



S E N A T E

S. No. 2560\*

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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  
2 the “Anti-Financial Account Scamming Act (AFASA)”.

3           SEC. 2. *Declaration of Policy.* – The State recognizes  
4 the vital role of banks, non-bank financial institutions,  
5 other payment service providers, and the general banking  
6 public in promoting and maintaining a stable and efficient  
7 financial system. The State also acknowledges that with

1 the increased use of electronic commerce and digital  
2 financial services, there is a need to promote awareness on  
3 the proper use of Financial Accounts and to protect the  
4 public from cybercriminals and criminal syndicates who  
5 target Financial Accounts or lure Account Owners into  
6 becoming accessories or perpetrators of fraudulent  
7 activities. The State shall undertake measures to protect  
8 all persons from cybercrime schemes by regulating the use  
9 of Financial Accounts and preventing their use in  
10 fraudulent activities.

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

12       (a) *Account Owner* refers to the person to whom a  
13 Financial Account belongs or under whose name the  
14 account was opened or registered;

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

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

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

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

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

9           (3) E-wallet; and

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

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

1           (f) *Institutions* refer to banks, non-banks, other  
2 financial institutions, payments and financial service  
3 providers under the jurisdiction of the Bangko Sentral ng  
4 Pilipinas (BSP);

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

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

11           (i) *Sensitive Identifying Information* refers to any  
12 information that can be used to access an individual's  
13 Financial Accounts such as usernames, passwords, bank  
14 account details, credit card, debit card, and e-wallet  
15 information among other electronic credentials, and other  
16 confidential and personal information.

17           SEC. 4. *Prohibited Acts.* – The following acts shall  
18 constitute Financial Account scamming under this Act:

1           (a) *Money Muling Activities* – A person performing  
2 any of the following acts for the purpose of obtaining,  
3 receiving, depositing, transferring, or withdrawing  
4 proceeds that are known to be derived from crimes,  
5 offenses, or social engineering schemes shall be considered  
6 as a money mule:

7           (1) Using, borrowing or allowing the use of a  
8 Financial Account;

9           (2) Opening a Financial Account under a fictitious  
10 name or using the identity or identification documents of  
11 another;

12           (3) Buying or renting a Financial Account;

13           (4) Selling or lending a Financial Account; or

14           (5) Recruiting, enlisting, contracting, hiring, utilizing  
15 or inducing any person to perform the acts mentioned in  
16 items 1 to 4 of this subsection.

17           (b) *Social Engineering Schemes*. – A social  
18 engineering scheme is committed by a person who obtains  
19 sensitive identifying information of another person,

1 through deception or fraud, resulting in unauthorized  
2 access and control over the person's Financial Account, by  
3 performing any of the following acts:

4 (1) Misrepresenting oneself as acting on behalf of an  
5 Institution, or making false representations to solicit  
6 another person's sensitive identifying information; or

7 (2) Using electronic communications to obtain  
8 another person's sensitive identifying information.

9 (c) *Economic Sabotage*. – The prohibited acts under  
10 Section 4(a) and (b) shall be considered as economic  
11 sabotage when committed under any of the following  
12 circumstances:

13 (1) By a group of three (3) or more persons conspiring  
14 or confederating with one another;

15 (2) Against three (3) or more persons individually or  
16 as a group;

17 (3) Using a mass mailer; or

18 (4) Through human trafficking.

1           SEC. 5. *Other Offenses.* – The following shall also  
2   constitute as offenses under this Act:

3           (a) Willfully aiding or abetting in the commission of  
4   any of the offenses enumerated under Section 4;

5           (b) Willfully attempting to commit any of the offenses  
6   enumerated under Section 4;

7           (c) Opening a Financial Account under a fictitious  
8   name or using the identity or identification documents of  
9   another; or

10          (d) Buying or selling a Financial Account.

11          SEC. 6. *Responsibility to Protect Access to Client's*  
12   *Financial Account.* – Institutions shall ensure that access  
13   to their clients' Financial Accounts is protected by  
14   adequate risk management systems and controls such as  
15   MFA, FMS, and other Account Owner enrollment and  
16   verification processes: *Provided,* That such risk  
17   management systems and controls are proportionate and  
18   commensurate to the nature, size, and complexity of their  
19   operations.

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

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

15           SEC. 7. *Temporary Holding of Funds Subject of a*  
16 *Disputed Transaction.* – Institutions shall have the  
17 authority to temporarily hold the funds subject of a  
18 disputed transaction within the period prescribed by the  
19 BSP, which shall not exceed thirty (30) calendar days,



1 unless otherwise extended by a court of competent  
2 jurisdiction: *Provided*, That Institutions shall promptly  
3 notify the BSP whenever it temporarily holds the fund  
4 subject of a disputed transaction.

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

- 10 (a) Unusual;
- 11 (b) Without clear economic purpose;
- 12 (c) From an unknown or illegal source, or unlawful  
13 activity; or
- 14 (d) Facilitated through social engineering schemes.

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

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

6           The BSP shall issue rules and regulations on: the  
7 circumstances under which Institutions are required to  
8 exercise such authority to avoid probable fraud; the  
9 grounds for, procedure, and period of holding funds; the  
10 period wherein the Institutions should notify the BSP  
11 whenever it holds funds; the verification and validation  
12 process; the release of funds subject of a disputed  
13 transaction; and other actions that may be undertaken by  
14 the Institutions and Account Owners during the period of  
15 temporary holding of funds.

16           SEC. 8. *Coordinated Verification of a Disputed*  
17 *Transaction.* – Upon receipt of a complaint, an information  
18 from another Institution, or detection through FMS, the  
19 Institutions and Account Owners involved shall initiate a

1 coordinated verification process to validate the disputed  
2 transaction, regardless of whether the funds remain in the  
3 banking system or not. The provisions of Republic Act  
4 No. 1405, as amended; Republic Act No. 6426, or the  
5 “Foreign Currency Deposit Act of the Philippines,” as  
6 amended; Republic Act No. 8367 or the “Revised Non-Stock  
7 Savings and Loan Association Act of 1997”; and Republic  
8 Act No. 10173 or the “Data Privacy Act of 2012” shall not  
9 apply during the coordinated verification process of a  
10 disputed transaction.

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

17       SEC. 10. *Liability for Improper Holding of Funds.* –  
18 Without prejudice to liabilities under existing laws, an  
19 Institution that holds funds subject of a disputed

1 transaction beyond the allowable period, or improperly  
2 holds funds, as provided in this Act and relevant BSP rules  
3 and regulations, shall be subjected to administrative action  
4 under Republic Act No. 7653, otherwise known as the  
5 “New Central Bank Act,” as amended.

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

11       SEC. 12. *Investigation and Inquiry into Financial*  
12 *Accounts.* – The BSP shall have the authority to  
13 investigate and inquire into Financial Accounts which may  
14 be involved in the commission of a prohibited act or offense  
15 under Sections 4 and 5 hereof. The provisions of R.A. No.  
16 1405, as amended; R.A. No. 6426, as amended; R.A. No.  
17 8367; and R.A. No. 10173 shall not apply to Financial  
18 Accounts subject of BSP’s investigation.

1 Any of the information gathered from the  
2 investigation or inquiry of a Financial Account by the BSP  
3 pursuant to this section may be used for the enforcement of  
4 this Act and in the implementation of relevant provisions  
5 of R.A. No. 11765.

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

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

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

18 SEC. 13. *Cybercrime Warrants and Related Orders.* –  
19 Without prejudice to the authority of the cybercrime units

1 of the National Bureau of Investigation (NBI) and the  
2 Philippine National Police (PNP), the BSP or its duly  
3 authorized officer or body shall have the authority to apply  
4 for cybercrime warrants and to issue the orders provided in  
5 Chapter IV of Republic Act No. 10175 or the “Cybercrime  
6 Prevention Act of 2012” with respect to the electronic  
7 communications used in any violation of this Act. The BSP  
8 may request the assistance of the NBI and the PNP in the  
9 investigation of cases and the enforcement and  
10 implementation of cybercrime warrants and related orders  
11 for violations of this Act.

12       SEC. 14. *Sharing of Information of Financial*  
13 *Accounts.* – The BSP shall have the authority to issue rules  
14 on information-sharing and disclosure with law  
15 enforcement and other competent authorities in connection  
16 with its inquiry and investigation of Financial Accounts  
17 under this Act: *Provided*, That any information on the  
18 Financial Account which may be shared by BSP shall be  
19 used solely to investigate and prosecute cases involving

1 violations of Sections 4 and 5 of this Act and to implement  
2 the relevant provisions of R.A. No. 11765.

3         SEC. 15. *Prohibition on the Disclosure of Information*  
4 *of a Financial Account.* – Unless otherwise allowed under  
5 existing laws, directors, trustees, officers, or employees of  
6 an Institution, government officials or employees, or other  
7 persons who obtained information on the Financial  
8 Account subject of BSP's inquiry or investigation under  
9 this Act, shall be prohibited from disclosing such  
10 information on the Financial Account for purposes other  
11 than those mentioned in Sections 12 and 14 hereof.

12         SEC. 16. *Penalties.* –

13         (a) A person found guilty of the prohibited acts under  
14 Section 4(a) shall be penalized with imprisonment of not  
15 less than six (6) years but not more than eight (8) years, or  
16 a fine of at least One hundred thousand pesos  
17 (P100,000.00) but not exceeding Five hundred thousand  
18 pesos (P500,000.00), or both, at the discretion of the court.  
19 In addition, if the prohibited act falls under Section 4(a),

1 items (1) to (4), the court shall also order the closure of the  
2 Financial Account involved in the transaction and  
3 forfeiture in accordance with Article 45 of the Revised  
4 Penal Code, without prejudice to Section 17 of this Act.

5 (b) A person found guilty of any of the prohibited acts  
6 enumerated under Section 4(b) shall be penalized with  
7 imprisonment of not less than ten (10) years but not more  
8 than twelve (12) years, or a fine of at least Five hundred  
9 thousand pesos (P500,000.00) but not exceeding One  
10 million pesos (P1,000,000.00), or both, at the discretion of  
11 the court: *Provided*, That the penalty of not less than  
12 twelve (12) years but not more than fourteen (14) years of  
13 imprisonment, or a fine of at least One million pesos  
14 (P1,000,000.00) but not exceeding Two million pesos  
15 (P2,000,000.00), or both, at the discretion of the court, shall  
16 be imposed if the target or victim of the acts enumerated in  
17 Section 4(b) is a senior citizen at the time the offense was  
18 committed.



1 (c) A person found guilty of any of the prohibited acts  
2 involving economic sabotage enumerated under Section  
3 4(c) shall be penalized with life imprisonment, or a fine of  
4 not less than One million pesos (P1,000,000.00) but not  
5 exceeding Five million pesos (P5,000,000.00), or both, at  
6 the discretion of the court.

7 (d) A person found guilty of other offenses  
8 enumerated in Section 5 shall be penalized with  
9 imprisonment of not less than four (4) years but not more  
10 than six (6) years, or a fine of at least One hundred  
11 thousand pesos (P100,000.00) but not exceeding Two  
12 hundred thousand pesos (P200,000.00), or both, at the  
13 discretion of the court. In addition, if the prohibited act  
14 falls under Section 5(c) or (d), the court shall also order the  
15 closure of the Financial Account.

16 (e) A person found guilty of reporting or filing  
17 completely unwarranted or false information that resulted  
18 in the temporary holding of funds under Section 11 shall be  
19 penalized with imprisonment of not less than one (1) year

1 but not more than five (5) years, or a fine of not less than  
2 Fifty thousand pesos (P50,000.00) but not exceeding Two  
3 hundred thousand pesos (P200,000.00), or both, at the  
4 discretion of the court.

5 (f) A person found guilty of knowingly or willfully  
6 obstructing, impeding, frustrating, or delaying the inquiry  
7 and investigation of the BSP as provided under Section 12  
8 shall be penalized with imprisonment of not less than one  
9 (1) year but not more than five (5) years, or a fine of not  
10 less than Fifty thousand pesos (P50,000.00) but not  
11 exceeding Two hundred thousand pesos (P200,000.00), or  
12 both, at the discretion of the court.

13 (g) An official, employee, or agent of an Institution,  
14 the government, or any person who obtained information  
15 on the Financial Account subject of BSP's inquiry or  
16 investigation who shall commit the prohibited act under  
17 Section 15 shall be penalized with imprisonment of not less  
18 than one (1) year but not more than five (5) years, or a fine  
19 of not less than Fifty thousand pesos (P50,000.00) but not

1 exceeding Two hundred thousand pesos (P200,000.00), or  
2 both, at the discretion of the court.

3 (h) When an offender is a juridical person, the fine to  
4 be imposed shall be double the amount of the  
5 corresponding penalty but shall not exceed Ten million  
6 pesos (P10,000,000.00). The liability imposed on the  
7 juridical person shall be without prejudice to the criminal  
8 liability of the responsible officer who committed the  
9 prohibited acts or other offenses under this Act.

10 (i) A government official or employee who shall be  
11 found guilty of the acts or offenses under Sections 4 and 5  
12 shall, in addition to the penalties prescribed under this  
13 section, suffer perpetual absolute disqualification from  
14 holding any appointive or elective position in the  
15 government, or in any agency, entity, or instrumentality  
16 thereof.

17 SEC. 17. *Civil Liability in Case of Conviction.* –  
18 A conviction for violation of this Act shall carry with it civil  
19 liability, which may include restitution for the damage

1 done in favor of the aggrieved party of any unwarranted  
2 benefit derived from such violation.

3 Independent of a criminal case, all properties, tools,  
4 instruments and/or any other non-liquid assets used for  
5 the commission of the acts prohibited in Sections 4 and 5 of  
6 this Act shall be subject to civil forfeiture, upon finding of  
7 probable cause, in accordance with rules of procedure to be  
8 formulated by the Supreme Court: *Provided*, That in cases  
9 of economic sabotage as defined in Section 4(c), the rules  
10 shall include a summary procedure for the release of a  
11 portion of such assets to the Department of Justice (DOJ)  
12 upon *ex-parte* motion, even during the pendency of the  
13 proceedings, for operational support and victim protection,  
14 including victims of human trafficking involved in the  
15 commission of prohibited acts and other offenses in this  
16 Act.

17 SEC. 18. *Administrative Sanctions.* – Without  
18 prejudice to the criminal and civil liabilities prescribed  
19 under this Act, the administrative sanctions specified in

1 R.A. No. 7653, as amended, shall be imposed upon the  
2 Institution, its directors, officers, trustees, employees, or  
3 agents, for violation of this Act or any related rules,  
4 regulations, orders or instructions of the BSP.

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

12 SEC. 20. *Immunity of Trafficked Persons from*  
13 *Criminal Liability.* – Victims of trafficking in persons as  
14 defined under Republic Act No. 9208, or the “Anti-  
15 Trafficking in Persons Act of 2003,” as amended, shall be  
16 free from criminal liability for acts committed as a direct  
17 result of being trafficked. Conviction under R.A. No. 9208,  
18 as amended, shall not be a prerequisite to this defense, and  
19 it shall be sufficient to show clear and convincing evidence

1 of circumstances under prevailing manuals, guidelines,  
2 and similar instruments on victim identification issued by  
3 the Inter-Agency Council Against Trafficking (IACAT).

4       SEC. 21. *Jurisdiction.* – The Regional Trial Court  
5 shall have jurisdiction over any violation of the provisions  
6 of this Act. Jurisdiction shall lie if any of the elements was  
7 committed within the Philippines or committed with the  
8 use of any device, tool, equipment, computer system or  
9 infrastructure, wholly or partly situated in the country, or  
10 when by such commission, damage is caused to a natural  
11 or juridical person who was in the Philippines at the time  
12 the offense was committed or whose Financial Account is  
13 maintained with an Institution operating in the  
14 Philippines.

15       SEC. 22. *General Principles Relating to International*  
16 *Cooperation.* – To the widest extent possible, all relevant  
17 instruments on international cooperation in criminal  
18 matters and arrangements agreed on the basis of  
19 reciprocal legislation and domestic laws, shall be given full

1 force and effect for the purposes of investigations or  
2 proceedings concerning criminal offenses related to  
3 computer systems and data, or for the collection of  
4 evidence in the electronic form.

5 SEC. 23. *Implementing Rules and Regulations.* –

6 Within one (1) year from the effectivity of this Act, the  
7 BSP, in coordination with the DOJ, the Department of  
8 Information and Communications Technology (DICT), the  
9 NBI, the PNP, the Cybercrime Investigation and  
10 Coordination Center (CICC), and the Anti-Money  
11 Laundering Council (AMLC), and upon consultation with  
12 relevant stakeholders, shall promulgate the rules and  
13 regulations to effectively implement the provisions of this  
14 Act.

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

1           SEC. 24. *Separability Clause.* – If any provision of  
2 this Act is declared invalid or unconstitutional, the  
3 remainder thereof not otherwise affected shall remain in  
4 full force and effect.

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

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

Approved,