

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4407



Introduced by Rep. Winston "Winnie" Castelo

EXPLANATORY NOTE

In 2012, the Financial Action Task Force (FATF), the international body tasked to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering and terrorist financing, identified the Philippines as one of the countries with deficiencies in their anti-money laundering and combating the financing of terrorism (AML/CFT) regime. The FATF found that Designated Non-Financial Businesses and Professions (DNFBPs) such as casinos, real estate agents and brokers, and dealers in precious metals and stones, are now being used by money launderers to cover their transactions. Thus, the FATF recommended that these DNFBPs be included in the coverage of reporting entities under the Anti-Money Laundering Act (AMLA).

In response thereto, the Philippines enacted Republic Act No. 10365, which expanded the coverage of AMLA. The amendments, however, still failed to comply with the FATF recommendation as it still exempted casinos from the covered institutions.

The importance of including casinos in the coverage of AMLA is highlighted by the "Bangladesh Bank Heist" in February 2016. Reports show that foreign hackers diverted about \$81 million from the Bank of Bangladesh's account with the Federal Reserve Bank of New York to four Philippine banks. A remittance company then converted the funds from US dollars to Philippine pesos and part of the sum made its way to the casino industry through junket operators. Attempts to recover the money were futile, considering the fact that the current AML/CFT legislation does not cover casinos.

To address this deficiency, this bill proposes to extend the coverage of reporting entities to include DNFBPs, such as casinos, real estate brokers, and art and luxury car dealers.

The inclusion of art and luxury motor vehicle dealers, while not included in the FATF recommendations, is also being proposed. It is obvious that these industries are vulnerable to money laundering considering the high value associated with certain

works of art and luxury vehicles and the tradition of secrecy surrounding transactions involving these items.

This amendment hopes to strengthen our AML/CFT regime and thus ensure the integrity of financial and banking transactions and consequently thwart illegal activities that are channelled through the country's financial system.

Immediate passage of this bill is therefore most earnestly sought.



REP. WINSTON "WINNIE" CASTELO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session
4407
HOUSE BILL NO. _____

Introduced by Rep. Winston "Winnie" Castelo

**AN ACT FURTHER STRENGTHENING REPUBLIC ACT NO. 9160, OTHERWISE
KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001, AS AMENDED**

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

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

"(a) 'Covered persons', natural or juridical, refers to:

"(1) banks, non-banks, quasi-banks, trust entities, foreign exchange dealers, pawnshops, money changers, remittance and transfer companies and other similar entities and all other persons and their subsidiaries and affiliates supervised or regulated by the Bangko Sentral ng Pilipinas (BSP);

"(2) insurance companies, pre-need companies and all other persons supervised or regulated by the Insurance Commission (IC);

"(3) (i) securities dealers, brokers, salesmen, investment houses and other similar persons managing securities or rendering services as investment agent, advisor, or consultant, (ii) mutual funds, close-end investment companies, common trust funds, and other similar persons, 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) [jewelry] dealers in precious metals **AND PRECIOUS STONES**; [, who, as a business, trade in precious metals, for transactions in excess of One million pesos (P1,000,000.00);]

["(5) jewelry dealers in precious stones, who, as a business, trade in precious stones, for transactions in excess of One million pesos (P1,000,000.00);]

"(5) CASINO OPERATORS, WITH RESPECT TO THEIR GAMING OPERATIONS;

"(6) REAL ESTATE BROKERS, AS DEFINED UNDER REPUBLIC ACT NO. 9646, OTHERWISE KNOWN AS THE "REAL ESTATE SERVICE ACT OF THE PHILIPPINES";

"(7) ART DEALERS;

"(8) LUXURY MOTOR VEHICLE DEALERS; AND

"(9) company service providers which, as a business, provide any of the following services to third parties: (i) acting as a formation agent of juridical persons; (ii) 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; (iii) 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 (iv) acting as (or arranging for another person to act as) a nominee shareholder for another person; and

"(10) persons who provide any of the following services:

- (i) managing 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[.]; **AND**
- (V) BUYING AND SELLING OF REAL ESTATE.**

"Notwithstanding the foregoing, the term 'covered persons' shall exclude lawyers and accountants acting as independent legal professionals in relation to information concerning their clients or where disclosure of information would compromise client confidences or the attorney-client relationship: Provided, That these lawyers and accountants are authorized to practice in the Philippines and shall continue to be subject to the provisions of their respective codes of conduct and/or professional responsibility or any of its amendments."

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

"(b) "Covered transaction" [is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of Five hundred thousand pesos (Php 500,000.00) within one banking day.] **REFERS TO:**

1. **A TRANSACTION IN CASH OR OTHER EQUIVALENT MONETARY INSTRUMENT INVOLVING A TOTAL AMOUNT IN EXCESS OF FIVE HUNDRED THOUSAND PESOS (PHP 500,000.00) WITHIN ONE BANKING DAY;**
2. **FOR COVERED PERSONS UNDER PARAGRAPHS (4), AND (7) OF SECTION 3 (A) HEREOF, ANY SINGLE TRANSACTION EXCEEDING ONE MILLION PESOS (PHP 1,000,000.00);**
3. **FOR COVERED PERSONS UNDER PARAGRAPH (5) OF SECTION 3 (A) HEREOF, ANY SINGLE OR AGGREGATE OF TRANSACTIONS EXCEEDING ONE HUNDRED FIFTY THOUSAND PESOS (PHP 150,000.00) IN ONE GAMING DAY; AND**
4. **FOR COVERED PERSONS UNDER PARAGRAPH (6) OF SECTION 3 (A) HEREOF, ANY SINGLE TRANSACTION EXCEEDING THREE MILLION PESOS (PHP 3,000,000.00).**

"(b-1) "Suspicious transactions" are transactions with covered institutions, regardless of the amounts involved, where any of the following circumstances exist:

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 circumstances 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 institution;
6. the transactions is in a way related to an unlawful activity or offense under this Act that is about to be, is being or has been committed; or
7. any transactions that is similar or analogous to any of the foregoing **AS MAY BE DETERMINED BY THE ANTI-MONEY LAUNDERING COUNCIL (AMLC).**"

SEC. 3. Section 3 of the same Act shall have new paragraphs, as follows:

(L) "CASINO" SHALL REFER TO GAMBLING CASINOS WHERE THE BUILDING, ROOM OR SPACE IS USED FOR SOCIAL AMUSEMENTS; SPECIFICALLY, ONE USED FOR GAMBLING THROUGH GAMES OF

CHANCE, GAMES OF CARDS AND GAMES OF NUMBERS AND ARE BEING REGULATED AND SUPERVISED BY THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR), THE CAGAYAN ECONOMIC ZONE AUTHORITY (CEZA), OR ANY OTHER APPROPRIATE SUPERVISING AUTHORITY. FOR PURPOSES OF THIS ACT, IT ALSO INCLUDES INTERNET- AND SHIP-BASED CASINOS.

1. INTERNET-BASED CASINO REFERS TO GAMBLING CASINOS IN WHICH PERSONS PARTICIPATE BY THE USE OF REMOTE COMMUNICATION FACILITIES SUCH AS, BUT NOT LIMITED TO, INTERNET, TELEPHONE, TELEVISION, RADIO OR ANY OTHER KIND OF ELECTRONIC OR OTHER TECHNOLOGY FOR FACILITATING COMMUNICATION.
2. SHIP-BASED CASINO REFERS TO GAMBLING CASINOS, THE OPERATION OF WHICH IS UNDERTAKEN ON BOARD A VESSEL, SHIP, BOAT OR ANY OTHER WATER-BASED CRAFT WHOLLY OR PARTLY INTENDED FOR GAMBLING.

(M) "ART" REFERS TO ALL ORIGINAL WORKS OF ART LIKE DRAWING, PAINTING, SCULPTURE, ENGRAVING AND ART WORK PRODUCED IN MULTIPLES SUCH AS GRAPHIC AND PHOTOGRAPHIC WORKS AND SCULPTURE CASTS, BUT SHALL NOT INCLUDE WORKS INTENDED TO BE MASS-PRODUCED.

(N) "LUXURY MOTOR VEHICLE" REFERS TO ANY MOTOR VEHICLE EXCEEDING THE FOLLOWING TECHNICAL SPECIFICATIONS:

1. CAR (SEDAN OR HATCHBACK) WITH AN ENGINE DISPLACEMENT EXCEEDING 2200 CC. IF GASOLINE-FED OR 3000 CC. IF DIESEL-FED; AND WITH AN ENGINE EXCEEDING 4 CYLINDERS;
2. PASSENGER VAN OR PICK-UP WITH AN ENGINE DISPLACEMENT EXCEEDING 2200 CC IF GASOLINE-FED OR 3000 CC. IF DIESEL-FED, AND WITH AN ENGINE EXCEEDING 4 CYLINDERS;
3. CROSSOVER UTILITY VEHICLE (CUV)/MULTI-PURPOSE VEHICLE (MPV)/ASIAN UTILITY VEHICLE (AUV) WITH AN ENGINE DISPLACEMENT EXCEEDING 2000 CC. IF GASOLINE-FED OR 2500 CC. IF DIESEL-FED, AND WITH AN ENGINE EXCEEDING 4 CYLINDERS; AND
4. SPORTS UTILITY VEHICLE (SUV) WITH AN ENGINE DISPLACEMENT EXCEEDING 2700 CC. IF GASOLINE-FED OR 3000 CC. IF DIESEL-FED, AND WITH AN ENGINE EXCEEDING 4 CYLINDERS.

(O) "DEALER" REFERS TO ANY PERSON WHO BUYS, SELLS, EXCHANGES OR OTHERWISE DEALS IN PRECIOUS METALS, PRECIOUS

**STONES, WORKS OF ART, OR LUXURY MOTOR VEHICLE, AS THE CASE
MAY BE, IN THE COURSE OF ITS BUSINESS.**

SECTION 4. Separability Clause. If any provision or part hereof is held invalid or unconstitutional, the remainder of the provision not otherwise affected shall remain valid and subsisting.

SECTION 5. Repealing Clause. Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 6. Effectivity. This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,