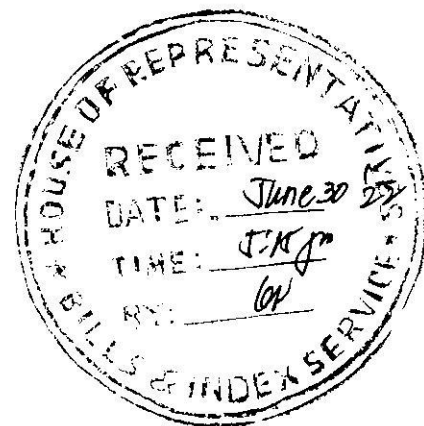


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 374



Introduced by Representatives JOEY SARTE SALCEDA

AN ACT
PENALIZING THE SMUGGLING OF FOREIGN CURRENCY AND OTHER
MONETARY INSTRUMENTS IN BULK INTO OR OUT OF THE PHILIPPINES

EXPLANATORY NOTE

Bulk cash smuggling is a serious national security risk as much as it is a risk to the country's institutions. Bulk cash smuggling suspected to be in the billions of pesos are enough to shift political fortunes and corrupt institutions in the country, facilitating crime and other illegal activities.

In 2019, only about 1,015 tourists were declared to have brought in more than \$10,000 out of the 19.4 million foreign arrivals from Jan 2019-Feb 2020. Among these declared bulk foreign currency imports, about P28.6 billion were brought in by four groups – Rodriguez group, Philippine Offshore Gaming Operation (POGO), Singaporean and Chinese groups – and yet, authorities were unable to obtain sufficient information about the source, purpose, or destination of these funds.

The more the country's financial authorities, including the Department of Finance, the Bangko Sentral ng Pilipinas, and the Anti-Money Laundering Council are unable to respond to bulk cash smuggling decisively, the greater becomes the risk that the country gets delisted from the Financial Action Task Force (FATF) for being a high risk base for terrorism financing and money laundering.

This delisting would have serious implications on the ability of our financial institutions to expand and do business transnationally. This would also carry broader dangers to our credit standing internationally, making the country a riskier borrower of funds.

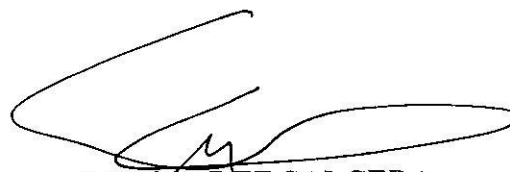
This Act expands the coverage of the Anti Money Laundering Act of 2001 to include one-time cash transports of more than Php 500,000 at any one time. This Act also empowers the AMLC to define a cumulation of closely-related events that would constitute “one time.”

The Act likewise includes the Bureau of Treasury, through the Treasurer of the Philippines, in the AMLC to facilitate counterpart-to-counterpart cooperation, as many countries’ anti-money laundering efforts are spearheaded by their Secretaries or Ministers of the Treasury.

The Act also criminalizes bulk cash smuggling, ensuring that the evasion of a paper trail for cash transfers is not tolerated under the law.

It also provides for the forfeiture in favor of the Philippines of assets related to cash smuggling.

In view of the urgency of the need for a response to the currently unmitigated influx of bulk cash into the Philippines, and given the critical importance of a policy response to the threats that bulk cash smuggling pose to peace and order, national security, and institutional and financial integrity, the immediate enactment of this bill is urgently sought.



JOEY SARTE SALCEDA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

HOUSE BILL NO. **374**

Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
PENALIZING THE SMUGGLING OF FOREIGN CURRENCY AND OTHER
MONETARY INSTRUMENTS IN BULK INTO OR OUT OF THE PHILIPPINES

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

SECTION 1. *Short Title.* – This Act shall be known as the “Anti-Bulk Foreign Currency Smuggling Act.”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to protect and preserve the integrity of the country’s financial system, and to ensure that the Philippines shall not be used as a money laundering site for the proceeds of unlawful activity. The State shall protect life, liberty, and property from acts of terrorism by preventing the financing of terrorism, terrorist individuals and entities, and weapons of mass destruction. Towards this end, the State shall enforce a written declaration system for the physical cross-border transfer of foreign currency and other foreign currency-denominated bearer monetary instruments into and out of the Philippines.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Currency* refers to the banknotes and coins that are in circulation as medium of exchange in the country of issuance;

(b) *False declaration* refers to a misrepresentation of the amount of foreign currency or bearer monetary instruments being transported, or a misrepresentation of other relevant data required for submission in the declaration or otherwise requested by authorities;

(c) *Foreign currency* refers to the coin and banknote of any country other than the Philippines that is designated as legal tender and that is in circulation as a medium of exchange in the country of issuance;

(d) *Foreign currency-denominated bearer monetary instruments* refer to foreign exchange-denominated monetary instruments in bearer form such as: traveler’s cheques; monetary instruments that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments, including cheques, promissory notes, and money orders signed, but with

the payee's name omitted; securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery;

(e) *Non-declaration* refers to the failure to declare foreign currency or evasion of foreign currency declaration as required under this Act; and

(f) *Physical cross-border transfer* refers to any inbound or out-bound physical transportation of currency or bearer monetary instruments from one country to another country. The term includes the following modes of transportation:

(i) physical transportation by a natural person, as part of that person's accompanying baggage or through the person's vehicle;

(ii) shipment of currency or bearer monetary instruments through containerized cargo or express and regular air shipments or

(iii) the mailing of currency or bearer monetary instruments by a natural or legal person.

SEC. 4. *Written Declaration for the Physical Cross-Border Transfer of Foreign Currencies and Foreign Currency-Denominated Bearer Monetary Instruments.* – Any person or agent or bailee of the person who transports, is about to transport, or has transported foreign currency or other foreign currency-denominated bearer monetary instruments in an amount that exceeds Ten thousand US Dollars (US \$10,000) or its equivalent, or such amount as may be determined by the Anti-Money Laundering Council through official and published circular orders, at one time from a place in the Philippines to or through a place outside the Philippines; or to a place in the Philippines from or through a place outside the Philippines, is required to declare the same under oath and in writing at the time and place as prescribed in the rules and regulations to be issued to implement this Act. The written declaration for the physical cross-border transfer of foreign currencies or foreign currency-denominated bearer monetary instruments shall be accompanied by proof of declaration at the port of origin: *Provided*, That said declaration is required by authorities at the country of origin.

SEC. 5. *Specifications of the Declaration Form.* – The declaration form shall contain the following information, at the minimum:

(a) Personal information of the person transporting the foreign currency or foreign currency-denominated bearer monetary instruments, including the person's full name, date of birth, place of birth, citizenship, passport number, permanent address, and occupation or business activity;

(b) Details of travel, including arrival or departure date, flight number and name of carrier or voyage number and name of vessel, bill of lading or airway bill number and date, prior port of entry or departure, port of entry or departure, destination: *Provided*, That, if the declarant is a foreigner or not permanently residing in the Philippines, the Declaration Form shall contain the following additional information: address and contact number in the Philippines, duration of stay in the Philippines, and additional information as may be required;

(c) Legal capacity in which the person filing the declaration is acting;

(d) Information on the owner or sender of the foreign currency or foreign currency-denominated bearer monetary instruments, including the name of the sender or owner of the foreign currency or foreign currency-denominated bearer monetary instruments; permanent address; and occupation or business activity, when the person transporting them does not legally and beneficially own them;

(e) Information on the recipient of the foreign currency or foreign currency-denominated bearer monetary instruments, including the name of the recipient of the foreign

currency or foreign currency-denominated bearer monetary instruments; permanent address; and occupation or business activity, when the person transporting them personally is not going to use them;

(f) Information on the foreign currency or foreign currency-denominated bearer monetary instruments being transported, including the name of the foreign currency or foreign currency-denominated bearer monetary instruments, the country that issued such currency or monetary instruments, the amount of the currency or monetary instruments, source or sources of the currency or monetary instruments and how these were acquired, and the purpose or intended use of the transport of the currency or monetary instruments; and

(g) Additional information as may be required under the rules and regulations to be issued to implement this Act.

SEC. 6. *Cumulation of Closely Related Events.* – Notwithstanding the provisions of Republic Act No. 9160, or the Anti-Money Laundering Act of 2001, as amended, the Anti-Money Laundering Council shall prescribe in the rules and regulations to be issued to implement this Act the definition of the term “at one time” for purposes of Section 4. Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of Section 4 hereof.

SEC. 7. *Registration of Entities Engaged in Regular or Periodic Transfer of Bulk Currency.* – Any person or entity engaged in the regular or periodic transfer of bulk currency which falls under the ambit of money service business as defined by regulations issued by the Bangko Sentral ng Pilipinas shall register with the Bangko Sentral ng Pilipinas. The Bangko Sentral ng Pilipinas shall furnish the Bureau of Customs the list of registered persons or entities engaged in the regular or periodic transfer of bulk currency for monitoring at the ports of entry and exit and in the implementation of this Act. Persons and entities engaged in the regular or periodic transfer of bulk currency that exceeds Ten thousand US dollars (US \$10,000) at one time, which are not considered money service business, must accomplish the declaration form in Section 4 hereof and submit proof of doing legitimate business with any entity supervised by the Bangko Sentral ng Pilipinas. This includes, among others, the third-party cash courier being engaged or contracted by the institutions supervised by the Bangko Sentral ng Pilipinas for the physical transport of cash or value for a fee. The failure by persons or entities shown to be engaged in the regular or periodic transfer of bulk currency to register as prescribed in this Act shall be reasonable ground to suspect that the foreign currency or foreign currency-denominated bearer monetary instrument is related to an unlawful activity and shall be subject to verification by the Anti-Money Laundering Council.

SEC. 8. *Assistance by the Customs Officer on Duty.* – Overseas Filipino workers bringing in foreign currencies or foreign currency-denominated bearer monetary instruments in excess of Ten thousand US Dollars (US \$10,000) or its equivalent must be reasonably assisted by the Customs Officer on duty in filling the required Foreign Currency Declaration Form and Customs Baggage Declaration Form upon their request. In cases of inadvertent non-declaration or unintentional inaccurate declaration of foreign currency or foreign currency-denominated bearer monetary instrument by an Overseas Filipino worker, the Customs Officer on duty shall assist the Overseas Filipino worker in properly accomplishing the required Foreign Currency Declaration Form and Customs Baggage Declaration Form to rectify unintentional errors and inadvertent non-declaration. Airline companies operating in countries that do not predominantly use the English language as a medium of communication may assist the foreigner in accomplishing the Foreign Currency Declaration Form and Customs Baggage Declaration Form. The Customs Officer on duty shall assist the foreigner in properly accomplishing the required forms upon the foreigner's

request.

SEC. 9. Authority to Obtain Information from the Carrier. – Upon discovery of a false declaration or non-declaration as defined in Section 3 hereof, or if there is a reasonable ground to suspect that the foreign currency or foreign currency-denominated bearer monetary instrument is in any way related to the proceeds of unlawful activities, money laundering, financing of terrorism and weapons of mass destruction, as defined by law, the Bureau of Customs may request and obtain information and supporting documents from the person or an agent or bailee of the person who is obliged to declare pursuant to Section 4 hereof and the carrier with regard to the travel information of the passenger or foreign currency or foreign currency-denominated bearer monetary instrument subject of carriage.

SEC. 10. Restraint of Currencies and Bearer Monetary Instruments. – Upon discovery of a false declaration or non-declaration as defined in Section 3 hereof, or when there is a reasonable ground to suspect that the foreign currency or foreign currency-denominated bearer monetary instrument is related to an unlawful activity, money laundering, financing of terrorism and weapons of mass destruction, as defined by law, the Bureau of Customs may temporarily restrain said foreign currency or foreign currency-denominated bearer monetary instrument for a period of fifteen (15) calendar days, which may be extended for another fifteen (15) calendar days, to give the person concerned the opportunity to produce and submit required information and supporting documents and prove the legitimacy of the source and purpose of subject importation, including verification with the Anti-Money Laundering Council for any related derogatory information thereon. The Bureau of Customs shall, on the same day that the false declaration or non-declaration with reasonable grounds was detected, refer the information to the Anti-Money Laundering Council, which shall conduct further investigation on the matter pursuant to its investigative power under Republic Act No. 9160, or the Anti-Money Laundering Act of 2001, as amended; Republic Act No. 10168, or the Terrorism Financing Prevention and Suppression Act of 2012; and Republic Act No. 11479, or the Anti-Terrorism Act of 2020. If no case is filed within the period as mentioned in the first paragraph, the temporary restraint imposed upon the foreign currency or foreign currency-denominated bearer monetary instruments shall be *ipso facto* lifted, without prejudice to filing of cases pursuant to Republic Act No. 9160, or the Anti-Money Laundering Act of 2001, as amended; Republic Act No. 10168, or the Terrorism Financing Prevention and Suppression Act of 2012; and Republic Act No. 11479, or the Anti-Terrorism Act of 2020.

SEC. 11. Bulk Foreign Currency Smuggling Offense. – The offense of bulk foreign currency smuggling is committed when:

(a) A person physically transports or transfers foreign currency or foreign currency-denominated bearer monetary instruments in an amount that exceeds Two Hundred Thousand US Dollars (US \$200,000) or its equivalent from a place within the Philippines to a place outside of the Philippines, or from a place outside the Philippines to a place within the Philippines, unless registered as an entity engaged in regular or periodic transfer of bulk currency under Section 7 hereof.

(b) A person knowingly conceals foreign currency or foreign currency-denominated bearer monetary instruments in an amount that exceeds Ten thousand US Dollars (US \$10,000) or its equivalent on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer such currency or bearer monetary instruments from a place within the Philippines to a

place outside of the Philippines, or from a place outside the Philippines to a place within the Philippines with the intent to evade the currency declaration requirement under Sections 4, 5, and 6 hereof or makes a false declaration as defined in Section 3 hereof. The Anti-Money Laundering Council shall define the term “knowingly conceals” for purposes of this Section in the rules and regulations to be issued to implement this Act. For purposes of this Section, the concealment of currency on the person of any individual includes concealment in any article of clothing worn by the individual or in any luggage, bag, or other container worn or carried by such individual.

SEC. 12. *Penalties.* –

(1) Term of imprisonment – Any person or co-conspirator who commits the bulk foreign currency smuggling offense as defined under Section 11(a) of this Act shall be imprisoned for not less than seven (7) years but not more than fourteen (14) years. Any person or co-conspirator who commits the bulk foreign currency smuggling offense as defined under Section 11(b) of this Act shall be imprisoned for not less than six (6) months but not more than two (2) years. If the offender is an alien, the alien shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, the public official or employee shall, in addition to the penalties prescribed herein, be disqualified from holding public office and from voting and participating in any public election for ten (10) years.

(2) Forfeiture – In addition, the court shall, in imposing the penalty under paragraph (1) of this section, order the defendant to forfeit to the Republic of the Philippines, any property, real or personal, involved in the offense, and any other property traceable to the property involved in the offense, except those which are seized and forfeited by the Bureau of Customs pursuant to Republic Act No. 10863, otherwise known as the “Customs Modernization and Tariff Act (CMTA).” The seizure and forfeiture of property and other criminal proceedings under this Section shall be governed by Republic Act No. 9160 or the Anti-Money Laundering Act of 2001, as amended, as referred to in Section 10 of this Act.

(3) Personal money judgement – If the property subject to forfeiture under paragraph (2) of this Section is unavailable, and the defendant has insufficient substitute property that may be forfeited pursuant to Republic Act No. 9160, or the Anti-Money Laundering Act, as amended, the court shall enter a personal money judgement against the defendant for the amount that would be subject to forfeiture.

Prosecution and imposition of penalties under this Act shall be without prejudice to any liability or penalty that may be imposed under existing laws.

SEC. 13. *Unlawful Activity to Money Laundering.* – Bulk foreign currency smuggling under Section 11 of this Act shall be a predicate offense to money laundering as defined in Republic Act No. 9160, otherwise known as the “Anti-Money Laundering Act of 2001,” as amended.

SEC. 14. *Implementing Agencies.* – The primary implementing agencies under this Act shall be the Bureau of Customs and the Anti-Money Laundering Council.

SEC. 15. *Rules and Regulations.* – Within thirty (30) days from the effectivity of this Act, the Bureau of Customs, the Anti-Money Laundering Council, and the Bangko Sentral ng Pilipinas shall promulgate the rules and regulations to implement the provisions of this Act.

SEC. 16. *Separability Clause.* – If any provision or section of this Act or the application thereof to any person or circumstance is held to be invalid, the other provisions or sections of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SEC. 17. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations or portions thereof, which are inconsistent with the provisions of the Act, are hereby repealed, amended, or modified accordingly

SEC. 18. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,