

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 3323

Introduced by the Honorable ROILO GOLEZ

Section 2 of Republic Act No. 9160 otherwise known as the "Anti-Money Laundering Act of 2001" (AMLA) declares it as the policy of the State the protection and preservation of the integrity and confidentiality of bank accounts and ensuring that the Philippines is not used as a money laundering site for the proceeds of any unlawful activity and that consistent with its foreign policy, the State shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed. This legislative measure is the country's contribution in the global campaign against money laundering and terrorism consistent with the country's commitments under the 1988 Vienna Convention and the United Nations Convention against Transnational Organized Crime of 2000 or the Palermo Convention and other international agreements.

However, while the AMLA criminalizes money laundering, whereby the proceeds of an unlawful activity are transacted to make them appear to have originated from legitimate sources, there still exists a need to expand the coverage of individuals and institutions falling under the ambit of its provisions as well as the covered transactions and unlawful activities or predicate crimes contemplated therein. Moreover, to strengthen the teeth of the Anti-Money Laundering Council (AMLC) in implementing the law, it must be provided with the authority to impose compulsory processes and administrative sanctions for non-compliance with its orders, without prejudice to criminal liabilities incurred thereby, and more importantly, to issue administrative freezing orders in order to avoid funds being withdrawn before a court order is issued, among other amendments aimed towards the purpose of strengthening the AMLC in the enforcement of the law.

In view of the foregoing, the immediate passage of this bill is earnestly sought.



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AN ACT TO FURTHER STRENGTHEN THE ANTI-MONEY LAUNDERING LAW, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE "ANTI-MONEY LAUNDERING ACT OF 2001", AS AMENDED, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 3 (a) of Republic Act No. 9160, as amended, is hereby amended as follows:

"(a) "Covered institution OR INDIVIDUAL refers to:

- (1) banks, quasi-banks, trust entities, foreign exchange corporations, money changers, money payments, remittance and transfer companies and other similar entities and all other institutions and their subsidiaries and affiliates supervised or regulated by the Bangko Sentral ng Pilipinas (BSP);
- (2) insurance companies, pre-need companies and all other institutions supervised or regulated by the Insurance Commission (IC); and
- (3) (i) securities dealers, brokers, salesmen, investment houses and other similar entities managing securities or rendering services as investment agent, advisor, or consultant,
(ii) mutual funds, close-end investment companies, common trust funds, and other similar entities, and
(iii) other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property supervised or regulated by the Securities and Exchange Commission (SEC);
- (4) NON-FINANCIAL BUSINESSES AND PROFESSIONS, SUCH AS:
 - (i) CASINOS, INCLUDING INTERNET CASINOS;

- (ii) REAL ESTATE AGENTS;
- (iii) DEALERS IN PRECIOUS METALS;
- (iv) DEALERS IN PRECIOUS STONES; AND
- (v) LAWYERS, NOTARIES, OTHER INDEPENDENT LEGAL PROFESSIONALS AND ACCOUNTANTS WHEN THEY PREPARE FOR OR CARRY OUT TRANSACTIONS FOR THEIR CLIENTS CONCERNING THE FOLLOWING ACTIVITIES:
 - a. BUYING AND SELLING OF REAL ESTATE;
 - b. MANAGING OF CLIENT MONEY, SECURITIES OR OTHER ASSETS;
 - c. MANAGEMENT OF BANK, SAVINGS OR SECURITIES ACCOUNTS;
 - d. ORGANIZATION OF CONTRIBUTIONS FOR THE CREATION, OPERATION OR MANAGEMENT OF COMPANIES; AND
 - e. CREATION, OPERATION OR MANAGEMENT OF LEGAL PERSONS OR ARRANGEMENTS, AND BUYING AND SELLING BUSINESS ENTITIES.

PROVIDED, THAT LAWYERS, NOTARIES, OTHER INDEPENDENT LEGAL PROFESSIONALS AND ACCOUNTANTS ACTING AS INDEPENDENT LEGAL PROFESSIONALS ARE NOT REQUIRED TO REPORT THEIR SUSPICIONS IF THE RELEVANT INFORMATION WAS OBTAINED IN CIRCUMSTANCES WHERE THEY ARE SUBJECT TO PROFESSIONAL SECRECY OR LEGAL PROFESSIONAL PRIVILEGE;

- (vi) TRUST AND COMPANY SERVICE PROVIDERS WHICH, AS A BUSINESS, PROVIDE ANY OF THE FOLLOWING SERVICES TO THIRD PARTIES:
 - a. ACTING AS A FORMATION AGENT OF LEGAL 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 LEGAL 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;
 - d. ACTING AS (OR ARRANGING FOR ANOTHER PERSON TO ACT AS) A TRUSTEE OF AN EXPRESS TRUST; AND
 - e. ACTING AS (OR ARRANGING FOR ANOTHER PERSON TO ACT AS) A NOMINEE SHAREHOLDER FOR ANOTHER PERSON.

SEC. 2. Section 3 (i) of the same Act is hereby amended to read as follows:

"(i) Unlawful activity refers to any act or omission or series or combination thereof involving or having direct relation to the following:

(1) Kidnapping for ransom under Article 267 of Act No. 3815 , otherwise known as the Revised Penal Code, as amended;

- (2) Sections 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;
- (3) Section 3 paragraphs B, C, E, G, H and I of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;
- (4) Plunder under Republic Act No. 7080, as amended;
- (5) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 29 and 302 of the Revised Penal Code, as amended;
- (6) Jueteng and Masiao punished as illegal gambling under Presidential Decree No. 1602;
- (7) Piracy on the high seas under the Revised Penal Code, as amended, and Presidential Decree No. 532;
- (8) Qualified theft under Article 310 of the Revised Penal Code, as amended;
- (9) Swindling under Article 315 of the Revised Penal Code, as amended;
- (10) Smuggling under Republic Act Nos. 455 and 1937;
- (11) Violations under Republic Act No. 8792, otherwise known as the Electronic Commerce Act of 2000;
- (12) Hijacking and other violations under Republic Act No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended;
- (13) TERRORISM AND CONSPIRACY TO COMMIT TERRORISM AS DEFINED AND PENALIZED UNDER REPUBLIC ACT NO. 9372;
- (14) FINANCING OF TERRORISM AS DEFINED AND PENALIZED BY LAW;
- (15) BRIBERY UNDER ARTICLES 210, 211, 211-A OF THE REVISED PENAL CODE, AS AMENDED AND CORRUPTION OF PUBLIC OFFICERS UNDER ARTICLE 212 OF THE REVISED PENAL CODE, AS AMENDED;
- (16) FRAUDS AND ILLEGAL EXACTIONS AND TRANSACTIONS UNDER ARTICLES 213, 214, 215, AND 216 OF THE REVISED PENAL CODE, AS AMENDED; (17) MALVERSATION OF PUBLIC FUNDS AND PROPERTY UNDER ARTICLES 217 AND 222 OF THE REVISED PENAL CODE, AS AMENDED;
- (18) FORGERIES AND COUNTERFEITING UNDER ARTICLES 163, 166, 167, 168, 169, AND 176 OF THE REVISED PENAL CODE, AS AMENDED;
- (19) VIOLATIONS OF SECTIONS 4 TO 6 OF REPUBLIC ACT NO. 9208, OTHERWISE KNOWN AS THE ANTI-TRAFFICKING IN PERSONS ACT OF 2003;
- (20) VIOLATIONS OF SECTIONS 68 TO 79 OF CHAPTER IV, OF THE PRESIDENTIAL DECREE NO. 705, OTHERWISE KNOWN AS THE REVISED FORESTRY CODE OF THE PHILIPPINES, AS AMENDED;
- (21) VIOLATIONS OF SECTIONS 86 TO 106 OF CHAPTER VI, OF REPUBLIC ACT NO. 8550, OTHERWISE KNOWN AS THE PHILIPPINE FISHERIES CODE OF 1998;
- (22) VIOLATIONS OF SECTIONS 101 TO 107, AND 110 OF REPUBLIC ACT NO. 7942, OTHERWISE KNOWN AS THE PHILIPPINE MINING ACT OF 1995;
- (23) VIOLATIONS OF SECTION 27 (c), (e), (f), (g) AND (i) OF REPUBLIC ACT NO. 9147, OTHERWISE KNOWN AS THE WILDLIFE RESOURCES CONSERVATION AND PROTECTION ACT;
- (24) VIOLATION OF SECTION 7(b) OF REPUBLIC ACT NO. 9072, OTHERWISE KNOWN AS THE NATIONAL CAVES AND CAVE RESOURCES MANAGEMENT AND PROTECTION ACT;
- (25) VIOLATION OF REPUBLIC ACT NO. 6539, OTHERWISE KNOWN AS THE ANTI-CARNAPPING ACT OF 2002, AS AMENDED;

(26) VIOLATIONS OF SECTIONS 1, 3 AND 5 OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, OTHERWISE KNOWN AS THE DECREE CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES;

(27) VIOLATION OF PRESIDENTIAL DECREE NO. 1612, OTHERWISE KNOWN AS THE ANTI-FENCING LAW;

(28) Fraudulent practices and other violations under Republic Act No. 8799, otherwise known as the Securities Regulation Code of 2000; AND

(29) Felonies or offenses of a similar nature that are punishable under the penal laws of other countries."

SEC. 3. Section 4 of the same Act is hereby amended to read as follows:

"SEC. 4. Money Laundering Offense.- MONEY LAUNDERING IS A CRIME WHEREBY THE PROCEEDS OF AN UNLAWFUL ACTIVITY AS HEREIN DEFINED ARE TRANSACTED, CONVERTED, TRANSFERRED, DISPOSED OF, MOVED, ACQUIRED, POSSESSED, USED, CONCEALED OR DISGUISED.

IT IS COMMITTED BY ANY PERSON WHO, KNOWING OR HAS REASON TO BELIEVE THAT ANY MONETARY INSTRUMENT OR PROPERTY REPRESENTS, INVOLVES, OR RELATES TO THE PROCEEDS OF ANY UNLAWFUL ACTIVITY:

- (a) TRANSACTS OR ATTEMPTS TO TRANSACT SAID MONETARY INSTRUMENT OR PROPERTY;
- (b) CONVERTS, TRANSFERS, DISPOSES OF, MOVES, ACQUIRES, POSSESSES OR USES, OR ATTEMPTS TO CONVERT, TRANSFER, DISPOSE OF, MOVE, ACQUIRE, POSSESS OR USE SAID MONETARY INSTRUMENT OR PROPERTY;
- (c) CONCEALS OR DISGUISES OR ATTEMPTS TO CONCEAL OR DISGUISE THE TRUE NATURE, SOURCE, LOCATION, DISPOSITION, MOVEMENT OR OWNERSHIP OF OR RIGHTS WITH RESPECT TO SAID MONETARY INSTRUMENT OR PROPERTY; AND
- (d) PERFORMS OR FAILS TO PERFORM ANY ACT AS A RESULT OF WHICH HE FACILITATES THE OFFENSE OF MONEY LAUNDERING REFERRED TO IN PARAGRAPHS (a), (b) OR (c) ABOVE.

MONEY LAUNDERING IS ALSO COMMITTED BY ANY PERSON WHO, KNOWING THAT ANY MONETARY INSTRUMENT OR PROPERTY IS REQUIRED UNDER THIS ACT TO BE DISCLOSED AND FILED WITH THE ANTI-MONEY LAUNDERING COUNCIL (AMLC), FAILS TO DO SO.

SEC. 4. Section 7 of the same Act is hereby amended to read as follows:

"SEC. 7. Creation of Anti-Money Laundering Council (AMLC). -- The Anti-Money Laundering Council is hereby created and shall be composed of the Governor of the Bangko Sentral ng Pilipinas as Chairman, the Commissioner of the Insurance Commission and the

Chairman of the Securities and Exchange Commission as Members. The AMLC shall act unanimously in the discharge of its functions as defined hereunder:

x x x

(6) to apply before the Court of Appeals, ex parte, for the freezing of any monetary instrument or property alleged to be RELATED IN ANY WAY TO any unlawful activity as defined in Section 3(i) hereof;

SEC. 5. Section 9 (c) paragraphs 1 and 4 of the same Act are hereby amended to read as follows:

"SEC. 9. Prevention of Money Laundering; Customer Identification Requirements and Record Keeping. -

(a) x x x

(b) x x x

"(c) Reporting of Covered and Suspicious Transactions. - Covered institutions shall report to the AMLC all covered transactions and suspicious transactions within five (5) working days from occurrence thereof, unless the AMLC prescribes a DIFFERENT period not exceeding FIFTEEN (15) working days."

x x x

When reporting covered or suspicious transactions to the AMLC, covered institutions and their officers and employees x x x are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person or entity, the media, the fact that a covered or suspicious transaction HAS BEEN REPORTED OR IS ABOUT TO BE REPORTED, the contents OF THE REPORT, or any other information in relation thereto. x x x."

SEC. 6. Section 10 of the same Act is hereby amended to read as follows:

"Sec. 10. Freezing of Monetary Instrument or Property. The Court of Appeals, upon application ex parte by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, may issue a freeze order which shall be effective immediately. The freeze order shall be for a period of twenty (20) days unless extended by the court.

"NOTWITHSTANDING THE PROVISION OF THE PRECEDING PARAGRAPH, THE AMLC MAY ISSUE A FREEZE ORDER, WHICH SHALL BE EFFECTIVE IMMEDIATELY, TO IMPLEMENT BINDING CONVENTIONS, DIRECTIVES, OR RESOLUTIONS OF THE UNITED NATIONS, ITS SECURITY COUNCIL AND OTHER RELEVANT UN OFFICES AND COMMITTEES, AGAINST TERRORISM OR TERRORIST FINANCING. THE FREEZE ORDER SHALL BE EFFECTIVE UNTIL THE BASIS FOR THE ISSUANCE THEREOF SHALL HAVE BEEN LIFTED. DURING THE EFFECTIVITY OF THE FREEZE ORDER, AN AGGRIEVED PARTY MAY, WITHIN THIRTY (30) DAYS FROM ISSUANCE, FILE WITH THE COURT OF APPEALS A PETITION TO DETERMINE THE BASIS OF THE FREEZE ORDER."

SEC. 7. Section 11 of the same Act is hereby amended to read as follows:

"SEC. 11 Authority to Inquire into Bank Deposits.- Notwithstanding the provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment, including related web of accounts, with any banking institution or non-bank financial institution upon order of any competent court BASED ON AN EX PARTE APPLICATION in cases of violations of this Act when it has been established that there is probable cause that the deposits or investments INCLUDING RELATED WEB OF ACCOUNTS involved are related to an unlawful activity as defined in Sections 3(i) hereof or a money laundering offense under Section 4 hereof; except that no court order shall be required in cases involving unlawful activities defined in Section 3 (i)(1),(2), (12), (13) AND (14) HEREOF.

"To ensure compliance with this Act, the Bangko Sentral ng Pilipinas (BSP) may inquire into or examine any deposit or investment INCLUDING RELATED WEB OF ACCOUNTS with any banking institution or non-bank financial institution when the examination is made in the course of a periodic or special examination, in accordance with the rules of examination of the BSP."

SEC. 8. Section 12 (a) of the same Act is hereby amended to read as follows:

"(a) Civil Forfeiture. - UPON DETERMINATION THAT PROBABLE CAUSE EXISTS THAT ANY MONETARY INSTRUMENT OR PROPERTY IS FOUND TO BE RELATED IN ANY WAY TO AN UNLAWFUL ACTIVITY AS DEFINED UNDER SECTION 3 (i) HEREOF OR A MONEY LAUNDERING OFFENSE UNDER SECTION 4 HEREOF, THE AMLC SHALL FILE WITH THE APPROPRIATE COURT, THROUGH THE OFFICE OF THE SOLICITOR GENERAL, A PETITION FOR FORFEITURE AND THE RULES OF COURT ON CIVIL FORFEITURE SHALL APPLY."

SEC. 9. A new subsection (e) is hereby added to Section 12 of the same Act to read as follows:

"(e) DISPOSITION OF FORFEITED ASSETS AND RETENTION. AFTER DEDUCTING COST OF LITIGATION, SEVENTY-FIVE PERCENT (75%) OF THE NET PROCEEDS OF THE FORFEITED ASSETS OR PROCEEDS THEREFROM SHALL BE TURNED OVER TO THE NATIONAL TREASURY AND THE REMAINING TWENTY-FIVE PERCENT (25%) SHALL BE RETAINED BY THE AMLC TO AUGMENT THE APPROPRIATION FOR ITS OPERATIONS AND MAINTENANCE IN THE GENERAL APPROPRIATIONS ACT. FOR THIS PURPOSE, THE AMLC MAY PROMULGATE RULES ON THE SALE OF FORFEITED ASSETS."

SEC. 10. A new subsection (e) is hereby added to Section 14 of the same Act to read as follows:

"(e) IMPOSITION OF ADMINISTRATIVE SANCTIONS. AFTER DUE NOTICE AND HEARING, THE AMLC SHALL, AT ITS DISCRETION, IMPOSE SANCTIONS, INCLUDING

MONETARY PENALTIES, WARNING OR REPRIMAND, UPON ANY COVERED INSTITUTION, ITS DIRECTORS, OFFICERS, EMPLOYEES OR ANY OTHER PERSON FOR VIOLATIONS OF THIS ACT, ITS IMPLEMENTING RULES AND REGULATIONS, OR FOR FAILURE OR REFUSAL TO COMPLY WITH AMLC ORDERS, RESOLUTIONS AND OTHER ISSUANCES.

SUCH MONETARY PENALTIES SHALL BE IN AMOUNTS AS MAY BE DETERMINED BY THE COUNCIL TO BE APPROPRIATE, WHICH SHALL BE NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (PHP500,000.00) PER VIOLATION.

THE AMLC MAY PROMULGATE RULES ON FINES AND PENALTIES TAKING INTO CONSIDERATION THE ATTENDANT CIRCUMSTANCES, SUCH AS THE NATURE AND GRAVITY OF THE VIOLATION OR IRREGULARITY, THE SIZE, FUNCTIONS AND RESOURCES OF THE COVERED INSTITUTION.

THE IMPOSITION OF THE ADMINISTRATIVE SANCTIONS SHALL BE WITHOUT PREJUDICE TO THE FILING OF CRIMINAL CHARGES AGAINST THE PERSONS RESPONSIBLE FOR THE VIOLATION."

SEC. 11. Separability Clause. – If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions thereof.

SEC. 12. Repealing Clause. -- All laws, decrees, orders and issuances or portion thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 13. Effectivity. – This Act shall take effect fifteen (15) days following its publication in at least two (2) national newspapers of general circulation.

Approved,