

SENATE

S. No. 2484

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Money laundering has adversely affected the social, political, and economic landscape of the world and is incessantly exploiting the vulnerabilities and weaknesses of every nation. It continues to evolve such that the international standards in combating money laundering must continue to be raised in order to detect, deter and defeat it. It has become a global monster and no single country, no matter how strong it may be, can slay the same by itself.

All jurisdictions must, therefore, endeavor to cope with the ever changing environment in order to be effective in the fight against money laundering. They have to comply with the international anti-money laundering standards to enhance their capabilities and must engage fully in both domestic and international cooperation.

Just like other jurisdictions, the Philippines is exposed daily to money laundering risks and threats, and stands vulnerable to the nefarious effects of money laundering due to some deficiencies in its legal, regulatory, and supervisory framework. These deficiencies must be promptly addressed in order for the Philippines to develop and establish a robust AML regime that is truly fully compliant with international standards.

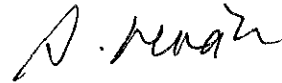
One of such serious deficiencies noted is the limited scope and definition of the crime of money laundering under R.A. No. 9160, otherwise known as the Anti-Money Laundering Act (AMLA) of 2001, as amended, which was found to be not in accordance with the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance (*Vienna Convention*) and the United Nations Convention Against Transnational Organized Crime (*Palermo Convention*). As defined in the AMLA, as amended, money laundering is confined to the transaction of criminal proceeds. In other words, if the illicit proceeds are not transacted, there is no crime of money laundering committed. Hence, the need to expand the scope of money laundering to include, among others, conversion, transfer, possession, concealment and disguise of the proceeds of any underlying unlawful activity.

Another deficiency is that many crimes such as bribery, corruption of public officers, frauds and illegal exactions and transactions, forgeries and counterfeiting, trafficking in persons, carnapping, environmental crimes, and malversation of public funds and property, are not predicate crimes to money laundering under the AMLA, as amended, and should, therefore, be considered as offenses underlying the crime of money laundering.

Other sectors not yet covered by the AMLA are also vulnerable to money laundering and can be exploited by money launderers and criminals. Designated Non-Financial Businesses and Professions (DNFBPs) such as casinos, real estate agents, dealers in precious metals and stones, lawyers, notaries, and accountants, are not covered by the AMLA, as amended, and should, therefore, be covered by said law.

Bank inquiry by the AMLC, being an indispensable discovery tool in following the money trail to ensure success in tracing the proceeds of crime, and identifying and bringing to justice the perpetrators, should be allowed ex-parte by the courts. Otherwise, the efforts of the government in stopping the evils of money laundering and its underpinning unlawful activities would be frustrated.

In view of the foregoing, early passage of this measure is strongly recommended.



SERGIO OSMEÑA III
Senator

)
)
)

13 SEP 2015

S E N A T E

OFFICE OF THE CLERK

S. No. 2484

Introduced by Senator S. R. Osmeña III

**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.**

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

3

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

6

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

8

9 (1) banks, quasi-banks, trust entities, foreign exchange corporations, money
10 changers, money payments, remittance and transfer companies and
11 other similar entities and all other institutions and their subsidiaries and
12 affiliates supervised or regulated by the Bangko Sentral ng Pilipinas
13 (BSP);

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

16 (3) (i) securities dealers, brokers, salesmen, investment houses and other
17 similar entities managing securities or rendering services as investment
18 agent, advisor, or consultant, (ii) mutual funds, close-end investment
19 companies, common trust funds, and other similar entities, and (iii) other
20 entities administering or otherwise dealing in currency, commodities or
21 financial derivatives based thereon, valuable objects, cash substitutes
22 and other similar monetary instruments or property supervised or
23 regulated by the Securities and Exchange Commission (SEC);

24

1 (4) NON-FINANCIAL BUSINESSES AND PROFESSIONS, SUCH AS

- 2 (i) CASINOS, INCLUDING INTERNET CASINOS;
3 (ii) REAL ESTATE AGENTS;
4 (iii) DEALERS IN PRECIOUS METALS;
5 (iv) DEALERS IN PRECIOUS STONES; AND
6 (v) LAWYERS, NOTARIES, OTHER INDEPENDENT LEGAL
7 PROFESSIONALS AND ACCOUNTANTS WHEN THEY
8 PREPARE FOR OR CARRY OUT TRANSACTIONS FOR
9 THEIR CLIENTS CONCERNING THE FOLLOWING
10 ACTIVITIES:

- 11 a. BUYING AND SELLING OF REAL ESTATE;
12 b. MANAGING OF CLIENT MONEY, SECURITIES OR
13 OTHER ASSETS;
14 c. MANAGEMENT OF BANK, SAVINGS OR
15 SECURITIES ACCOUNTS;
16 d. ORGANIZATION OF CONTRIBUTIONS FOR THE
17 CREATION, OPERATION OR MANAGEMENT OF
18 COMPANIES; AND
19 e. CREATION, OPERATION OR MANAGEMENT OF
20 LEGAL PERSONS OR ARRANGEMENTS, AND
21 BUYING AND SELLING BUSINESS ENTITIES.

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

- 30 (vi) TRUST AND COMPANY SERVICE PROVIDERS WHICH,
31 AS A BUSINESS, PROVIDE ANY OF THE FOLLOWING
32 SERVICES TO THIRD PARTIES:

- 33 a. ACTING AS A FORMATION AGENT OF LEGAL
34 PERSONS;
35 b. ACTING AS (OR ARRANGING FOR ANOTHER
36 PERSON TO ACT AS) A DIRECTOR OR
37 CORPORATE SECRETARY OF A COMPANY, A
38 PARTNER OF A PARTNERSHIP, OR A SIMILAR

1 POSITION IN RELATION TO OTHER LEGAL
2 PERSONS;

- 3 c. PROVIDING A REGISTERED OFFICE; BUSINESS
4 ADDRESS OR ACCOMMODATION,
5 CORRESPONDENCE OR ADMINISTRATIVE
6 ADDRESS FOR A COMPANY, A PARTNERSHIP OR
7 ANY OTHER LEGAL PERSON OR ARRANGEMENT;
8 d. ACTING AS (OR ARRANGING FOR ANOTHER
9 PERSON TO ACT AS) A TRUSTEE OF AN EXPRESS
10 TRUST; AND
11 e. ACTING AS (OR ARRANGING FOR ANOTHER
12 PERSON TO ACT AS) A NOMINEE SHAREHOLDER
13 FOR ANOTHER PERSON.
14

15 **SEC. 2.** Section 3 (i) of the same Act is hereby amended to read as follows:
16

17 “(i) ‘Unlawful activity’ refers to any act or omission or series or combination
18 thereof involving or having direct relation to the following:
19

- 20 (1) Kidnapping for ransom under Article 267 of Act No. 3815 , otherwise
21 known as the Revised Penal Code, as amended;
22 (2) Sections 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of Republic Act
23 No. 9165, otherwise known as the Comprehensive Dangerous Drugs
24 Act of 2002;
25 (3) Section 3 paragraphs B, C, E, G, H and I of Republic Act No. 3019,
26 as amended, otherwise known as the Anti-Graft and Corrupt
27 Practices Act;
28 (4) Plunder under Republic Act No. 7080, as amended;
29 (5) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301
30 and 302 of the Revised Penal Code, as amended;
31 (6) Jueteng and Masiao punished as illegal gambling under Presidential
32 Decree No. 1602;
33 (7) Piracy on the high seas under the Revised Penal Code, as amended,
34 and Presidential Decree No. 532;
35 (8) Qualified theft under Article 310 of the Revised Penal Code, as
36 amended;
37 (9) Swindling under Article 315 of the Revised Penal Code, as amended;
38 (10) Smuggling under Republic Act Nos. 455 and 1937;

- 1 (11) Violations under Republic Act No. 8792, otherwise known as the
2 Electronic Commerce Act of 2000;
- 3 (12) Hijacking and other violations under Republic Act No. 6235;
4 destructive arson and murder, as defined under the Revised Penal
5 Code, as amended;
- 6 (13) TERRORISM AND CONSPIRACY TO COMMIT TERRORISM AS
7 DEFINED AND PENALIZED UNDER REPUBLIC ACT NO. 9372;
- 8 (14) FINANCING OF TERRORISM AS DEFINED AND PENALIZED BY
9 LAW;
- 10 (15) BRIBERY UNDER ARTICLES 210, 211, 211-A OF THE REVISED
11 PENAL CODE, AS AMENDED AND CORRUPTION OF PUBLIC
12 OFFICERS UNDER ARTICLE 212 OF THE REVISED PENAL
13 CODE, AS AMENDED;
- 14 (16) FRAUDS AND ILLEGAL EXACTIONS AND TRANSACTIONS
15 UNDER ARTICLES 213, 214, 215, AND 216 OF THE REVISED
16 PENAL CODE, AS AMENDED;
- 17 (17) MALVERSATION OF PUBLIC FUNDS AND PROPERTY UNDER
18 ARTICLES 217 AND 222 OF THE REVISED PENAL CODE, AS
19 AMENDED;
- 20 (18) FORGERIES AND COUNTERFEITING UNDER ARTICLES 163,
21 166, 167, 168, 169, AND 176 OF THE REVISED PENAL CODE, AS
22 AMENDED;
- 23 (19) VIOLATIONS OF SECTIONS 4 TO 6 OF REPUBLIC ACT NO. 9208,
24 OTHERWISE KNOWN AS THE ANTI-TRAFFICKING IN PERSONS
25 ACT OF 2003;
- 26 (20) VIOLATIONS OF SECTIONS 68 TO 79 OF CHAPTER IV, OF THE
27 PRESIDENTIAL DECREE NO. 705, OTHERWISE KNOWN AS THE
28 REVISED FORESTRY CODE OF THE PHILIPPINES, AS
29 AMENDED;
- 30 (21) VIOLATIONS OF SECTIONS 86 TO 106 OF CHAPTER VI, OF
31 REPUBLIC ACT NO. 8550, OTHERWISE KNOWN AS THE
32 PHILIPPINE FISHERIES CODE OF 1998;
- 33 (22) VIOLATIONS OF SECTIONS 101 TO 107, AND 110 OF REPUBLIC
34 ACT NO. 7942, OTHERWISE KNOWN AS THE PHILIPPINE
35 MINING ACT OF 1995;
- 36 (23) VIOLATIONS OF SECTION 27 (c), (e), (f), (g) AND (i) OF
37 REPUBLIC ACT NO. 9147, OTHERWISE KNOWN AS THE

1 WILDLIFE RESOURCES CONSERVATION AND PROTECTION
2 ACT;

3 (24) VIOLATION OF SECTION 7(b) OF REPUBLIC ACT NO. 9072,
4 OTHERWISE KNOWN AS THE NATIONAL CAVES AND CAVE
5 RESOURCES MANAGEMENT AND PROTECTION ACT;

6 (25) VIOLATION OF REPUBLIC ACT NO. 6539, OTHERWISE KNOWN
7 AS THE ANTI-CARNAPPING ACT OF 2002, AS AMENDED;

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

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

15 (28) *Fraudulent practices and other violations under Republic Act No.*
16 *8799, otherwise known as the Securities Regulation Code of 2000;*
17 *AND*

18 (29) Felonies or offenses of a similar nature that are punishable under the
19 penal laws of other countries.”
20

21 **SEC. 3.** Section 4 of the same Act is hereby amended to read as follows:
22

23 “SEC. 4. *Money Laundering Offense.-* MONEY LAUNDERING IS A
24 CRIME WHEREBY THE PROCEEDS OF AN UNLAWFUL ACTIVITY AS
25 HEREIN DEFINED ARE TRANSACTED, CONVERTED, TRANSFERRED,
26 DISPOSED OF, MOVED, ACQUIRED, POSSESSED, USED, CONCEALED OR
27 DISGUISED.
28

29 IT IS COMMITTED BY ANY PERSON WHO, KNOWING OR HAS
30 REASON TO BELIEVE THAT ANY MONETARY INSTRUMENT OR PROPERTY
31 REPRESENTS, INVOLVES, OR RELATES TO THE PROCEEDS OF ANY
32 UNLAWFUL ACTIVITY:
33

34 (a) TRANSACTS OR ATTEMPTS TO TRANSACT SAID MONETARY
35 INSTRUMENT OR PROPERTY;
36
37

1 (b) CONVERTS, TRANSFERS, DISPOSES OF, MOVES, ACQUIRES,
2 POSSESSES OR USES, OR ATTEMPTS TO CONVERT,
3 TRANSFER, DISPOSE OF, MOVE, ACQUIRE, POSSESS OR USE
4 SAID MONETARY INSTRUMENT OR PROPERTY;

5
6 (c) CONCEALS OR DISGUISES OR ATTEMPTS TO CONCEAL OR
7 DISGUISE THE TRUE NATURE, SOURCE, LOCATION,
8 DISPOSITION, MOVEMENT OR OWNERSHIP OF OR RIGHTS
9 WITH RESPECT TO SAID MONETARY INSTRUMENT OR
10 PROPERTY; AND

11
12 (d) PERFORMS OR FAILS TO PERFORM ANY ACT AS A RESULT OF
13 WHICH HE FACILITATES THE OFFENSE OF MONEY
14 LAUNDERING REFERRED TO IN PARAGRAPHS (a), (b) OR (c)
15 ABOVE.

16
17 MONEY LAUNDERING IS ALSO COMMITTED BY ANY PERSON WHO,
18 KNOWING THAT ANY MONETARY INSTRUMENT OR PROPERTY IS
19 REQUIRED UNDER THIS ACT TO BE DISCLOSED AND FILED WITH THE
20 ANTI-MONEY LAUNDERING COUNCIL (AMLC), FAILS TO DO SO.

21
22
23 **SEC. 4.** Section 7 of the same Act is hereby amended to read as follows.

24
25 "SEC. 7. *Creation of Anti-Money Laundering Council (AMLC).* -- The
26 Anti-Money Laundering Council is hereby created and shall be composed of the
27 Governor of the Bangko Sentral ng Pilipinas as Chairman, the Commissioner of
28 the Insurance Commission and the Chairman of the Securities and Exchange
29 Commission as Members. The AMLC shall act unanimously in the discharge of
30 its functions as defined hereunder:

31 x x x

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

35
36 **SEC. 5.** Section 9 (c) paragraphs 1 and 4 of the same Act are hereby amended
37 to read as follows:

1 “SEC. 9. *Prevention of Money Laundering; Customer Identification*
2 *Requirements and Record Keeping.* -

3 (a) x x x

4 (b) x x x

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

10
11 x x x

12
13 When reporting covered or suspicious transactions to the AMLC,
14 covered institutions and their officers and employees x x x are prohibited
15 from communicating, directly or indirectly, in any manner or by any means,
16 to any person or entity, the media, the fact that a covered or suspicious
17 transaction HAS BEEN REPORTED OR IS ABOUT TO BE REPORTED,
18 the contents OF THE REPORT, or any other information in relation
19 thereto. x x x.”

20
21 **SEC. 6.** Section 10 of the same Act is hereby amended to read as follows:

22
23 “Sec. 10. *Freezing of Monetary Instrument or Property.* The Court of
24 Appeals, upon application *ex parte* by the AMLC and after determination that
25 probable cause exists that any monetary instrument or property is in any way
26 related to an unlawful activity as defined in Section 3(i) hereof, may issue a
27 freeze order which shall be effective immediately. The freeze order shall be for
28 a period of twenty (20) days unless extended by the court.

29
30 “NOTWITHSTANDING THE PROVISION OF THE PRECEDING
31 PARAGRAPH, THE AMLC MAY ISSUE A FREEZE ORDER, WHICH SHALL BE
32 EFFECTIVE IMMEDIATELY, TO IMPLEMENT BINDING CONVENTIONS,
33 DIRECTIVES, OR RESOLUTIONS OF THE UNITED NATIONS, ITS SECURITY
34 COUNCIL AND OTHER RELEVANT UN OFFICES AND COMMITTEES,
35 AGAINST TERRORISM OR TERRORIST FINANCING. THE FREEZE ORDER
36 SHALL BE EFFECTIVE UNTIL THE BASIS FOR THE ISSUANCE THEREOF
37 SHALL HAVE BEEN LIFTED. DURING THE EFFECTIVITY OF THE FREEZE
38 ORDER, AN AGGRIEVED PARTY MAY, WITHIN THIRTY (30) DAYS FROM

1 ISSUANCE, FILE WITH THE COURT OF APPEALS A PETITION TO
2 DETERMINE THE BASIS OF THE FREEZE ORDER.”

3
4 **SEC. 7.** Section 11 of the same Act is hereby amended to read as follows:

5
6 “SEC. 11 *Authority to Inquire into Bank Deposits.*- Notwithstanding the
7 provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as
8 amended, Republic Act No. 8791, and other laws, the AMLC may inquire into or
9 examine any particular deposit or investment, including related web of accounts,
10 with any banking institution or non-bank financial institution upon order of any
11 competent court BASED ON AN EX PARTE APPLICATION in cases of violations
12 of this Act when it has been established that there is probable cause that the
13 deposits or investments INCLUDING RELATED WEB OF ACCOUNTS involved
14 are related to an unlawful activity as defined in Sections 3(i) hereof or a money
15 laundering offense under Section 4 hereof; except that no court order shall be
16 required in cases involving unlawful activities defined in Section 3 (i)(1),(2), (12),
17 (13) AND (14) HEREOF.

18
19 “To ensure compliance with this Act, the Bangko Sentral ng Pilipinas
20 (BSP) may inquire into or examine any deposit or investment INCLUDING
21 RELATED WEB OF ACCOUNTS with any banking institution or non-bank
22 financial institution when the examination is made in the course of a periodic or
23 special examination, in accordance with the rules of examination of the BSP.”

24
25 **SEC. 8.** Section 12 (a) of the same Act is hereby amended to read as follows.

26
27 “(a) *Civil Forfeiture.* - UPON DETERMINATION THAT PROBABLE
28 CAUSE EXISTS THAT ANY MONETARY INSTRUMENT OR PROPERTY IS
29 FOUND TO BE RELATED IN ANY WAY TO AN UNLAWFUL ACTIVITY AS
30 DEFINED UNDER SECTION 3 (i) HEREOF OR A MONEY LAUNDERING
31 OFFENSE UNDER SECTION 4 HEREOF, THE AMLC SHALL FILE WITH THE
32 APPROPRIATE COURT, THROUGH THE OFFICE OF THE SOLICITOR
33 GENERAL, A PETITION FOR FORFEITURE AND THE RULES OF COURT ON
34 CIVIL FORFEITURE SHALL APPLY.”

35
36 **SEC. 9.** A new subsection (e) is hereby added to Section 12 of the same Act to
37 read as follows:

38

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

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

13
14 “(e) *IMPOSITION OF ADMINISTRATIVE SANCTIONS.* AFTER DUE
15 NOTICE AND HEARING, THE AMLC SHALL, AT ITS DISCRETION, IMPOSE
16 SANCTIONS, INCLUDING MONETARY PENALTIES, WARNING OR
17 REPRIMAND, UPON ANY COVERED INSTITUTION, ITS DIRECTORS,
18 OFFICERS, EMPLOYEES OR ANY OTHER PERSON FOR VIOLATIONS OF
19 THIS ACT, ITS IMPLEMENTING RULES AND REGULATIONS, OR FOR
20 FAILURE OR REFUSAL TO COMPLY WITH AMLC ORDERS, RESOLUTIONS
21 AND OTHER ISSUANCES.

22
23 SUCH MONETARY PENALTIES SHALL BE IN AMOUNTS AS MAY BE
24 DETERMINED BY THE COUNCIL TO BE APPROPRIATE, WHICH SHALL BE
25 NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (PHP500,000.00)
26 PER VIOLATION

27
28 THE AMLC MAY PROMULGATE RULES ON FINES AND PENALTIES
29 TAKING INTO CONSIDERATION THE ATTENDANT CIRCUMSTANCES, SUCH
30 AS THE NATURE AND GRAVITY OF THE VIOLATION OR IRREGULARITY,
31 THE SIZE, FUNCTIONS AND RESOURCES OF THE COVERED INSTITUTION.

32
33 THE IMPOSITION OF THE ADMINISTRATIVE SANCTIONS SHALL BE
34 WITHOUT PREJUDICE TO THE FILING OF CRIMINAL CHARGES AGAINST
35 THE PERSONS RESPONSIBLE FOR THE VIOLATION.”

36
37 **SEC. 11.** Separability Clause. – If any provision of this Act is declared
38 unconstitutional, the same shall not affect the validity and effectivity of the other
39 provisions thereof.

1
2
3
4
5
6
7
8
9

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

Approved