

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



24 FEB 21 P2:38

SENATE

RECEIVED BY: JSY

COMMITTEE REPORT NO. 204

Submitted by the Committee on Banks, Financial Institutions, and Currencies, joint with the Committees on Justice and Human Rights; and Finance on FEB 21 2024.

Re: Senate Bill No. 2560

Recommending its approval in substitution of Senate Bill Nos. 336, 1663, 2039, 2171, 2306 and 2407, taking into consideration H.B. No. 7393

Sponsor: Senator Mark Villar

MR. PRESIDENT:

The Committee on Banks, Financial Institutions, and Currencies, joint with the Committees on Justice and Human Rights; and Finance to which were referred:

Senate Bill No. 336 introduced by Senator Grace Poe and Senator Loren B. Legarda, entitled:

"AN ACT REGULATING THE USE OF BANK ACCOUNTS, E-WALLETS, AND OTHER FINANCIAL ACCOUNTS, PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES"

Senate Bill No. 1663 introduced by Senator Imee R. Marcos, entitled:

"AN ACT PENALIZING FINTECH CRIME, PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES"

Senate Bill No. 2039 introduced by Senator Juan Miguel "Migz" F. Zubiri, and Senator Ramon "Bong" Revilla, Jr., entitled:

**"AN ACT PROHIBITING MONEY MULES AND OTHER
FRAUDULENT ACTS INVOLVING BANK ACCOUNTS, E-WALLETS,
AND OTHER FINANCIAL ACCOUNTS, PROVIDING PENALTIES
THEREFOR AND FOR OTHER PURPOSES"**

Senate Bill No. 2171 introduced by Senator Jinggoy E. Estrada, entitled:

**"AN ACT REGULATING THE USE OF BANK ACCOUNTS,
ELECTRONIC WALLETS, AND OTHER FINANCIAL ACCOUNTS,
PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES"**

Senate Bill No. 2306 introduced by Senator Joel Villanueva, entitled:

**"AN ACT DEFINING AND PENALIZING FRAUDULENT ACTIVITIES
INVOLVING BANK ACCOUNTS, E-WALLETS, AND OTHER
FINANCIAL ACCOUNTS, AND FOR OTHER PURPOSES"**

Senate Bill No. 2407 introduced by Senator Win Gatchalian, entitled:

**"AN ACT PROHIBITING MONEY MULES AND OTHER
FRAUDULENT ACTS COMMITTED INVOLVING FINANCIAL
ACCOUNTS, PROVIDING PENALTIES AND FOR OTHER
PURPOSES"**

taking into consideration:

House Bill No. 7393 introduced by Representatives Tieng; Villafuerte, L.R. et. al.,
entitled:

**"AN ACT REGULATING THE USE OF FINANCIAL ACCOUNTS
SCAMMING ACT"**

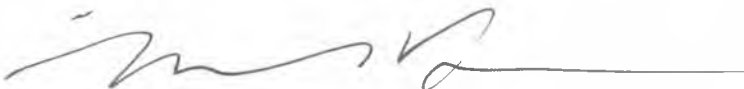
have considered the same and have the honor to report it back to the Senate with the
recommendation that the attached **Senate Bill No. 2560** prepared by the
Committee, entitled:

**"AN ACT PROHIBITING MONEY MULES AND OTHER FRAUDULENT ACTS
INVOLVING BANK ACCOUNTS, E-WALLETS, AND OTHER FINANCIAL
ACCOUNTS, AND PROVIDING PENALTIES THEREFOR"**

be approved in substitution of Senate Bill Nos. 336, 1663, 2039, 2171, 2306 and 2407;
and taking into consideration House Bill No. 7393, with Senators Poe, Marcos, Zubiri,
Estrada, Villanueva, Gatchalian, Legarda, Revilla and Villar M., as authors thereof.

Respectfully submitted:

Chairpersons



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Member, Committee on Justice and Human Rights*

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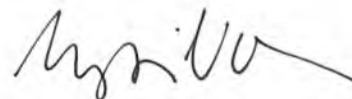
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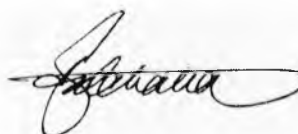
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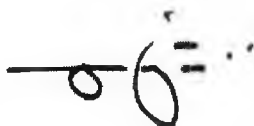
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Senate President

1 Further, due to the deleterious effect on the economy, the large-scale commission of
2 certain crimes under this Act shall be declared a form of economic sabotage and a
3 heinous crime and shall be punishable to the maximum level allowed by law.

4 **SEC. 3. Definition of Terms.** - As used in this Act, the following terms are hereby
5 defined as follows:

- 6 a) **Account takeover** refers to an instance when a person gains access and
7 control over another person's financial account;
- 8 b) **Account owner** refers to the owner or owners of a financial account, such as
9 but not limited to bank accounts or e-wallets, opened, maintained, or registered
10 with a Responsible Institution;
- 11 c) **Electronic Communications** refer to digital platforms used to send and
12 receive messages or information, such as but not limited to: phone calls, SMS
13 or text messages, emails, social media platforms, electronic mail, other instant
14 messaging technologies, or websites;
- 15 d) **Electronic Wallet or E-wallet** refers to a store of value or electronic
16 instrument or device, which contain digital value as may be defined by the
17 Bangko Sentral ng Pilipinas (BSP) regulations;
- 18 e) **Financial Account** refers to any of the following:
19 1. An interest or non-interest-bearing deposit, trust investment, credit
20 card account; or
21 2. Other transaction account maintained with a bank, non-bank, or
22 financial institution; or
23 3. E-wallet; or
24 4. Virtual assets accounts; or
25 5. Any other type of digital account used for financial accounts, other
26 than bank accounts, e-wallets, and virtual assets accounts; or
27 6. Any other account used to avail financial products or services defined
28 under Section 3(c) of Republic Act No. 11765 or the Financial
29 Products and Services Consumer Protection Act;
- 30 f) **Fraud Management Systems (FMS)** refers to a comprehensive set of
31 automated and real-time monitoring and detection systems to identify and
32 block suspicious or fraudulent online transactions;
- 33 g) **Mass Mailer** refers to a service or software used to send electronic messages,
34 short messaging service (SMS), or electronic mail (email), or other written,
35 digital or electronic form of communication in mass to an aggregate of fifty (50)
36 recipients or more;
- 37 h) **Money Mule** - refers to any person who commits any of the acts under Section
38 4 (a) hereof;
- 39 i) **Multi-Factor Authentication (MFA)** refers to an authentication method that
40 requires two (2) or more verification factors to gain access to a resource;
- 41 j) **Responsible Institutions** refers to banks, non-banks, other financial
42 institutions, payments and financial service providers that are under the

1 jurisdiction of the BSP, and such other institutions as may be determined by
2 the BSP;

3 k) **Financial Account Information** refers to any information that can be used
4 as account identifier to access an individual's financial accounts such as, but
5 not limited to, usernames, passwords, bank account details, credit card, debit
6 card, and e-wallet information, among other electronic credentials;

7 l) **Social engineering scheme** refers to the use of deception, misrepresentation
8 or other fraudulent means by a person to obtain confidential or personal
9 information, including the financial account information of another person and
10 those acts enumerated under Section 4(b) of 2 this Act;

11 **SEC. 4. Prohibited Acts.** - The following acts shall constitute an offense punishable
12 under this Act:

13 a. *Money mule.* Any person who obtains, receives, acquires, keeps or transfers or
14 withdraws money, funds, or proceeds known or ought to be known through
15 ordinary diligence that the funds or proceeds are derived from crimes, offenses, or
16 social engineering schemes, or those who perform any of the following acts shall
17 be considered as a money mule:

18 1. Opening, using or allowing the use of a financial account in order to deposit,
19 receive, keep, transfer, or withdraw funds or proceeds known or ought to be
20 known through ordinary diligence that the funds or proceeds are derived from
21 crimes, offenses, or social engineering schemes; or

22 2. Opening a financial account under a fictitious name or using the identity or
23 identification documents of another person or other falsified documents; or

24 3. Buying, or renting another person's financial account, regardless of the
25 account owner's knowledge or consent to deposit, receive, keep, transfer, or
26 withdraw funds or proceeds known or ought to be known through ordinary
27 diligence that the funds or proceeds are derived from crimes, offenses, or social
28 engineering schemes;

29 4. Selling one's own financial account in order to deposit, receive, keep,
30 transfer, or withdraw funds or proceeds known or ought to be known through
31 ordinary diligence that the funds or proceeds are derived from crimes, offenses,
32 or social engineering schemes: *Provided, That,* if the seller has established by
33 clear and convincing evidence that he has no knowledge or participation as to
34 the manner the financial account he sold is to be utilized, the penalty to be
35 imposed for his act of selling his own financial account shall be the same penalty
36 imposed for violations of Section 5 of this Act;

37 5. Borrowing, or using another person's a financial account regardless of the
38 account owner's knowledge or consent, to deposit, receive, transfer, or
39 withdraw funds or proceeds, known or ought to be known by ordinary diligence
40 that the funds or proceeds are derived from crimes, offenses, or social
41 engineering schemes; or

1 6. Recruiting, enlisting, contracting, hiring, utilizing, or inducing any person to
2 be a money mule or to perform any of the acts mentioned in items 1 to 5 of
3 this Section.

4 *b. Social Engineering Schemes.* Any person performing any social engineering
5 scheme shall be penalized under this act. Social engineering shall be deemed
6 committed when a person performs any of the following:

7 1. Makes any communication to another person by misrepresenting oneself as
8 a representative of a Responsible Institution, or making any false
9 representation to solicit financial account information that may result, or
10 resulted to account takeover; or
11

12 2. Uses electronic means, tools, communication, or any other applicable
13 communication technology, or those similar thereto, such as, but not limited to,
14 social media platforms, electronic mails, or websites, to induce or request any
15 person to provide financial account information that may result, or resulted to
16 loss, damage or injury to any person.

17 *c. Economic Sabotage.* Any offense defined under this section shall be considered
18 as an offense involving economic sabotage when any of the following
19 circumstances are present:

20 1. The offense was committed by a syndicate; or

21 2. The offense was committed in large scale; or

22 3. The offense was committed using a mass mailer or other similar tools used
23 to send bulk emails or SMS, generative artificial intelligence or any similar
24 technology that takes advantage of the reach, open access and processing
25 power available through the internet to (a) collect and process large amounts
26 of data, (b) break secure passwords and encrypted data, (c) replicate likeness
27 and voices of natural persons, (d) create fake identities, likenesses, and voices,
28 or (e) other analogous uses that apply new technology to cause widespread
29 damage to the public;

30 4. The offense was committed by a group of foreign nationals operating inside
31 or outside the Philippines; or

32 5. The offense was committed through human trafficking.

33 For this purpose, an act shall be deemed committed by a syndicate if the
34 offense was carried out by a group of three (3) or more persons conspiring or
35 confederating with one another, while an act shall be deemed committed in
36 large scale if the offense was committed against three (3) or more persons
37 individually or as a group.

38 **SEC. 5. Other Offenses.** - The following acts, or any acts involving or having relation
39 thereto shall also constitute as punishable offenses:

1 a) Willfully abetting or aiding in the commission of any of the offenses enumerated
2 under Section 4 of this Act;

3 b) Attempting to commit any of the offenses enumerated under Section 4 of this
4 Act;

5 c) Illegally obtaining any information related to financial accounts through
6 unauthorized means or through violation of any laws on data privacy and
7 cybersecurity;

8 d) Using any information from financial accounts to intimidate, unduly harass the
9 account owner or threaten the use financial account of the account owner for
10 unlawful means to derive a monetary benefit or any other benefit of whatever
11 form or nature from the account owner;

12 **SEC. 6. Responsibility to Protect Access to Financial Accounts.-** Responsible
13 Institutions shall ensure that access to their clients' financial accounts are protected
14 by adequate risk management systems and controls including, but not limited to,
15 multi-factor authentication (MFA), fraud management systems (FMS), other account-
16 holder enrollment and verification processes: *Provided*, That, such risk management
17 systems and controls are proportionate and commensurate to the nature, size and
18 complexity of their operations and of the transactions involved.

19 Responsible Institutions that complied with the requirements of adequate risk
20 management systems and controls, as may be determined by the BSP, shall be
21 protected from any liability arising from any of the punishable acts defined under
22 Sections 4 and 5 of this Act: *Provided*, That, Responsible Institutions which failed to
23 comply with the requirements of adequate risk management systems and controls
24 shall be liable for any loss or damage incurred by any person arising from any of the
25 punishable acts defined under Sections 4 and 5 of this Act.

26 Consistent with existing laws, the BSP may order the payment or reimbursement of
27 money for failure of the Responsible Institutions to employ adequate risk management
28 systems and controls and exercise highest degree of diligence.

29 **SEC. 7. Temporary Holding of Disputed Transactions.-** Whenever a Responsible
30 Institution, acting upon information from another Responsible Institution, or upon a
31 complaint from an aggrieved party under this Act, or upon a finding under its own
32 FMS, suspects or has reasonable grounds to suspect that a transaction appears to be
33 unusual, has no clear economic purpose, illegal, from an illegal resource, or involves
34 proceeds from an unlawful activity or instrumentalities under this Act, regardless of
35 the amount involved, such Responsible Institution shall have the authority, within the
36 period prescribed by BSP, which shall not exceed thirty (30) calendar days, unless
37 otherwise extended by a Court of competent jurisdiction, to temporarily hold the
38 disputed funds subject of the transaction. During the said period, the Responsible
39 Institution involved, the account holder, and the other Responsible Institution/s that
40 accepted or shall accept the transfer of the disputed funds shall initiate a coordinated
41 verification process to validate the transaction. In instances where the suspicion arises

1 from the responsible institution's finding under its own FMS, the responsible institution
2 shall perform such acts as may legally be warranted to preserve the integrity of the
3 financial account and under such conditions as may be prescribed by the BSP. For this
4 purpose, the BSP shall have the authority to issue such rules and regulations on the
5 procedure for the holding of disputed funds, period of holding, and the release thereof,
6 as well as other legally permissible actions by the Responsible Institutions. Moreover,
7 for purposes of the coordinated verification by the Responsible Institutions mentioned
8 above, the provisions of Republic Act No. 1405, otherwise known as the "Secrecy of
9 Bank Deposits Law," Republic Act No. 6426, as amended, otherwise known as the
10 "Foreign Currency Deposit Act," Republic Act No. 8367, otherwise known as the
11 "Revised Non-Stock Savings and Loan Association Act of 1997," and Republic Act No.
12 10173, otherwise known as the "Data Privacy Act of 2012," shall not apply.

13 No administrative, criminal, or civil proceedings shall be imposed against any
14 Responsible Institution for holding the disputed funds mentioned above when such is
15 done in good faith, in accordance with BSP rules and regulations and whether or not
16 the transaction involving the disputed funds resulted in any criminal prosecution under
17 this Act, its IRR, or any other law.

18 Any Responsible Institution or person that held or will hold the disputed funds, or any
19 person who, with malice or in bad faith, reports or files a completely unwarranted or
20 false information that results in the holding of disputed funds shall be punishable
21 under Sections 10 and Section 11 of this Act, as the case may be.

22 **SEC. 8. Higher Penalty for Acts Committed Under the Revised Penal Code**
23 **and Crimes Under Special Laws using Money Mule and Social Engineering**
24 **Schemes.** - All crimes defined and penalized by Act No. 3815, otherwise known as
25 the Revised Penal Code, as amended, and special laws, if committed by and through
26 the acts as defined under Section 4 and Section 5 hereof, shall be covered by relevant
27 provisions of this Act: Provided, That the penalty to be imposed shall be one (1) degree
28 higher than that provided for by the Revised Penal Code, as amended, or special laws,
29 if any, or this Act, whichever is the highest.

30 **SEC. 9. Liability Under Other Laws.** - A prosecution under this Act shall be without
31 prejudice to any prosecution for violation of any provision of the Revised Penal Code,
32 as amended, or special laws, including but not limited to Republic Act Nos. 8484, 9160,
33 and 10175, as amended.

34 Prohibited Acts under Sections 4 and 5 of this Act shall be considered as "Unlawful
35 Activities" under Section 3(I) of Republic Act No. 9160, otherwise known as the "Anti-
36 Money Laundering Act of 2001," as amended.

37 **Sec. 10. Penalties.** - Any person found guilty of the punishable act under Section 4
38 (a) shall be punished with imprisonment of not less than six (6) years but not more
39 than eight (8) years, and a fine of at least One Hundred Thousand Pesos (PHP
40 100,000.00) but not exceeding Five Hundred Thousand Pesos (PHP 500,000.00).

1 Any person found guilty of any of the punishable acts enumerated in Section 4 (b)
2 shall be punished with imprisonment of not less than ten (10) years but not more than
3 twelve (12) years and a fine of at least Five Hundred Thousand Pesos (PHP
4 500,000.00) but not exceeding One Million Pesos (PHP 1,000,000.00), *Provided*, That
5 the penalty of not less than eight (8) years but not more than twelve (12) years, and
6 a fine of at least One Million Pesos (PHP 1,000,000.00) but not exceeding Two Million
7 Pesos (PHP 2,000,000.00) shall be imposed if the target or victim of the acts
8 enumerated in Section 4 (b) and is or includes a senior citizen aged sixty (60) years
9 old or above at the time the offense was committed.

10 Any person found guilty of any of the offenses that constitutes economic sabotage
11 under Section 4 (c) shall be punished with Life Imprisonment and a fine of not less
12 than One Million Pesos (PHP 1,000,000.00) but not more than Five Million Pesos (PHP
13 5,000,000.00).

14 Any person found guilty of any of the punishable acts enumerated in Section 5 shall
15 be punished with imprisonment of not less than four (4) years but not more than six
16 (6) years and a fine of at least One Hundred Thousand Pesos (PHP100,000.00) but
17 not exceeding Two Hundred Thousand Pesos (PHP200,000.00) or both, at the
18 discretion of the court.

19 Any person found guilty of committing the acts mentioned in the last paragraph of
20 Section 7 of this act shall be punished with imprisonment of not less than one (1) year
21 but not more than five (5) years or a fine of not less than Fifty Thousand Pesos (PHP
22 50,000.00) but not more than Two Hundred Thousand Pesos (PHP200,000.00), or
23 both, at the discretion of the Court. Further, the same penalty shall be imposed against
24 any person found guilty of knowingly or willfully obstructing, impeding, frustrating or
25 delaying the examination and investigation of the BSP as provided under Section 12
26 of this Act or any person found guilty of committing the acts mentioned in the
27 penultimate paragraph of Section 12 of this Act.

28 Any government official or employee who shall be found guilty of any of the unlawful
29 acts defined under Sections 4, and 5 of this act shall, in addition to the penalties
30 prescribed under this section, suffer perpetual absolute disqualification from holding
31 any appointive or elective position in the government, or in any agency, entity, or
32 instrumentality thereof.

33 **SEC. 11. Corporate Liability.** - When any of the punishable acts herein defined
34 knowingly committed on behalf of or for the benefit of a juridical person, by a natural
35 person who has a leading position within based on (a) a power of representation of
36 the juridical person: *Provided*, That the act committed falls within the scope of such
37 authority; (b) an authority to take decisions on behalf of the juridical person: *Provided*,
38 That the act committed falls within the scope of such authority; or (c) an authority to
39 exercise control within the juridical person, the juridical person shall be held liable for
40 a fine equivalent to at least double the fines imposable in Section 8 hereof up to a
41 maximum of Ten Million Pesos (PHP10,000,000.00).

1 The liability imposed on the juridical person shall be without prejudice to the criminal
2 liability of the natural person who has committed an offense under this act.

3 **Sec. 12. Enforcement** -The provisions of Chapters IV and VII of Republic Act No.
4 10175, otherwise known as the "Cybercrime Prevention Act of 2012" shall be
5 applicable in the enforcement of this Act: *Provided*, That in addition to the cybercrime
6 units of the National Bureau of Investigation (NBI) and the Philippine National Police
7 (PNP), the BSP shall have the authority to investigate cases involving violations of
8 this Act, and to apply for cybercrime warrants and orders mentioned in Chapter IV of
9 Republic Act No. 10175: *Provided*, further, That the BSP may request assistance of
10 the NBI and the PNP in the investigation of cases involving violations of this Act and
11 in the enforcement and implementation of cybercrime warrants and related orders.

12 The BSP shall have the authority to examine and investigate individual financial
13 accounts, e-wallets, or other financial accounts which are involved in the prohibited
14 acts and other offenses under Sections 4 and 5 of this Act. For this purpose, the
15 provisions of Republic Act No. 1405, otherwise known as the "Secrecy of Bank Deposits
16 Law," Republic Act No. 6426, as amended, otherwise known as the "Foreign Currency
17 Deposit Act," Republic Act No. 8367, otherwise known as the "Revised Non-Stock
18 Savings and Loan Association Act of 1997," and Republic Act No. 10173, otherwise
19 known as the "Data Privacy Act of 2012", shall not apply to other financial accounts,
20 which are subject of investigation of BSP under this provision.

21 No Court except the Court of Appeals or the Supreme Court can enjoin the BSP from
22 examining and investigating any financial account which are involved in the prohibited
23 acts and other offenses under sections 4 and 5 of this Act, unless there is convincing
24 proof that the action of the BSP is plainly arbitrary and made in bad faith.

25 No Responsible Institution, or any of its directors, officers, or employees shall be
26 subject to any action, claim, or demand in connection with, and shall be held free and
27 harmless from liability for, any act done in compliance with an order for inquiry or
28 examination of or other financial accounts from BSP: *Provided*, furthermore. That the
29 BSP may use any or all information gathered from the above inquiry, examination, or
30 investigation, in the course of its implementation of relevant provisions of Republic
31 Act No. 11765 or the "Financial Products and Services Consumer Protection Act of
32 2022".

33 It shall be unlawful, however, for any official or employee, of a Responsible Institution
34 or the BSP, to disclose any information concerning said other financial accounts to any
35 person under such conditions other than in relation to the examination and
36 investigation under this Section. It shall be unlawful for any person to use this Act for
37 persecution or harassment or as an instrument to hamper competition in trade and
38 commerce.

39 The BSP shall have the authority to issue rules on the information sharing and
40 disclosure with law enforcement and other competent authorities in connection with
41 its examination and investigation of financial, e-wallets, and other financial accounts

1 under this provision: Provided, finally, That any information which may be shared by
2 BSP under this provision shall be used solely for the investigation and prosecution of
3 cases involving the prohibited acts and other offenses defined under Section 4 and 5
4 of this Act.

5 **SEC. 13. Jurisdiction.** - The Regional Trial Court shall have jurisdiction over any
6 violation of the provisions of this Act, including any violation committed by a Filipino
7 national regardless of the place of commission. Jurisdiction shall lie if any of the
8 elements was committed within the Philippines or committed with the use of any
9 device, tool, equipment, computer system or infrastructure, wholly or partly situated
10 in the country, or when by such commission any damage is caused to a natural or
11 juridical person who, at the time the offense was committed, was in the Philippines.

12 **SEC. 14. Civil Liability in Case of Conviction.** – A conviction for violation of this
13 Act shall carry with it civil liability, which may either consist of restitution for the
14 damage done or forfeiture in favor of the aggrieved party of any unwarranted benefit
15 derived from any violation of this Act, or both, at the discretion of the courts.

16 **SEC. 15. Administrative Sanctions.** – Without prejudice to the criminal penalties
17 and civil liabilities prescribed under this Act, the administrative sanctions specified in
18 the Charter of the BSP shall be made applicable to a Responsible Institution, its
19 directors, officers, trustees, employees, or agents, for violation of this Act or any
20 related rules, regulations, orders or instructions of the BSP.

21 **SEC. 16. General Principles Relating to International Cooperation.** - All
22 relevant international instruments on international cooperation in criminal matters,
23 arrangements agreed on the basis of uniform or reciprocal legislation, and domestic
24 laws, to the widest extent possible for the purposes of investigations or proceedings
25 concerning criminal offenses related to computer systems and data, or for the
26 collection of evidence in electronic form of a criminal offense, shall be given full force
27 and effect.

28 **SEC. 17. Implementing Rules and Regulations.** - Within one (1) year from the
29 effectivity of this Act, the BSP, in coordination with the Department of Justice (DOJ),
30 Department of Information and Communications Technology (DICT), NBI, PNP,
31 Cybercrime Investigation and Coordination Center (CICC), and the Anti-Money
32 laundering Council (AMLC) shall jointly promulgate the rules and regulations to
33 effectively implement the provisions of this Act.

34 A cooperative mechanism shall be established among the concerned government
35 agencies, banks, financial and other covered institutions, private and corporate
36 sectors, and other concerned stakeholder groups to ensure the effective prosecution
37 of cases and enforcement of this Act.

38 **SEC. 18. Separability Clause.** - If for any reason, any provision of this Act is
39 declared invalid or unconstitutional, the remaining parts or provisions not affected
40 shall remain in full force and effect.

1 **SEC. 19. Repealing Clause.** - All laws, decrees, executive orders, rules and
2 regulations or parts thereof which are contrary or inconsistent with the provisions of
3 this Act are hereby repealed, amended or modified accordingly.

4 **SEC. 20. Effectivity.** - This Act shall take effect fifteen days (15) after its publication
5 in the Official Gazette or in a national newspaper of general circulation.

6 Approved,

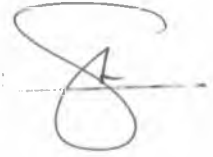
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(In Substitution of S. B. Nos. 336, 1663, 2039, 2171 and 2407, taking into
consideration H.B. No. 7393)

Prepared by the Committee on Banks, Financial Institutions & Currencies, with
Senators Poe, Zubiri, Marcos, Estrada, Villanueva, Gatchalian, Legarda, Revilla and
Villar M., as authors thereof

**AN ACT DEFINING AND PENALIZING FINANCIAL ACCOUNT SCAMMING
AND OTHER OFFENSES, AND PROVIDING FOR THE ENFORCEMENT
MECHANISMS THEREFOR**

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

1 **SECTION 1. Short Title.** - This Act shall be known as the "Anti-Financial
2 Account Scamming Act (AFASA)".

3 **SEC. 2. Declaration of Policy.** - The State recognizes the vital role of banks,
4 non-bank financial institutions, other payment service providers, and the general
5 banking public in promoting and maintaining a stable and efficient financial system.
6 The State also acknowledges that with the increased use of electronic commerce and
7 digital financial services, there is a need to promote awareness on the proper use of
8 Financial Accounts and to protect the public from cybercriminals and criminal
9 syndicates who target Financial Accounts or lure Account Owners into becoming
10 accessories or perpetrators of fraudulent activities. The State shall undertake measures
11 to protect all persons from cybercrime schemes by regulating the use of Financial
12 Accounts and preventing their use in fraudulent activities.

13 **SEC. 3. Definition of Terms.** - As used in this Act, the following terms are hereby
14 defined as follows:

15 **a) Account Owner** refers to the person to whom a Financial Account belongs or
16 under whose name the account was opened or registered;

17 **b) Electronic Communications** refer to phone calls, short messaging service
18 (SMS), social media platform-enabled messages, electronic mail (email),
19 technology-powered instant messaging, and other messages sent via electronic
20 means;

1 **c) Electronic Wallet or E-wallet** refers to an electronic instrument or device
2 that can store digital value;

3 **d) Financial Account** refers to an account used to avail of products or services
4 offered by Institutions such as:

5 1. An interest or non-interest-bearing deposit, trust, investment, or
6 credit card account;

7 2. Other transaction account maintained with a bank, non-bank, or
8 financial institution;

9 3. E-wallet; and

10 4. Any other account used to avail financial products or services defined
11 under Section 3(c) of Republic Act No. 11765 or the "Financial
12 Products and Services Consumer Protection Act".

13 **e) Fraud Management Systems (FMS)** refer to a comprehensive set of
14 automated and real-time monitoring and detection systems to identify and block
15 disputed, suspicious or other online transactions;

16 **f) Institutions** refer to banks, non-banks, other financial institutions, payments
17 and financial service providers under the jurisdiction of the BSP;

18 **g) Mass Mailer** refers to a service or software used to send electronic
19 communications to an aggregate of fifty (50) or more recipients;

20 **h) Multi-Factor Authentication (MFA)** refers to an authentication method that
21 requires two (2) or more verification factors to gain access to a resource; and

22 **i) Sensitive Identifying Information** refers to any information that can be
23 used to access an individual's Financial Accounts such as usernames,
24 passwords, bank account details, credit card, debit card, and e-wallet
25 information among other electronic credentials, and other confidential and
26 personal information.

27 **SEC. 4. Prohibited Acts.** - The following acts shall constitute Financial
28 Account scamming under this Act:

29 a. *Money Muling Activities* – A person performing any of the following acts for the
30 purpose of obtaining, receiving, depositing, transferring or withdrawing proceeds
31 that are known to be derived from crimes, offenses, or social engineering schemes
32 shall be considered as a money mule:

33 1. Using, borrowing or allowing the use of a Financial Account;

- 1 2. Opening a Financial Account under a fictitious name or using the
2 identity or identification documents of another;
- 3 3. Buying or renting a Financial Account;
- 4 4. Selling or lending a Financial Account; or
- 5 5. Recruiting, enlisting, contracting, hiring, utilizing or inducing any
6 person to perform the acts mentioned in items 1 to 4 of this
7 subsection.

8 **b. *Social Engineering Schemes.*** - A social engineering scheme is committed by a
9 person who obtains sensitive identifying information of another person, through
10 deception or fraud, resulting in unauthorized access and control over the person's
11 Financial Account, by performing any of the following acts:

- 12 1. Misrepresenting oneself as acting on behalf of an Institution, or
13 making any false representations to solicit another person's sensitive
14 identifying information; or
- 15 2. Using electronic communications to obtain another person's sensitive
16 identifying information.

17 **c. *Economic Sabotage.*** - The prohibited acts under Section 4(a) and (b) shall be
18 considered as economic sabotage when committed under any of the following
19 circumstances:

- 20 1. By a group of three (3) or more persons conspiring or confederating
21 with one another;
- 22 2. Against three (3) or more persons individually or as a group;
- 23 3. Using a mass mailer; or
- 24 4. Through human trafficking.

25 **SEC. 5. Other Offenses.** - The following shall also constitute as offenses under
26 this Act:

- 27 a) Willfully aiding or abetting in the commission of any of the offenses enumerated
28 under Section 4;
- 29 b) Willfully attempting to commit any of the offenses enumerated under Section 4;
- 30 c) Opening a Financial Account under a fictitious name or using the identity or
31 identification documents of another;
- 32 d) Buying or renting a Financial Account; or

1 e) Selling a Financial Account.

2 **SEC. 6. Responsibility to Protect Access to Client's Financial Account. -**

3 Institutions shall ensure that access to their clients' Financial Accounts is protected by
4 adequate risk management systems and controls such as, MFA, FMS, and other
5 Account Owner enrollment and verification processes: *Provided*, That such risk
6 management systems and controls are proportionate and commensurate to the nature,
7 size and complexity of their operations.

8 Institutions that are determined by the BSP to be compliant with the
9 requirements of adequate risk management systems and controls shall not be liable
10 for any loss or damage, arising from the offenses under Sections 4 and 5.

11 Without prejudice to other liabilities under existing laws and consistent with BSP
12 rules and regulations, Institutions shall be liable for restitution of funds to the Account
13 Owners for failure to employ adequate risk management systems and controls, or
14 failure to exercise the highest degree of diligence in preventing loss or damage arising
15 from the offenses under Sections 4 and 5. Conviction shall not be a prerequisite to the
16 restitution of funds.

17 **SEC. 7. Temporary Holding of Funds Subject of a Disputed**

18 **Transaction. -** Institutions shall have the authority to temporarily hold the funds
19 subject of a disputed transaction within the period prescribed by BSP, which shall not
20 exceed thirty (30) calendar days, unless otherwise extended by a court of competent
21 jurisdiction.

22 A transaction shall be considered disputed if the Institution, based on
23 information obtained from another Institution, a complaint from an aggrieved party,
24 or a finding under its own FMS, has reasonable ground to believe that such transaction
25 appears to be:

- 26 a. Unusual;
27 b. Without clear economic purpose;
28 c. From an unknown or illegal source, or unlawful activity; or
29 d. Facilitated through social engineering schemes.

30 Where such belief arises from a finding under its own FMS, the Institution shall
31 perform acts as may legally be warranted to preserve the integrity of the Financial
32 Account.

33 No administrative, criminal or civil liability shall be imposed against an
34 Institution or its directors, trustees, officers, and employees for holding the funds
35 subject of a disputed transaction when done in accordance with BSP rules and
36 regulations.

37 The BSP shall issue rules and regulations on: the circumstances under which
38 Institutions are required to exercise such authority to avoid probable fraud; the
39 grounds for, procedure and period of holding funds; verification and validation process;

1 the release of funds subject of disputed transaction; and other actions that may be
2 undertaken by the Institutions and Account Owners during the period of temporary
3 holding of funds.

4 **SEC. 8. Coordinated Verification of a Disputed Transaction.** - Upon
5 receipt of a complaint, an information from another Institution, or detection through
6 FMS, the Institutions and the Account Owners involved shall initiate a coordinated
7 verification process to validate the disputed transaction, regardless of whether the
8 funds remain in the banking system or not. The provisions of Republic Act No. 1405,
9 as amended; Republic Act No. 6426, or the "Foreign Currency Deposit Act of the
10 Philippines," as amended; Republic Act No. 8367 or the "Revised Non-stock Savings
11 and Loan Association Act of 1997"; and Republic Act No. 10173 or the "Data Privacy
12 Act of 2012" shall not apply during the coordinated verification process of a disputed
13 transaction.

14 **SEC. 9. Liability for Failure to Temporarily Hold Funds.** - An Institution
15 that fails to temporarily hold funds subject of a disputed transaction, as required under
16 this Act and relevant BSP rules and regulations, shall be liable for loss or damage
17 arising from such failure, including the restitution of the disputed funds to the Account
18 Owner.

19 **SEC. 10. Liability for Improper Holding of Funds.** - Without prejudice to
20 liabilities under existing laws, an Institution that holds funds subject of a disputed
21 transaction beyond the allowable period, or improperly holds funds, as provided in this
22 Act and relevant BSP rules and regulations, shall be subjected to administrative action
23 under Republic Act No. 7653, otherwise known as the "New Central Bank Act," as
24 amended.

25 **SEC. 11. Malicious Reporting.** - Any person who, with malice or in bad faith,
26 reports or files completely unwarranted or false information that results in the
27 temporary holding of funds shall be punished under Section 16 (e) of this Act.

28 **SEC. 12. Investigation and Inquiry Into Financial Accounts.** - The BSP
29 shall have the authority to investigate and inquire into Financial Accounts which may
30 be involved in the commission of a prohibited act or offense under Sections 4 and 5
31 hereof. The provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended;
32 R.A. No. 8367; and R.A. No. 10173 shall not apply to Financial Accounts subject to
33 BSP's investigation.

34 Any of the information gathered from the investigation or inquiry of a Financial
35 Account by the BSP pursuant to this section, may be used for the enforcement of this
36 Act and in the implementation of relevant provisions of R.A. No. 11765 .

37 The authority to investigate and inquire into Financial Accounts under this
38 section shall be exercised by a duly authorized officer or body from the BSP.

1 No court below the Court of Appeals shall have jurisdiction to enjoin the BSP
2 from exercising its authority to investigate and inquire into any Financial Account under
3 this Act.

4 An Institution, or any of its directors, officers, or employees shall be held free
5 and harmless from any accountability or liability for any act done in compliance with
6 an order from the BSP for an inquiry or investigation of a Financial Account.

7 **SEC. 13. Cybercrime Warrants and Related Orders.** – Without prejudice to
8 the authority of the cybercrime units of the National Bureau of Investigation (NBI) and
9 the Philippine National Police (PNP), the BSP or its duly authorized officer or body shall
10 have the authority to apply for cybercrime warrants and to issue the orders provided
11 in Chapter IV of Republic Act No. 10175 or the “Cybercrime Prevention Act of 2012”
12 with respect to the electronic communications used in any violation of this Act. The
13 BSP may request the assistance of the NBI and the PNP in the investigation of cases
14 and the enforcement and implementation of cybercrime warrants and related orders
15 for violations of this Act.

16 **SEC. 14. Sharing of Information of Financial Accounts.** – The BSP shall
17 have the authority to issue rules on information-sharing and disclosure with law
18 enforcement and other competent authorities in connection with its inquiry and
19 investigation of Financial Accounts under this Act: *Provided*, That any information on
20 the Financial Account which may be shared by BSP shall be used solely to investigate
21 and prosecute cases involving violations of Sections 4 and 5 of this Act and to
22 implement the relevant provisions of R.A. No. 11765.

23 **SEC. 15. Prohibition on the Disclosure of Information of a Financial**
24 **Account.** - Unless otherwise allowed under existing laws, directors, trustees, officers,
25 or employees of an Institution, government officials or employees, or other persons
26 who obtained information on the Financial Account subject of BSP’s inquiry or
27 investigation under this Act, shall be prohibited from disclosing such information on
28 the Financial Account for purposes other than those mentioned in Sections 12 and 14
29 hereof.

30 **SEC. 16. Penalties.** - a) A person found guilty of the prohibited acts under
31 Section 4 (a) shall be penalized with imprisonment of not less than six (6) years but
32 not more than eight (8) years, and a fine of at least One Hundred Thousand Pesos
33 (Php100,000.00) but not exceeding Five Hundred Thousand Pesos (Php500,000.00).
34 In addition, if the prohibited act falls under Section 4 (a), items (1) to (4), the court
35 shall also order the closure of the Financial Account involved in the transaction and
36 forfeiture in accordance with Article 45 of the Revised Penal Code, without prejudice
37 to Section 17 of this Act.

38 b) A person found guilty of any of the prohibited acts enumerated under Section 4 (b)
39 shall be penalized with imprisonment of not less than ten (10) years but not more than
40 twelve (12) years and a fine of at least Five Hundred Thousand Pesos (Php500,000.00)
41 but not exceeding One Million Pesos (Php1,000,000.00): *Provided*, That the penalty of

1 not less than twelve (12) years but not more than fourteen (14) years of imprisonment
2 and a fine of at least One Million Pesos (Php1,000,000.00) but not exceeding Two
3 Million Pesos (Php2,000,000.00) shall be imposed if the target or victim of the acts
4 enumerated in Section 4 (b) is a senior citizen at the time the offense was committed.

5 c) A person found guilty of any of the prohibited acts involving economic sabotage
6 enumerated under Section 4 (c) shall be penalized with life imprisonment and a fine
7 of not less than One Million Pesos (Php1,000,000.00) but not exceeding Five Million
8 Pesos (Php5,000,000.00).

9 d) A person found guilty of other offenses enumerated in Section 5 shall be penalized
10 with imprisonment of not less than four (4) years but not more than six (6) years and
11 a fine of at least One Hundred Thousand Pesos (Php100,000.00) but not exceeding
12 Two Hundred Thousand Pesos (Php200,000.00). In addition, if the prohibited act falls
13 under Section 5(c), (d) or (e), the court shall also order the closure of the Financial
14 Account.

15 e) A person found guilty of reporting or filing completely unwarranted or false
16 information that resulted in the temporary holding of funds under Section 11 shall be
17 penalized with imprisonment of not less than one (1) year but not more than five (5)
18 years or a fine of not less than Fifty Thousand Pesos (Php50,000.00) but not exceeding
19 Two Hundred Thousand Pesos (Php200,000.00), or both, at the discretion of the court.

20 f) A person found guilty of knowingly or willfully obstructing, impeding, frustrating, or
21 delaying the inquiry and investigation of the BSP as provided under Section 12 shall
22 be penalized with imprisonment of not less than one (1) year but not more than five
23 (5) years or a fine of not less than Fifty Thousand Pesos (Php50,000.00) but not
24 exceeding Two Hundred Thousand Pesos (Php200,000.00), or both, at the discretion
25 of the court.

26 g) An official, employee, or agent of an Institution, the government, or any person
27 who obtained information on the Financial Account subject of BSP's inquiry or
28 investigation who shall commit the prohibited act under Section 15 shall be penalized
29 with imprisonment of not less than one (1) year but not more than five (5) years or a
30 fine of not less than Fifty Thousand Pesos (Php50,000.00) but not exceeding Two
31 Hundred Thousand Pesos (Php200,000.00), or both, at the discretion of the Court.

32 h) When an offender is a juridical person, the fine to be imposed shall be double the
33 amount of the corresponding penalty but shall not exceed Ten Million Pesos
34 (Php10,000,000.00). The liability imposed on the juridical person shall be without
35 prejudice to the criminal liability of the responsible officer who committed the
36 prohibited acts or other offenses under this Act.

37 i) A government official or employee who shall be found guilty of the acts or offenses
38 under Sections 4 and 5 shall, in addition to the penalties prescribed under this section,
39 suffer perpetual absolute disqualification from holding any appointive or elective
40 position in the government, or in any agency, entity, or instrumentality thereof.

1 **SEC. 17. Civil Liability in Case of Conviction.** – A conviction for violation of
2 this Act shall carry with it civil liability, which may include restitution for the damage
3 done in favor of the aggrieved party of any unwarranted benefit derived from such
4 violation.

5 **SEC. 18. Administrative Sanctions.** – Without prejudice to the criminal and
6 civil liabilities prescribed under this Act, the administrative sanctions specified in
7 Republic Act No. 7653 or the “New Central Bank Act”, as amended, shall be imposed
8 upon the Institution, its directors, officers, trustees, employees, or agents, for violation
9 of this Act or any related rules, regulations, orders or instructions of the BSP.

10 **SEC. 19. Criminal Liability Under Other Laws.** - Prosecution under this Act
11 shall be without prejudice to prosecution for any violation of the Revised Penal Code,
12 as amended, or special laws such as Republic Act No. 8484 or the “Access Devices
13 Regulation Act of 1998,” as amended; Republic Act No. 9160 or the “Anti-Money
14 Laundering Act of 2001,” as amended; and R.A. No. 10175.

15 Prohibited Acts under Sections 4 and 5 of this Act shall be considered as “Unlawful
16 Activities” under Section 3(I) of Republic Act No. 9160, otherwise known as the “Anti-
17 Money Laundering Act of 2001,” as amended.

18 **SEC. 20. Immunity of Trafficked Persons from Criminal Liability.** -
19 Victims of trafficking in persons as defined under Republic Act No. 9208, or the “Anti-
20 Trafficking in Persons Act of 2003,” as amended, shall be free from criminal liability
21 for acts committed as a direct result of being trafficked. Conviction under R.A. No.
22 9208, as amended, shall not be a prerequisite to this defense, and it shall be sufficient
23 to show clear and convincing evidence of circumstances under prevailing manuals,
24 guidelines, and similar instruments on victim identification issued by the Inter-Agency
25 Council Against Trafficking (IACAT).

26 **SEC. 21. Jurisdiction.** - The Regional Trial Court shall have jurisdiction over
27 any violation of the provisions of this Act. Jurisdiction shall lie if any of the elements
28 was committed within the Philippines or committed with the use of any device, tool,
29 equipment, computer system or infrastructure, wholly or partly situated in the country,
30 or when by such commission, damage is caused to a natural or juridical person who
31 was in the Philippines at the time the offense was committed.

32 **SEC. 22. General Principles Relating to International Cooperation.** – To
33 the widest extent possible, all relevant instruments on international cooperation in
34 criminal matters and arrangements agreed on the basis of reciprocal legislation and
35 domestic laws, shall be given full force and effect for the purposes of investigations
36 or proceedings concerning criminal offenses related to computer systems and data, or
37 for the collection of evidence in the electronic form.

38 **SEC. 23. Implementing Rules and Regulations.** - Within one (1) year from
39 the effectivity of this Act, the BSP, in coordination with the Department of Justice
40 (DOJ), the Department of Information and Communications Technology (DICT), the
41 NBI, the PNP, the Cybercrime Investigation and Coordination Center (CICC), and the
42 Anti-Money Laundering Council (AMLC), and upon consultation with relevant

1 stakeholders, shall promulgate the rules and regulations to effectively implement the
2 provisions of this Act.

3 A cooperative mechanism shall be established among the Institutions, the BSP,
4 concerned government agencies and the private sector, to ensure the effective
5 enforcement of the provisions and prosecution of cases under this Act.

6 **SEC. 24. Separability Clause.** - If any provision of this Act is declared invalid
7 or unconstitutional, the remainder thereof not otherwise affected shall remain in full
8 force and effect.

9 **SEC. 25. Repealing Clause.** - All laws, presidential decrees, executive orders,
10 letters of instructions, proclamations or administrative regulations that are inconsistent
11 with the provisions of this Act are hereby repealed, amended or modified accordingly.

12 **SEC. 26. Effectivity.** - This Act shall take effect after fifteen days (15)
13 following its publication in the *Official Gazette* or in a national newspaper of general
14 circulation.

15 Approved,