

106 MAY 31 AM 11:00

SENATE

S.B. No. 3227

Introduced by: Senator Sergio Osmeña III

**AN ACT TO FURTHER STRENGTHEN THE ANTI-MONEY LAUNDERING ACT,
AMENDING FOR THE PURPOSE SECTIONS 3, 3(a), 3(b), 3(g), 3(i), 7, 7(5), 7(6),
7(7), 7(11), 9(a), 9(c), 10, 11, 14(c), 15, and 16; AND REPEALING SECTION 20 OF
REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE "ANTI-MONEY
LAUNDERING ACT OF 2001, AS AMENDED**

EXPLANATORY NOTE

In order to make Republic Act No. 9160, also known as the Anti-Money Laundering Act of 2001 (AMLA), as amended, more effective in combating money laundering, this bill seeks to introduce the following amendments:

1. Include casinos, real estate brokers, art dealers, and motor vehicle dealers as covered persons;
2. Changing the nomenclature for the covered person, "jewelry dealers" in precious metals and stones to "dealers" in precious metals and stones, and including "jewelry dealers" as a separate covered person;
3. Clarifying the definition of covered transactions depending on the covered person;
4. Designating the Bangko Sentral ng Pilipinas as the Supervising authority of foreign exchange dealers, money changers, remittance and money transfer businesses, for purposes of the AMLA;
5. Adding unlawful activities under Section 3 (i) of the AMLA, such as violations of firearms and ammunitions regulation act, cybercrimes, violations of Strategic Trade Management Act (regarding weapons of mass destruction), and tax evasion;
6. Authorizing the AMLC, instead of the Court of Appeals, to issue *ex parte* freeze order with respect to some unlawful activities;
7. Authorizing the AMLC to check compliance with the AMLA by covered persons not under any Supervising Authority;

8. Authorizing the AMLC to issue subpoena and administer oath in aid of its investigation and compliance checking functions;
9. Update the requirement on customer identification to include all aspects of customer due diligence;
10. Authorize the covered persons to temporarily withhold transaction and/or withhold subsequent transactions not exceeding two (2) banking days from occurrence of the transaction, in the course of verifying whether a transaction is suspicious or not; and terminate the transaction or account in case they find reasonable belief that there is possible violation of the AMLA;
11. Reducing the required quantum of evidence as basis for an authority to inquire into or examine bank accounts or investments;
12. Adding unlawful activities that are exempted from the requirement of a court order before a bank inquiry may be conducted;
13. Allowing the BSP to check AMLA compliance of covered persons under its supervision or regulation pursuant to its supervisory powers under Section 4 of Republic Act No. 8791; and
14. Increasing the monetary penalty for administrative sanctions;
15. Allowing the Supervising Authorities to impose administrative sanctions, without prejudice to AMLC's power to impose administrative sanctions; and
16. Repealing Section 20 of Republic Act 9160, as amended by Republic Act No. 10365.

Next to taxes, revenues from the casino sector are among the major sources of income of the government. It must be recognized that the casino and gaming industry, under the supervision and regulation of the Philippine Amusement and Gaming Corporation (PAGCOR), have been a strong and responsible partner of the government in pursuing its development plans.

However, the casino sector is equally exposed to the raging threats of money laundering. Its vulnerabilities to criminal exploitation can be attributed to the fact that casinos are cash intensive businesses with high volumes of large cash transactions taking place very quickly; that they also offer many financial services such as remittance, cash issuing and foreign exchange; that the movement of funds, either internationally or domestically undertaken, associated with gaming-related tourism is poorly understood and may pose money laundering threats; and, that the casino

industry is unregulated for anti-money laundering purposes. With these identified vulnerabilities, the casino industry appears to be attractive in successfully undertaking money laundering activities.

On this note, it is highly imperative to establish an anti-money laundering regulatory framework that would preserve the integrity of the gaming industry and protect it from the evils of money laundering.

Under the Financial Action Task Force (FATF) Recommendations, the international standards on combating money laundering and the financing of terrorism and proliferation, casinos are among those identified non-financial businesses vulnerable to the threats of money laundering purposes and should be subjected to the requirements set out in the Recommendations particularly on customer due diligence, record-keeping and reporting of transactions. These requirements are the internationally-accepted preventive measures in combating money laundering.

After the assessment of the Philippines' anti-money laundering regime in 2008, which was jointly conducted by the World Bank and the Asia Pacific Group on Money Laundering (APG), one of the recommended action plans by the assessment team in order to improve our country's anti-money laundering system was to ensure that the casino sector is made subject to a comprehensive regulatory and supervisory regime as soon as possible.

Likewise, it must be noted that during the FATF meetings in June 2013 held in Oslo, Norway, members of the FATF noted the recent enactment of Republic Act No. 10168 (*"An Act Defining the Crime of Financing of Terrorism, Providing Penalties Thereto and for Other Purposes"*), and Republic Act No. 10365 (*"An Act to Further Strengthen the Anti-Money Laundering Law, Amending for the Purpose Sections 10 and 11 of Republic Act No. 9160 Otherwise Known as the "Anti-Money Laundering Act of 2001, As Amended, and for Other Purposes"*) by the Philippine Congress. These important developments were the basis for the decision of the FATF to remove the Philippines from the list of jurisdictions that are subject to FATF's monitoring process under its ongoing global anti-money laundering compliance process. This development spared the Philippines from the possible imposition of counter measures from other jurisdictions. However, in the same meeting, the Philippines was strongly urged to work with the APG as it continues to address the full range of AML/CFT issues identified in its Mutual Evaluation Report, in particular, in regulating the casino sector in the Philippines for

anti-money laundering purposes and making it subject to anti-money laundering requirements.

A clarification of the definition of covered transactions depending on the covered transaction is also needed for proper implementation of the relevant provisions. For example, jewelry dealers in precious metals and stones are covered persons for transactions in excess of One Million Pesos (₱ 1,000,000.00), but the definition of covered transactions remain to be a *"transaction in cash or other monetary instrument involving a total amount in excess of Five Hundred Thousand Pesos (₱ 500,000.00) within one (1) banking day."*

Foreign exchange dealers, money changers, remittance and money transfer businesses are already designated as covered persons under the AMLA. However, contrary to its classification under the law, they are not entities under supervision or regulation of the Bangko Sentral ng Pilipinas (BSP). Thus, for purposes of the AMLA, there is a need to designate the BSP as the Supervising Authority of foreign exchange dealers, money changers and remittance and money transfer businesses.

There is also a need to include other crimes or offenses as unlawful activities to money laundering [i.e., violations of Firearms and Ammunitions Regulations Act, Cybercrimes, violations of Strategic Trade Management Act (regarding weapons of mass destruction) , and tax evasion]; and include real estate brokers, art dealers, and motor vehicle dealers as covered persons under the AMLA, to further the Philippines' anti-money laundering regime.

The requirement on customer identification, as a preventive measure to money laundering, should be updated to include all aspects of customer due diligence, which includes customer identification, verification and on-going monitoring.

To make covered persons more effective in preventing the financial institutions from being used in money laundering activities, it is very helpful to allow covered persons to temporarily withhold transaction and/or withhold subsequent transactions not exceeding two (2) banking days from occurrence of the transaction, in the course of verifying whether a transaction is suspicious or not.

Further, the effectiveness of the AMLC to go after money launderers has been hampered by the delay in securing court orders for the freezing of monetary instrument or property due to the fact that the Court of Appeals needs to establish probable cause

that the monetary instrument or property is in any way related to an unlawful activity. Under the proposed measure, the power to issue freeze orders shall be reverted to the AMLC in some unlawful activities [cases involving corruption, estafa, securities violations, and human trafficking, including the related unlawful activities (i.e., plunder, malversation, bribery, child abuse, child pornography, and illegal recruitment)], subject to the filing of Petition/Motion to Lift the Freeze Order before the Court of Appeals who shall make its own determination of the existence of probable cause whether or not to affirm, modify or lift the freeze order issued by the AMLC.

To help the AMLC in its investigation, the power to issue subpoena and administer oath is necessary to the effective and efficient production of witnesses and documents.

Furthermore, the power of the AMLC, as the primary agency tasked to implement the provision of the AMLA, to ensure effective implementation of and compliance to the AMLA should also be highlighted. Violations of the AMLA and its implementing rules and regulations shall subject the concerned persons or agencies to administrative sanctions.

Additionally, the investigative function of the AMLC is greatly limited by the fact that before a court order allowing inquiry into or examination of bank accounts or deposits is granted, the AMLC needs to establish the existence of probable cause that the money instrument or property is in any way related to an unlawful activity. The required quantum of evidence is a very steep requirement considering that the very purpose of seeking authority for bank inquiry is to gather evidence. The requirement of probable cause makes it hard for the AMLC to secure bank inquiry order considering that the very purpose of seeking authority for bank inquiry is to gather evidence. The requirement of probable cause makes it hard for the AMLC to secure bank inquiry order considering that most of the supporting evidence needed to establish "probable cause" are in the possession of the banks and other non-bank institutions, which are inaccessible to the AMLC without first securing a bank inquiry order from the Court of Appeals. The proposed measure shall allow the Court of Appeals to issue bank inquiry order upon determination that there exists a reasonable suspicion that an unlawful activity or a money laundering offense is being or has been committed.

Likewise, voluminous cases involving corruption, estafa, securities violations, and human trafficking, including the related unlawful activities (i.e., plunder, malversation, bribery, child abuse, child pornography, and illegal recruitment) had been referred to the AMLC. Allowing the AMLC to conduct bank inquiry without the need of court order with

respect to said unlawful activities shall greatly improve the AMLC's effectivity and efficiency in gathering the needed information to support civil forfeiture or money laundering cases.

Allowing the BSP to check AMLA compliance of covered persons under its supervision or regulation pursuant to its supervisory powers under Section 4 of Republic Act No. 8791 shall greatly improve its effectivity and efficiency in assisting the AMLC in implementing the provisions of the AMLA.

To give more "teeth" to the law, it is imperative that there is an effective tool to encourage compliance with the AMLA. To this end, the monetary penalty for administrative violations is increased to P 1,000,000 or twenty percent (20%) of the value of the money instrument or property laundered or sought to be laundered, whichever is higher to serve as deterrent against violations of R.A. No. 9160, as amended, its Revised Implementing Rules and Regulations, as well as orders, resolutions and issuances of the AMLC. Without prejudice to AMLC's administrative sanctions, Supervising Authorities may, at its discretion, and after due notice and hearing, also impose monetary penalties equivalent to twice the maximum penalty imposable according to their respective chapters.

Finally, if tax evasion is to be included in the predicate crimes to money laundering, it is imperative to repeal Section 20 of the AMLA, as amended, on non-intervention in the operations of the Bureau of Internal Revenue (BIR)

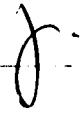
In view of the foregoing, the early approval of the bill is earnestly sought.


SÉRGIO OSMEÑA III
Senator

16 MAY 31 AM 10:00

SENATE

S.B. No. 3227

RECEIVED BY: 

Introduced by: Senator Sergio Osmeña III

AN ACT TO FURTHER STRENGTHEN THE ANTI-MONEY LAUNDERING ACT, AMENDING FOR THE PURPOSE SECTIONS 3, 3(a), 3(b), 3(g), 3(i), 7, 7(5), 7(6), 7(7), 7(11), 9(a), 9(c), 10, 11, 14(c), 15, and 16; AND REPEALING SECTION 20 OF REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE "ANTI-MONEY LAUNDERING ACT OF 2001", AS AMENDED

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

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

3 (a) 'Covered persons', natural or juridical, refer to:

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

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

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

1 (4) [jewelry] dealers in precious metals[, who as a business, trade in precious
2 metals, for transactions in excess of One million pesos (₱ 1,000,000.00)];

3 (5) [jewelry] dealers in precious stones [, who as a business, trade in precious
4 metals, for transactions in excess of One million pesos (₱ 1,000,000.00)];

5 **(6) JEWELRY DEALERS;**

6 **(7) ART DEALERS;**

7 **(8) MOTOR VEHICLE DEALERS;**

8 **(9) [(6)] TRUST AND company service providers [which, as a business, provide**
9 **any of the following services to third parties] – WHEN THEY PREPARE FOR**
10 **OR CARRY OUT TRANSACTIONS FOR A CLIENT CONCERNING THE**
11 **FOLLOWING ACTIVITIES:** (i) acting as a formation agent of juridical
12 persons; (ii) acting as (or arranging for another person to act as) a director or
13 corporate secretary of a company, a partner of a partnership, or a similar
14 position in relation to other juridical persons; (iii) providing a registered office,
15 business address or accommodation, correspondence or administrative
16 address for a company, a partnership or any other legal persons or
17 arrangement; (iv) acting as (or arranging for another person to act as) a
18 nominee shareholder for another person; and (v) acting as (or arranging for
19 another person to act as) a trustee of an express trust or performing the
20 equivalent function for another form of legal arrangement;

21 **(10) [(7)] LAWYERS, NOTARIES, OTHER INDEPENDENT LEGAL**
22 **PROFESSIONALS AND ACCOUNTANTS – WHEN THEY PREPARE**
23 **FOR OR CARRY OUT TRANSACTIONS FOR THEIR CLIENT**
24 **CONCERNING THE FOLLOWING ACTIVITIES [persons who provide**
25 **any of the following services]:**

26 **(I) BUYING AND SELLING OF REAL ESTATE;**

27 **[(i)] (II) managing of client money, securities or other assets;**

1 ~~[(ii)]~~ (III) management of bank, savings or securities accounts;
2 ~~[(iii)]~~ (IV) organization of contributions for the creation, operation or
3 management of companies; and
4 ~~[(iv)]~~ (V) creation, operation or management of juridical persons or
5 arrangements, and buying and selling business entities.

6 **(11) CASINO OPERATORS, WITH RESPECT TO THEIR GAMING**
7 **OPERATIONS; AND**

8 **(12) REAL ESTATE BROKERS.**

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

10 (b) "Covered transaction" [is a transaction in cash or other equivalent monetary
11 instrument involving a total amount in excess of Five hundred thousand pesos
12 (₱ 500,000.00) within one (1) banking day."] refers to:

13 **(1) A TRANSACTION IN CASH OR OTHER EQUIVALENT MONETARY**
14 **INSTRUMENT EXCEEDING FIVE HUNDRED THOUSAND PESOS**
15 **(₱ 500,000.00);**

16 **(2) FOR COVERED PERSONS UNDER PARAGRAPHS (4), (5) AND (6) OF**
17 **SECTION 3 (A) HEREOF, ANY SINGLE TRANSACTION EXCEEDING**
18 **ONE MILLION PESOS (₱ 1,000,000.00);**

19 **(3) FOR COVERED PERSONS UNDER PARAGRAPH 11 OF SECTION 3(A)**
20 **HEREOF, ANY SINGLE OR AGGREGATE OF TRANSACTIONS**
21 **EXCEEDING ONE HUNDRED FIFTY THOUSAND PESOS (₱ 150,000.00)**
22 **IN ONE GAMING DAY;**

23 **(4) FOR COVERED PERSONS UNDER PARAGRAPH 12 OF SECTION 3 (A)**
24 **HEREOF, ANY SINGLE TRANSACTION EXCEEDING THREE MILLION**
25 **PESOS (₱ 3,000,000.00)."**

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

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(8) ANY OTHER ANALOGOUS CIRCUMSTANCES THAT MAY BE DETERMINED TO BE SUSPICIOUS BY THE ANTI-MONEY LAUNDERING COUNCIL (AMLC).

SECTION 3. Section 3(g) of the same Act is hereby amended as follows:

(g) "Supervising Authority" refers to the appropriate [supervisory or regulatory] agency, department or office **REGISTERING, MONITORING,** supervising **AND/or** regulating the covered [institutions] **PERSONS** enumerated in Section 3(a).

FOR PURPOSES OF THIS ACT, THE BSP IS DESIGNATED AS THE SUPERVISING AUTHORITY OF FOREIGN EXCHANGE DEALERS, MONEY CHANGERS, AND REMITTANCE AND TRANSFER BUSINESSES UNDER SECTION 3(A) (1).

SECTION 4. Section 3(i) of the same Act is hereby amended as follows:

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

X X X

(19) Violations of Section 4 to 6 of Republic Act No. 9208, otherwise known as the Trafficking in Persons Act of 2003, **AS AMENDED BY REPUBLIC ACT NO. 10364;**

(20) Violations of Sections [78] **68** and [79] **69** of Chapter VI of Presidential Decree No. 705, as amended, otherwise known as the Revised Forestry Code of the Philippines, as amended.

X X X

1 **PRECIOUS STONES FROM A MINE, OR CUTTING OR POLISHING PRECIOUS**
2 **STONES.**

3 **(N) "CASINO" SHALL REFER TO GAMBLING CASINOS WHERE THE**
4 **BUILDING, ROOM OR SPACE IS USED FOR SOCIAL AMUSEMENTS;**
5 **SPECIFICALLY, ONE USED FOR GAMBLING THROUGH GAMES OF**
6 **CHANCE, GAMES OF CARDS AND GAMES OF NUMBERS AND ARE BEING**
7 **REGULATED AND SUPERVISED BY THE PHILIPPINE AMUSEMENT AND**
8 **GAMING CORPORATION (PAGCOR), THE CAGAYAN ECONOMIC ZONE**
9 **AUTHORITY (CEZA) OR ANY OTHER APPROPRIATE SUPERVISING**
10 **AUTHORITY. FOR PURPOSES OF THIS ACT, IT ALSO INCLUDES INTERNET**
11 **AND SHIP-BASED CASINOS.**

12 **(1) "INTERNET-BASED CASINO" SHALL REFER TO GAMBLING**
13 **CASINOS IN WHICH PERSONS PARTICIPATE BY THE USE OF**
14 **REMOTE COMMUNICATION FACILITIES SUCH AS, BUT NOT**
15 **LIMITED TO, INTERNET, TELEPHONE, TELEVISION, RADIO OR ANY**
16 **OTHER KIND OF ELECTRONIC OR OTHER TECHNOLOGY FOR**
17 **FACILITATING COMMUNICATION.**

18 **(2) "SHIP-BASED CASINO" SHALL REFER TO GAMBLING CASINOS,**
19 **THE OPERATION OF WHICH IS UNDERTAKEN ON BOARD A**
20 **VESSEL, SHIP, BOAT OR ANY OTHER WATER-BASED CRAFT**
21 **WHOLLY OR PARTLY INTENDED FOR GAMBLING.**

22 **(O) "ART" REFERS TO ALL ORIGINAL WORKS OF ART LIKE PAINTINGS,**
23 **SCULPTURE, DRAWINGS AND ART WORK PRODUCED IN MULTIPLES**
24 **SUCH AS GRAPHIC AND PHOTOGRAPHIC WORKS AND SCULPTURE**
25 **CASTS, BUT SHALL NOT INCLUDE WORKS INTENDED TO BE MASS-**
26 **PRODUCED FOR COMMERCIAL USE;**

27 **(P) "ART DEALER" REFERS TO ANY PERSON OR ENTITY WHO SELLS OR**
28 **OTHERWISE DEALS IN WORKS OF FINE ART FOR PROFIT OR GAIN,**
29 **SUCH AS GALLERIES, ART BROKERS AND AGENTS;**

30 **(Q) "MOTOR VEHICLE" REFERS TO ANY SELF-PROPELLED ROAD VEHICLE**
31 **DESIGNED TO CARRY PASSENGERS INCLUDING, BUT NOT LIMITED TO,**

1 SEDANS, COUPES, STATION WAGONS, CONVERTIBLES, PICK-UPS,
2 VANS, SPORTS UTILITY VEHICLES (SUVs) AND ASIAN UTILITY VEHICLES
3 (AUVs) AND MOTORCYCLES;

4 (R) "MOTOR VEHICLE DEALER" REFERS TO ANY PERSON, ASSOCIATION,
5 PARTNERSHIP, CORPORATION ENGAGED IN THE BUSINESS OF BUYING
6 AND SELLING OR EXCHANGING MOTOR VEHICLE OR OTHERWISE
7 ENGAGING IN BUSINESS AS A DEALER DIRECTLY OR INDIRECTLY,
8 INCLUDING BY CONSIGNMENT; AND

9 (S) "RELATED ACCOUNT" REFERS TO AN ACCOUNT, THE FUNDS AND
10 SOURCES OF WHICH ORIGINATED FROM AND/OR MATERIALLY LINKED
11 TO THE MONETARY INSTRUMENT OR PROPERTY SUBJECT OF THE
12 INVESTIGATION OR FREEZE ORDER.

13 SECTION 7. Section 7 (2) of the same Act is hereby amended as follows:

14 SEC. 7. *Creation of the Anti-Money Laundering Council (AMLC).* – The Anti-
15 Money Laundering Council is hereby created and shall be composed of the
16 Governor of the *Bangko Sentral ng Pilipinas* as Chairman, the Commissioner
17 of the Insurance Commission and the Chairman of the Securities and
18 Exchange Commission as members. The AMLC shall act unanimously in the
19 discharge of its functions as defined hereunder:

20 x x x

21 (2) to issue orders addressed to the appropriate supervising authority or
22 the covered [institution] **PERSON** to determine the true identity of the
23 owner of any monetary instrument or property subject of a covered
24 transaction or suspicious transaction report or request for assistance from
25 a foreign state, or believed by the council [, on the basis of substantial
26 evidence,] to be, in whole or in part, wherever located, representing,
27 involving, or related to, directly or indirectly, in any manner or by any
28 means, [the proceeds of] an unlawful activity[.], **NOTWITHSTANDING**
29 **THE PROVISIONS OF REPUBLIC ACT NO. 1405, AS AMENDED,**
30 **REPUBLIC ACT NO. 6426, AS AMENDED; REPUBLIC ACT NO. 8791;**
31 **REPUBLIC ACT NO. 10173 AND OTHER LAWS;**

1 **SECTION 8.** Section 7 (5) of the same Act is hereby amended as follows:

2 (5) to investigate, **THROUGH THE AMLC SECRETARIAT**, suspicious
3 transactions and covered transactions deemed suspicious [after an
4 investigation by the AMLC], **POSSIBLE** money laundering activities,
5 and other violations of this Act **MOTU PROPRIO OR UPON**
6 **COMPLAINT OR REQUEST OF AN APPROPRIATE**
7 **DEPARTMENT, OFFICE OR AGENCY, OR BRANCH OF**
8 **GOVERNMENT, OR FOREIGN STATE OR AUTHORITY;**

9 **SECTION 9.** Section 7(6) of the same Act is hereby amended as follows:

10
11 (6) to [apply] **CAUSE THE FILING OF AN EX-PARTE PETITION FOR**
12 **THE ISSUANCE OF FREEZE ORDER** before the Court of Appeals,
13 [ex parte, for the freezing of] **OR, IN CASES SPECIFIED UNDER**
14 **SECTION 10 HEREOF, TO ISSUE EX-PARTE FREEZE ORDER,**
15 **AGAINST** any monetary instrument or property alleged to be
16 laundered, proceeds from [or], instrumentalities used in, [or] intended
17 for use in **OR IN ANY WAY RELATED TO** any unlawful activity as
18 defined in Section 3(i) hereof.”

19 **SECTION 10.** Section 7 (7) of the same Act is hereby amended as follows:

20 (7) to implement such measures as may be necessary and justified
21 under this Act to counteract **OR PREVENT** money laundering, **AND**
22 **ENSURE EFFECTIVE IMPLEMENTATION OF THIS ACT;**

23 **SECTION 11.** Section 7 of the same Act is hereby amended as follows:

24 **(13) TO SUBPOENA WITNESSES AND COMPEL THEIR**
25 **ATTENDANCE, INCLUDING THE PRODUCTION OF BOOKS,**
26 **PAPERS AND DOCUMENTS, FOR PURPOSES OF**
27 **VERIFICATION, INVESTIGATION, OR CHECKING**
28 **COMPLIANCE WITH THE PROVISIONS OF THIS ACT. ANY**
29 **MEMBER OF THE AMLC SECRETARIAT INVESTIGATING THE**

1 **CASE MAY ADMINISTER OATHS OR AFFIRMATIONS TO**
2 **WITNESSES APPEARING BEFORE IT.**

3 **(14) TO CHECK COMPLIANCE WITH THIS ACT BY COVERED**
4 **PERSONS NOT UNDER ANY SUPERVISING AUTHORITY.**

5 **SECTION 12.** Section 9 (a) of the same Act is hereby amended as follows:

6 “(a) Customer [Identification] **DUE DILIGENCE.**- Covered [institutions]
7 **PERSONS** shall establish and record the true identity of its customers
8 based on official documents. They shall maintain a system of verifying
9 the true identity of their clients and, in case of corporate clients, require
10 a system of verifying their legal existence and organizational structure,
11 as well as the authority and identification of all persons purporting to act
12 on their behalf. **THEY SHALL ALSO ASSESS AND, IF**
13 **APPROPRIATE, OBTAIN INFORMATION, ON THE PURPOSE AND**
14 **NATURE OF THE TRANSACTION. COVERED PERSONS SHALL,**
15 **LIKEWISE, CONDUCT ON-GOING MONITORING ON THEIR**
16 **CUSTOMERS, DEPENDING ON THEIR TYPE, THE PRODUCT, OR**
17 **TRANSACTION.**

18 The provisions of existing laws to the contrary notwithstanding,
19 anonymous accounts, accounts under fictitious names, and all other
20 similar accounts shall be absolutely prohibited. Peso and foreign
21 currency non-checking numbered accounts shall be allowed. The BSP
22 may conduct annual testing solely limited to the determination of the
23 existence and true identity of the owners of such accounts.

24 **SECTION 13.** Section 9 (c) of the same Act is hereby amended as follows:

25 “(c) Reporting of Covered and Suspicious Transactions.- Covered
26 persons shall report to the AMLC all covered transactions and
27 suspicious transactions within five (5) working days from occurrence
28 thereof, unless the AMLC prescribes a different period not exceeding
29 fifteen (15) working days.

1 Lawyers and accountants acting as independent legal professionals are
2 not required to report covered and suspicious transactions if the
3 relevant information was obtained in circumstances where they are
4 subject to professional secrecy or legal professional privilege.

5 Should a transaction be determined to be both a covered transaction
6 and a suspicious transaction, the covered institution shall be required to
7 report the same as a suspicious transaction.

8 When reporting covered or suspicious transactions to the AMLC,
9 covered persons and their officers and employees shall not be deemed
10 to have violated Republic Act No. 1405, as amended, Republic Act No.
11 6426, as amended, Republic Act No. 8791 and other similar laws, but
12 are prohibited from communicating, directly or indirectly, in any manner
13 or by any means, to any person, the fact that a covered or suspicious
14 transaction report was made, the contents thereof, or any other
15 information in relation thereto, **EXCEPT WHEN DISCLOSURE OF**
16 **INFORMATION IS IN ACCORDANCE WITH BSP'S EXERCISE OF**
17 **SUPERVISORY POWERS AS PROVIDED IN SECTION 11 HEREOF.**
18 In case of violation thereof, the concerned officer and employee of the
19 covered person shall be criminally liable. However, no administrative,
20 criminal or civil proceedings, shall lie against any person for having
21 made a covered or suspicious transaction report in the regular
22 performance of his duties in good faith, whether or not such reporting
23 results in any criminal prosecution under this Act or any other law.

24 When reporting covered or suspicious transactions to the AMLC,
25 covered persons and their officers and employees are prohibited from
26 communicating directly or indirectly, in any manner or by any means, to
27 any person or entity, the media, the fact that a covered or suspicious
28 transaction has been reported or is about to be reported, the contents of
29 the report, or any other information in relation thereto, **EXCEPT WHEN**
30 **DISCLOSURE OF INFORMATION IS IN ACCORDANCE WITH BSP'S**
31 **EXERCISE OF SUPERVISORY POWERS AS PROVIDED IN**
32 **SECTION 11 HEREOF.** Neither may such reporting be published or
33 aired in any manner or form by the mass media, electronic mail, or
34 other similar devices. In case of violation thereof, the concerned officer

1 and employee of the covered person and media shall be held criminally
2 liable.

3 **IN THE COURSE OF VERIFYING WHETHER A TRANSACTION IS**
4 **SUSPICIOUS OR NOT, COVERED PERSONS MAY TEMPORARILY**
5 **WITHHOLD SAID TRANSACTION AND/OR SUBSEQUENT**
6 **TRANSACTIONS FOR A PERIOD NO LONGER THAN TWO (2)**
7 **BANKING DAYS FROM OCCURRENCE OF THE TRANSACTION.**
8 **COVERED PERSONS SHALL IMMEDIATELY REPORT TO THE**
9 **AMLC THAT IT HAD TEMPORARILY WITHHELD A TRANSACTION**
10 **AND/OR SUBSEQUENT TRANSACTIONS AND THAT IT IS**
11 **CONDUCTING VERIFICATION THEREOF. UPON REASONABLE**
12 **BELIEF THAT THERE IS POSSIBLE VIOLATION OF THIS ACT,**
13 **COVERED PERSONS MAY TERMINATE THE TRANSACTION OR**
14 **ACCOUNT CONNECTED THERETO. THE AUTHORITY TO**
15 **TEMPORARILY WITHHOLD A TRANSACTION SHALL BE MADE**
16 **PART OF THE COVERED PERSON'S INTERNAL POLICY AND IT**
17 **SHALL INCLUDE GUIDELINES AND EFFECTIVE CONTROLS TO**
18 **PREVENT ABUSE.**

19 **COVERED PERSONS, THEIR OFFICERS, DIRECTORS AND**
20 **EMPLOYEES SHALL NOT BE SUBJECT TO ANY ACTION, CLAIM**
21 **OR DEMAND IN CONNECTION WITH THE EXERCISE OF THEIR**
22 **AUTHORITY IN GOOD FAITH UNDER THIS PROVISION.**

23 **SECTION 14.** Section 10 of the same Act is hereby amended as follows:

24 Section 10. - [Freezing if Monetary Instrument or Property.-] Upon a
25 verified *ex parte* petition by the AMLC and after determination that
26 probable cause exists that any monetary instrument or property is in
27 any way related to an unlawful activity as defined in Section 3(i) hereof
28 **OR MONEY LAUNDERING**, the Court of Appeals may issue a freeze
29 order which shall be effective immediately, and which shall not exceed
30 six (6) months depending upon the circumstances of the case:
31 *Provided*, That **IN CASES INVOLVING UNLAWFUL ACTIVITIES**
32 **UNDER SECTION 3(i)(1),(2),(3),(4),(9)(12), (13),(14), (15),(17),(19),**
33 **(28),(31), (32) AND (33) HEREOF, AND FELONIES OR OFFENSES**

1 OF SIMILAR NATURE PUNISHABLE UNDER THE PENAL LAWS OF
2 OTHER COUNTRIES, THE AMLC MAY ISSUE *EX PARTE* FREEZE
3 ORDER WHICH SHALL BE EFFECTIVE IMMEDIATELY, AND
4 WHICH SHALL NOT EXCEED THIRTY (30) DAYS.

5 BEFORE THE EXPIRATION OF THE 30-DAY PERIOD, THE AMLC
6 MAY FILE BEFORE THE COURT OF APPEALS A PETITION TO
7 EXTEND THE FREEZE ORDER. THE EXTENSION SHALL NOT
8 EXCEED FIVE (5) MONTHS DEPENDING UPON THE
9 CIRCUMSTANCES OF THE CASE. THE COURT SHALL ACT ON
10 THE PETITION FOR EXTENSION WITHIN TWENTY-FOUR (24)
11 HOURS FROM FILING OF THE PETITION. *PROVIDED*, THAT THE
12 30-DAY FREEZE ORDER SHALL REMAIN EFFECTIVE PENDING
13 RESOLUTION OF THE PETITION FOR EXTENSION.

14 THE MEMBERS OF THE AMLC AND ITS SECRETARIAT SHALL BE
15 IMMUNE FROM ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE
16 LIABILITY IN THE EXERCISE OF THE FOREGOING FUNCTIONS.

17 A PERSON WHOSE ACCOUNT HAS BEEN FROZEN BY THE AMLC
18 OR COURT OF APPEALS MAY FILE A PETITION OR MOTION, AS
19 THE CASE MAY BE, TO LIFT THE FREEZE ORDER BEFORE THE
20 COURT OF APPEALS.

21 IF THE 30-DAY FREEZE ORDER WAS NOT EXTENDED BY THE
22 COURT OF APPEALS, OR if there is no case filed against a person
23 whose account has been frozen within the period determined by the
24 Court OF APPEALS, the freeze order shall be deemed *ipso facto* lifted.
25 *Provided*, that this new rule shall not apply to pending cases in the
26 courts. [In any case, the court should act on the petition to freeze within
27 twenty-four (24) hours from filing of the petition. If the application is filed
28 a day before a nonworking day, the computation of the twenty-four (24)
29 hour period shall exclude the non-working days. A person whose
30 account has been frozen may file a motion to lift the freeze order and
31 the court must resolve this motion before the expiration of the freeze
32 order.]

1 No court shall issue a temporary restraining order or a writ of injunction
2 against any freeze order, except the Supreme Court.”

3 **SECTION 15.** Section 11 of the same Act is hereby amended as follows:

4 “SEC. 11. *Authority to Inquire into Bank Deposits.* – Notwithstanding the
5 provisions of Republic Act No. 1405, as amended; Republic Act No.
6 8791; **REPUBLIC ACT NO. 10173**; and other laws, the AMLC may
7 inquire into or examine any particular deposit or investment, including
8 related accounts, with any banking institution or non-bank financial
9 institution upon order of [any competent court] **THE COURT OF**
10 **APPEALS** based on an *ex-parte* application in cases of violations of
11 this Act, when it has been established that there is [probable cause]
12 **REASONABLE GROUND TO SUSPECT** that the deposits or
13 investments, including related accounts involved are related to an
14 unlawful activity as defined in Section 3 (i) hereof or a money
15 laundering offense under Section 4 hereof, except that no court order
16 shall be required in cases involving activities defined in Section 3(i) (1),
17 (2), [and] (3), (4), (9), (12), (13), (14), (15), (17), (19), (28), (31), (32)
18 **AND (33)** hereof, and felonies or offenses of a nature similar to those
19 mentioned in Section 3(i) (1), (2), [and] (3), (4), (9), (12), (13), (14),
20 (15), (17), (19), (28), (31), (32) **AND (33) HEREOF**, which are
21 punishable under the penal laws of other countries[, and terrorism and
22 conspiracy to commit terrorism as defined and penalized under
23 Republic Act No. 9372].”

24 The Court of Appeals shall act on the application to inquire into or
25 examine any deposit or investment with any banking financial institution
26 or non-bank financial institution within twenty-four (24) hours from filing
27 of the application.

28 To [ensure] **CHECK** compliance with this Act **AND ITS**
29 **IMPLEMENTING RULES AND REGULATIONS**, the *Bangko Sentral ng*
30 *Pilipinas* may, [in the course of a periodic or special examination, check
31 the compliance of a covered institution with the requirements of the
32 AMLA and its implementing rules and regulations.] **IN ACCORDANCE**
33 **WITH ITS SUPERVISORY POWERS UNDER SECTION 4 OF**

1 **REPUBLIC ACT NO. 8791, LIKEWISE INQUIRE INTO OR EXAMINE**
2 **ANY DEPOSIT, INVESTMENT, TRUST OR OTHER ACCOUNTS,**
3 **AND ACCESS COVERED AND SUSPICIOUS TRANSACTION**
4 **DATABASES WITH ANY BANKING INSTITUTIONS OR NON-BANK**
5 **FINANCIAL INSTITUTION.**

6 [“For purposes of this section, ‘related accounts’ shall refer to accounts,
7 the funds and sources of which originated from and/or materially linked
8 to the monetary instrument(s) or property(ies) subject of the freeze
9 order(s).”]

10 A court order *ex-parte* must first be obtained before the AMLC can
11 inquire into these related accounts: Provided, That the procedure for
12 the *ex-parte* application [of the *ex parte* court order] for the [principal]
13 **RELATED** account**S** shall be the same with that of the [related]
14 **PRINCIPAL** account[s].

15 The authority to inquire into or examine the main account and the
16 related accounts shall comply with the requirements of Article III,
17 Sections 2 and 3 of the 1987 Constitution which are hereby
18 incorporated by reference.”

19 **SECTION 16.** Section 14 (c), of the same Act is hereby amended as follows:

20 (c) *Malicious Reporting.* Any person who, with malice, or in bad faith, reports
21 or files a completely unwarranted or false information relative to money
22 laundering transaction against any person shall be subject to a penalty of
23 six (6) months to four (4) years imprisonment and a fine of not less than
24 One hundred thousand Philippine pesos (₱ 100,000.00) but not more
25 than five hundred thousand pesos (₱ 500,000.00), at the discretion of the
26 court: Provided, that the offender is not entitled to avail the benefits of the
27 Probation law.

28 (d) If the offender is a corporation, association, partnership or juridical
29 person, the penalty shall be imposed upon the responsible officers, as
30 the case may be, who participated in, or allowed by their gross
31 negligence, the commission of the crime. If the offender is a juridical

1 person, the court may suspend or revoke its license. If the offender is an
2 alien, he shall, in addition to the penalties herein prescribed, be deported
3 without further proceedings after serving the penalties herein prescribed.
4 If the offender is a public official or employee, he shall, in addition to the
5 penalties prescribed herein, suffer perpetual or temporary absolute
6 disqualification from office, as the case may be.

7 (e) Any public official or employee who is called upon to testify and refuses
8 to do the same or purposely fails to testify shall suffer the same penalties
9 prescribed herein.

10 x x x

11 **SECTION 17.** Items (d) to (e) of Section 18 are hereby renumbered accordingly.

12 **SECTION 18.** Items (f) to (g) of Section 14 of the same Act are hereby renumbered,
13 as follows:

14 " SEC. 15. Administrative Sanctions.-

15 (a) *Imposition of Administrative Sanctions.*- The imposition of administrative
16 sanctions shall be without prejudice to the filing of criminal charges against the
17 persons responsible for the violation of this Act.

18 After due notice and hearing, the AMLC, shall, at its discretion, impose
19 sanctions, including, **BUT NOT LIMITED TO**, monetary penalties, warning or
20 reprimand, upon any covered person, its directors, officers, employees or any
21 other person for the violation of this Act, [its implementing rules and
22 regulations] or for failure or refusal to comply with AMLC orders, resolutions
23 and other issuances. Such monetary penalties shall be in amounts as may be
24 determined by the AMLC to be appropriate, which shall not be more than [Five
25 Hundred Thousand Philippine pesos] **ONE MILLION PHILIPPINE PESOS**
26 **(₱1,000,000.00)** per violation **OR TWENTY PERCENT (20%) OF THE VALUE**
27 **OF THE MONETARY INSTRUMENT OR PROPERTY LAUNDERED OR**
28 **SOUGHT TO BE LAUNDERED, WHICHEVER IS HIGHER. A VIOLATION IS**
29 **COMMITTED WHETHER ON A ONE-TIME, PER ACCOUNT, PER**
30 **TRANSACTION, OR PER CUSTOMER BASIS.**

1 **WITHOUT PREJUDICE TO THE AMLC'S ADMINISTRATIVE SANCTIONS,**
2 **SUPERVISING AUTHORITIES MAY, AT ITS DISCRETION, AND AFTER DUE**
3 **NOTICE AND HEARING, ALSO IMPOSE MONETARY PENALTIES**
4 **EQUIVALENT TO TWICE THE MAXIMUM PENALTY IMPOSABLE**
5 **ACCORDING TO THEIR RESPECTIVE CHARTERS.**

6 The AMLC **AND SUPERVISING AUTHORITIES** may promulgate rules on fines
7 and penalties taking into consideration the attendant circumstances, such as the
8 nature and gravity of the violation or irregularity.

9 **(b) NON-DISCRIMINATION AGAINST CERTAIN TYPES OF CUSTOMERS. –**

10 The provisions of this law shall not be construed or implemented in a manner
11 that will discriminate against certain customer types, such as politically-exposed
12 persons, as well as their relatives, or against a certain religion, race or ethnic
13 origin, or such other attributes or profiles when used as the only basis to deny
14 these persons access to the services provided by the covered persons.
15 Whenever a bank, or the services provided by the covered persons. Whenever
16 a bank, or quasi-bank, financial institution or whenever any person or entity
17 commits said discriminatory act, the person or persons responsible for such
18 violation shall be subject to the sanctions as may be deemed appropriate by
19 their respective [regulators] **SUPERVISING AUTHORITIES.**”

20 **SECTION 19.** Section 16 of the same Act is hereby amended, as follows:

21 “ Section 16. Prohibitions [Against Political Harrassment]. -

22 **(A) PROHIBITIONS AGAINST POLITICAL AND ECONOMIC**
23 **HARRASSMENT.** - This Act shall not be used for political persecution or
24 harrassment, or as an instrument to hamper competition and commerce.

25 No case for money laundering may be filed against and no assets shall
26 be frozen, attached or forfeited to the prejudice of a candidate for an
27 electoral office during an election period.

28 **(B) PROHIBITED TRANSACTIONS FOR CASINOS. – CASINO**
29 **OPERATORS SHALL BE PROHIBITED FROM ENGAGING IN THE**
30 **FOLLOWING TRANSACTIONS OR ACTIVITIES:**

1 (1) ANY OF THE FOLLOWING TRANSACTIONS INVOLVING THE
2 CONVERSION OF MONEY FROM ONE FORM TO ANOTHER
3 WITHOUT BEING USED FOR GAMING:

4 A. THE RECEIPT OF CASH FOR TRANSMITTAL OF ALL OR
5 PART THEREOF THROUGH WIRE OR TELEGRAPHIC
6 TRANSFER FOR OR ON BEHALF OF A CUSTOMER;

7 B. PAYMENTS IN CASH OF FUNDS RECEIVED THROUGH
8 WIRE OR TELEGRAPHIC TRANSFER;

9 C. THE CASHING OF CHECKS OR OTHER NEGOTIABLE
10 INSTRUMENTS;

11 D. OTHER SIMILAR TRANSACTIONS; AND

12 (2) RECEIVING MONEY, THE PURPOSE OF OWNERSHIP OF
13 WHICH CANNOT BE ASCERTAINED WITHIN A PERIOD OF
14 SEVEN (7) DAYS, UNLESS THE AMLC PRESCRIBES A
15 DIFFERENT PERIOD, FROM THE DATE OF THE RECEIPT."

16 **SECTION 20. *Separability Clause.*** - If any provision of this Act is declared
17 unconstitutional, the same shall not affect the validity and effectivity of other provisions
18 thereof.

19 **SECTION 21. *Repealing Clause.***- Section 20 of Republic Act No. 9160, as
20 amended by Republic Act No. 10365, is hereby repealed. All laws, decrees, orders, and
21 issuances or portions thereof, which are inconsistent with the provisions of this Act, are
22 hereby repealed, amended or modified accordingly; Provided, that all provisions of
23 Republic Act No. 9160, as amended, which are not inconsistent with this Act are hereby
24 adopted.

25 **SECTION 22. *Effectivity.*** - This Act shall take effect fifteen (15) days following its
26 publication in at least two (2) newspapers of general circulation.