Conduct on-site visit or inspection/examination of the CP to confirm or validate its compliance efforts as claimed in the Explanation/Comment to the Task Force;
3. Conduct compliance testing to determine or verify the existence of an AML/CTF Violation; and
4. Review reports submitted to the Task Force.

d. Recommendation to take no further action and terminate the Enforcement Action proceedings

Based on its validation and evaluation, Task Force may take no further action and terminate the Enforcement Action in the following instances:

1. There is no/insufficient factual or legal basis;
2. The Enforcement Action would have low impact on the CP's efforts in combating ML/TF;
3. The complaint, on which the Enforcement Action is based upon, is deemed merely intended to harass the CP;
4. The complaint, on which the Enforcement Action is based upon, will expose the CEZA to violate any law, rules or regulations;
5. The Enforcement Action is beyond the CEZA's jurisdiction; and
6. Any other similar or analogous circumstance as the foregoing.

In any of the foregoing instances, Task Force shall, within ten (10) working days from conclusion of the validation and evaluation, recommend the termination of the Enforcement Action, with the concurrence of the ACEO or its representative and citing the reason for such action.

e. Discovery of new AML/CTF issues/violations during the evaluation

Any new regulatory issues which are discovered during the evaluation may be subject to a separate Enforcement Action.

4. Preparation of Compliance Checking Report (CCR)

The Task Force, after having considered all relevant facts and the CP's representations in the EL and clarificatory meeting/s, if any, shall prepare the CCR within ten (10) working days from conclusion of the validation and evaluation.

a. Type of Enforcement Action to be imposed

In the preparation of the CCR, Task Force shall consider the following in recommending the type of Enforcement Action to be imposed:

- i. The nature and gravity of the alleged violations committed by the CP;
- ii. Management's actions towards complying with laws and regulations, and correcting violations;
- iii. Whether violations were intentional, repetitive, material, or numerous;
- iv. The CP's history of committing violations;
- v. Management's history of instituting timely remedial or corrective actions;
- vi. Whether management already initiated corrective actions;
- vii. Whether management established procedure to prevent future deficiencies or violations;
- viii. The extent of harm caused, or likely to be caused, by the violations
- ix. Information from the CP's latest examination or assessment conducted by the relevant SAs; and
- x. The severity of the CP's deficiencies, ratings, and level of risk.

b. Approval of the CCR

The ACEO or its representative is duly authorized by the CEZA Board of Directors to sign and release the CCR.

c. Contents of the CCR

The CP shall be directed to accomplish the CCR which contains the following:

1. Deficiencies Noted / Recommendations considered;
2. Committed Action to comply with the recommendation;
and
3. Committed timeline to fully implement action item.

5. **Notice to Covered Persons**

Within ten (10) working days from approval of the CCR recommending the imposition of an enforcement action, the Task Force shall notify the concerned CP through a Memorandum. The Memorandum shall contain the following:

- i. A statement of the facts;
- ii. Legal basis - specific AML/CTF rules and regulations violated; and
- iii. The summary assessment findings contained in the CCR.

The Memorandum shall include as an attachment the CCR which shall be accomplished by the CP within ten (10) working days.

6. **Monitor Compliance**

The Task Force shall monitor the CP's progress in complying with the enforcement action, or the actions taken to address the alleged violations or compliance issues, through onsite examinations, offsite monitoring, or visitations.

If the CP fails to comply with the Enforcement Actions, or address the alleged violations or compliance issues, CEZA shall endorse the issue to the ACEO or its representative for further action.

In any justifiable instances, the Task Force shall give the CP ample time to comply with the directives except otherwise if the CP exhibit continuous disregard of the directive or the CP is a habitual in-compliant.

7. **Penalty for Non-compliance**

Failure to comply with the directives as contained in the EL/CL/CCR and other directives from the Task Force for the CP to comply, the CP shall be meted with the following Sanctions:


Description	Sanctions	Period
First Warning	Reprimand	After the prescribed period to submit/comply

Second Warning	Suspension, restriction on activities and privileges	After ten (10) days from the lapse to comply with the First Warning
Final Warning	Revocation of License	After ten (10) days from the lapse to comply with the Second Warning

8. Voluntary Disclosure

In line with the policy of the AMLC to enhance compliance with AML/CTF laws and regulations, CPs are encouraged to voluntarily disclose to the AMLC possible violation/s of the AMLA, as amended, the TFPSA, their respective IRR and other AMLC issuances, in order to ascertain the root cause of the issues involved and resolve them at the earliest possible time.

This Memorandum Order shall take effect immediately upon approval. Memorandum Order No. 23-002 shall remain in force unless superseded by an appropriate issuance.



SEC. KATRINA PONCE ENRILE
Administrator and Chief Executive Officer

DATE: March 5, 2024



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A. WPCV