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SENATE
P.S. Resolution No. 468

RECEIVED BY: _____

INTRODUCED BY SENATORS VICENTE C. SOTTO III and
PANFILO M. LACSON

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE POSSIBLE VIOLATION OF REPUBLIC ACT NO. 9160, AS AMENDED, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT (AMLA) BY SOME "COVERED INSTITUTIONS", AS DEFINED IN THE AMLA, WITH THE END IN VIEW OF RECOMMENDING FURTHER MEASURES TO PROMOTE EFFICIENT COMPLIANCE WITH THE AMLA AND AMENDING FURTHER THE SAID LAW

WHEREAS, it is a declared policy of the State to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money-laundering site for the proceeds of any unlawful activity;

WHEREAS, Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act (AMLA) was signed into law on September 29, 2001. The same was first amended in 2003, through Republic Act 9194, which, among others, lowered the amount of covered transactions, defined suspicious transactions and provided additional functions to the Anti-Money Laundering Council (AMLC);

WHEREAS, Republic Act No. 10365 further amended the AMLA in 2012 – expanding the list of institutions covered by the said law as well as the list of unlawful activities or predicate offenses, just to name a few. And the most recent amendment made to AMLA – to further enforce the country's fight against money laundering and to make our country fully compliant with the standards provided under the Financial Action Task Force (FATF) Recommendations – is Republic Act 10927, which includes casino as covered institution;

WHEREAS, despite several amendments made to strengthen the AMLA, violations thereof have been continuously monitored. However, there are some violations that are left uncovered;

WHEREAS, recently, there were reports that the Chairman of the Commission on Elections (COMELEC) has 35 separate accounts with Luzon Development Bank (LDB) – 30 accounts at the Fort Bonifacio, Taguig City branch and five (5) accounts at the Makati City branch – totaling to P 329 million;

WHEREAS, the COMELEC Chair, as an individual who holds a prominent public position in the Philippines, is considered as politically exposed person (PEP), as defined in the AMLA, to wit:

“Politically Exposed Person” (PEP) refers to an individual who is or has been entrusted with prominent public position in (a) the Philippines with substantial authority over policy, operations or the use or allocation of government-owned resources; (b) a foreign State; or (c) an international organization.

The term PEP shall include immediate family members, and close relationships and associates that are reputedly known to have:

1. Joint beneficial ownership of a legal entity or legal arrangement with the main/principal PEP; or
2. Sole beneficial ownership of a legal entity or legal arrangement that is known to exist for the benefit of the main/principal PEP”;

WHEREAS, the LDB, as a covered institution under the AMLA, should take reasonable measures to determine whether its customer is a PEP;

WHEREAS, the Bangko Sentral ng Pilipinas Circular No. 950, series of 2017, on the Anti-Money Laundering Regulations of the Manual of Regulations for Banks and Manual of Regulations for Non-Bank Financial Institutions, provides that covered institutions shall specify criteria and description of the types of customers that are likely to pose low, normal or high money laundering/terrorist financing risk to their operations as well as the standards in applying reduced, average and enhanced due diligence;

WHEREAS, the same BSP Circular implies that the enhanced due diligence shall be applied by the covered institutions to those individual customers who are considered as PEP;

WHEREAS, the aforesaid BSP Circular further states that whenever enhanced due diligence is applied, the covered institution shall, in addition to profiling of customers and monitoring of their transactions, require additional information and/or documents from the customer; conduct validation procedures; obtain senior management approval for establishing business relationship; conduct enhanced ongoing monitoring of the business relationship; require the first payment to be carried out through an

account in the customer's name with a bank subject to similar customer due diligence standards, where applicable; and perform such other measures as the covered person may deem reasonable or necessary;

WHEREAS, in the case of LDB and the bank accounts of COMELEC Chair, the compliance with the required due diligence must be studied and investigated;

WHEREAS, the splitting of accounts of the COMELEC Chair in one small thrift bank so as not to be under the radar of the Anti-Money Laundering Council, likewise, needs to be further looked into;

WHEREAS, LDB, although a small thrift bank, must be equally monitored just like the big commercial and universal banks, as the AMLA covers all banks – without providing any qualifications;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, to direct the Senate Committee on Banks, Financial Institutions and Currencies to conduct an inquiry, in aid of legislation, into the possible violation of Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act by some “covered institutions”, as defined in the AMLA, with the end in view of recommending further measures to promote efficient compliance with the AMLA and amending further the said law.

Adopted,


VICENTE C. SOTTO III


PANFILO M. LACSON