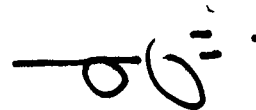


- e. information on the foreign currency being transported; and
- f. additional information as may be required under the implementing rules and regulations.

Failure to make a declaration would be deemed as bulk foreign currency smuggling. The Bureau of Customs (BOC) would be authorized to obtain information from a person found to have committed a false declaration or non-declaration of a foreign currency or foreign currency-denominated bearer monetary instrument.

This bill proposes to criminalize bulk cash smuggling as a predicate offense to money laundering as defined in Republic Act No. 9160, or the Anti-Money Laundering Act of 2001. Once enacted into law, this measure will make global financial institutions less risk-averse when dealing with our financial institutions, which helps our Overseas Filipino Workers (OFWs) remit money easier and cheaper.

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



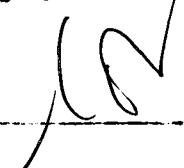
JOSEPH VICTOR G. EJERCITO

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

Office of the Secretary

24 FEB 22 A11:35

SENATE
S. No. 2566

RECEIVED BY: 

Introduced by Senator Joseph Victor G. Ejercito

AN ACT
PENALIZING THE SMUGGLING OF FOREIGN CURRENCY AND OTHER
MONETARY INSTRUMENTS IN BULK INTO OR OUT OF THE PHILIPPINES

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

1 Section 1. *Short Title.* - This Act shall be known as the "*Anti-Bulk Foreign*
2 *Currency Smuggling Act.*"

3 Sec. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to
4 protect and preserve the integrity of the country's financial system, and to ensure that
5 the Philippines shall not be used as a money laundering site for the proceeds of
6 unlawful activity. The State shall protect life, liberty, and property from acts of
7 terrorism by preventing the financing of terrorism, terrorist individuals and entities,
8 and weapons of mass destruction. Likewise, the State shall respect and protect the
9 right of its citizens to travel out of and into the country, particularly Overseas Filipino
10 Workers, for legitimate purposes, and with regard to foreign currency and foreign
11 currency-denominated bearer monetary instruments carried by them incidental to
12 their travel in accordance with law. Towards this end, the State shall enforce a written
13 or electronic declaration system for the physical cross-border transfer of foreign
14 currency and other foreign currency-denominated bearer monetary instruments into
15 and out of the Philippines.

16 Sec. 3. *Definition of Terms.* - As used in this Act:
17 a) *Common Carrier* refers to any person or entity engaged in the business of
18 transporting individuals or goods for a fee who holds itself out as ready to engage in

1 such transportation for hire and who undertakes to do so indiscriminately for all
2 persons who are prepared to pay the fee for the particular service offered;

3 b) *Currency* refers to the banknotes and coins that are in circulation as medium of
4 exchange in the country of issuance;

5 c) *False declaration* refers to a misrepresentation of the amount of foreign currency
6 or foreign currency denominated-bearer monetary instruments being transported, or
7 a misrepresentation of other relevant data required for submission in the declaration;

8 d) *Foreign currency* refers to the coin and banknote of any country other than the
9 Philippines that is designated as legal tender and that is in circulation as a medium of
10 exchange in the country of issuance;

11 e) *Foreign currency-denominated bearer monetary instrument* refers to foreign
12 exchange-denominated monetary instrument in bearer form such as: traveler's check;
13 monetary instrument that is either in bearer form, endorsed without restriction, made
14 out to a fictitious payee, or otherwise in such form that title thereto passes upon
15 delivery; incomplete instrument, including check, promissory note, and money order
16 signed, but with the payee's name omitted; and security or stock in bearer form or
17 otherwise in such form that title thereto passes upon delivery;

18 f) *Fraud* refers to false declaration of foreign currency or bearer monetary instruments
19 being transported with a discrepancy of more than thirty percent (30%) between the
20 amount declared and the amount found by the Customs Officer after examination;

21 g) *Non-declaration* refers to the failure to declare foreign currency or foreign currency-
22 denominated bearer monetary instruments, or evasion of declaration as required
23 under this Act;

24 h) *Physical cross-border transfer* refers to any inbound or out bound physical
25 transportation of currency or bearer monetary instruments from one country to
26 another country. The term includes the following modes of transportation: (i) physical
27 transportation by a natural person, as part of that person's accompanying baggage or
28 through the person's vehicle; (ii) shipment of currency or bearer monetary instruments
29 through containerized cargo or express and regular air shipments; or (iii) the mailing
30 of currency or bearer monetary instruments by a natural or legal person; and

1 i) *Structuring* refers to the act of breaking the amount of foreign currency or foreign
2 currency-denominated bearer monetary instruments into different sums in order to
3 avoid the declaration required under this Act.

4 *Sec. 4. Written or Electronic Declaration for the Physical Cross-Border Transfer*
5 *of Foreign Currencies and Foreign Currency-Denominated Bearer Monetary*
6 *Instruments.* - Any person or agent or bailee of the person who transports, is about
7 to transport, or has transported foreign currency or foreign currency-denominated
8 bearer monetary instruments in an amount that exceeds Ten Thousand US Dollars
9 (US \$10,000.00) or its equivalent, or such amount as may be determined by the Anti-
10 Money Laundering Council (AMLC) through published circular orders, from a place in
11 the Philippines to a place outside the Philippines; or to a place in the Philippines from
12 a place outside the Philippines, is required to declare the same under oath using the
13 prescribed form. The declaration shall be filed in the following manner:

14 a) If the person or agent brings foreign currency or foreign currency-
15 denominated bearer monetary instruments in the accompanying baggage or on
16 any conveyance or otherwise, the person or agent should accomplish the
17 prescribed declaration form upon arrival to or before departure from the
18 Philippines and submit the completed form to the Customs Officer on duty;

19 b) In case of unaccompanied foreign currency or foreign currency-denominated
20 bearer monetary instruments, the common carrier should file its declaration to
21 the Bureau of Customs (BOC) within twenty-four (24) hours before its arrival in
22 or departure from the Philippines; and

23 c) In case of receipt of foreign currency or foreign currency-denominated bearer
24 monetary instruments or both, the bailee should file a declaration to the BOC
25 within five (5) days from receipt thereof.

26 In the foregoing instances, the act of structuring as defined under Section 3
27 hereof, or directing, assisting or participating in structuring any physical cross-border
28 transportation of foreign currency or foreign currency-denominated monetary
29 instruments in order to avoid the currency declaration requirement, shall be prohibited
30 and punishable under Section 9 of this Act.

31 *Sec. 5. Specifications of the Declaration Form.* - The declaration form shall
32 contain a) Personal information of the person transporting the foreign currency or

1 foreign currency-denominated bearer monetary instruments, including the person's
2 full name, date of birth, place of birth, citizenship, passport number, permanent
3 address, and occupation or business activity;

4 b) Details of travel, including arrival or departure date, flight number and name
5 of carrier or voyage number and name of vessel, bill of lading or airway bill number
6 and date, prior port of entry or departure, port of entry or departure, and destination:
7 Provided, That if the declarant is a non-resident individual, the Declaration Form shall
8 contain the declarant's address, contact number, and duration of stay in the
9 Philippines;

10 c) Legal capacity in which the person filing the declaration is acting;

11 d) Information on the owner or sender of the foreign currency or foreign
12 currency-denominated bearer monetary instruments, including the name of the sender
13 or owner of the foreign currency or foreign currency-denominated bearer monetary
14 instruments; permanent address; and occupation or business activity, when the
15 person transporting does not legally and beneficially own said foreign currency or
16 foreign currency-denominated bearer monetary instruments;

17 e) Information on the recipient of the foreign currency or foreign currency-
18 denominated bearer monetary instruments, including the name of the recipient of the
19 foreign currency or foreign currency-denominated bearer monetary instruments;
20 permanent address; and occupation or business activity, when the person transporting
21 personally is not going to use said foreign currency or foreign currency-denominated
22 bearer monetary instruments;

23 f) Information on the foreign currency or foreign currency-denominated bearer
24 monetary instruments being transported, including the type of foreign currency or
25 foreign currency-denominated bearer monetary instruments, the country that issued
26 such currency or monetary instruments, the amount of the currency or monetary
27 instruments source of the currency or monetary instruments and how these were
28 acquired, and the purpose or intended use of the transport of the currency or
29 monetary instruments; and

30 g) Additional information as may be required under the rules and regulations to
31 be issued to implement this Act.

32 *Sec. 6. Registration of Entities Engaged in Periodic Transfer of Bulk Currency. -*

1 Any person or entity engaged in periodic transfer of bulk currency under money service
2 business shall register with the Bangko Sentral ng Pilipinas (BSP). The BSP shall furnish
3 the BOC the list of registered persons or entities engaged in periodic transfer of bulk
4 currency for monitoring at the ports of entry and exit in the implementation of this
5 Act.

6 The failure by persons or entities shown to be engaged in periodic transfer of
7 bulk currency to register as prescribed in this Act shall be reasonable ground to suspect
8 that the foreign currency or foreign currency-denominated bearer monetary
9 instrument is related to an unlawful activity and shall be subject to investigation by
10 the AMLC, in accordance with Sections 8 and 11 of this Act.

11 *Sec. 7. Assistance by the Customs Officer on Duty.* - Incoming or outgoing
12 passengers bringing in or out of the Philippines foreign currencies or foreign currency-
13 denominated bearer monetary instruments in excess of Ten Thousand US Dollars
14 (US\$10,000.00) or its equivalent shall, upon request, be assisted by the Customs
15 Officer on duty in filling the Currencies Declaration Form and Customs Baggage
16 Declaration Form. In cases of inadvertent non-declaration or unintentional inaccurate
17 declaration of foreign currency or foreign currency-denominated bearer monetary
18 instrument by an incoming or outgoing passenger during verbal verification and initial
19 physical examination, the Customs Officer on duty shall assist the incoming or
20 outgoing passenger in accomplishing the Currencies Declaration Form and Customs
21 Baggage Declaration Form. The BOC shall establish dedicated lanes for Overseas
22 Filipino Workers in all international airports to implement the provisions of this Section.

23 *Sec. 8. Responsibilities of Government Agencies.* - The BOC shall submit the
24 declaration to the AMLC within twenty-four (24) hours upon receipt thereof for
25 purposes of conducting an investigation in accordance with Section 11 of this Act.

26 The BOC is authorized to enlist the assistance of any branch, department,
27 bureau, office, agency or instrumentality of the government, including government-
28 owned and controlled corporations, in the implementation of this Act, which may
29 include the use of its personnel, facilities, and resources for the prevention, detection,
30 and investigation of offenses and prosecution of offenders under this Act.

31 *Sec. 9. Bulk Foreign Currency Smuggling Offense.* - The offense of bulk foreign
32 currency smuggling is committed when:

1 a) A person physically transports or transfers foreign currency or foreign
2 currency-denominated bearer monetary instruments in an amount that exceeds
3 Two Hundred Thousand US Dollars (US \$200,000.00) or its equivalent from a
4 place within the Philippines to a place outside of the Philippines, or from a place
5 outside the Philippines to a place within the Philippines, unless registered as an
6 entity engaged in periodic transfer of bulk currency under Section 6 hereof; or

7 b) A person evades the currency declaration requirement under this Act by:

8 i. Concealing foreign currency or foreign currency-denominated bearer
9 monetary instruments in an amount that exceeds Ten Thousand US Dollars
10 (US \$10,000.00) or its equivalent in any article worn by the individual or in
11 any, conveyance, article of luggage, merchandise, or other container, and
12 transports or transfers or attempts to transport or transfer such currency or
13 bearer monetary instruments from a place within the Philippines to a place
14 outside of the Philippines, or from a place outside the Philippines to a place
15 within the Philippines;

16 ii. Failing to declare the unaccompanied foreign currency or foreign currency-
17 denominated bearer monetary instruments to be transported or transferred,
18 or already received in accordance with Sections 4(b), 4(c), and 5 hereof;

19 iii. Making a false declaration considered as fraud as defined in Section 3
20 hereof;

21 iv. Structuring the physical cross-border transfer of foreign currency or foreign
22 currency-denominated bearer monetary instruments as defined in Section 3 hereof.

23 **Sec. 10. Authority to Obtain Information from the Carrier.** - Upon discovery of
24 non-declaration or false declaration as defined in Section 3 hereof, or if there is a
25 reasonable ground to suspect that the foreign currency or foreign currency-
26 denominated bearer monetary instrument is in any way related to the proceeds of
27 unlawful activities, money laundering, financing of terrorism and weapons of mass
28 destruction, as defined by law, the BOC may request and obtain information and
29 supporting documents from the person or an agent or bailee of the person who is
30 obliged to declare pursuant to Section 4 hereof and the carrier with regard to the
31 travel information of the passenger or foreign currency or foreign currency-
32 denominated bearer monetary instrument subject of carriage.

1 Sec. 11. *Restraint of Currencies and Bearer Monetary Instruments.* - Upon
2 discovery of a non-declaration or a false declaration considered as fraud as defined in
3 Section 3 hereof, and when there is a reasonable ground to suspect that the foreign
4 currency or foreign currency-denominated bearer monetary instrument is related to
5 an unlawful activity, money laundering, financing of terrorism and weapons of mass
6 destruction, as defined by law, or in cases involving failure to register under Section
7 6 hereof and structuring as defined in Section 3 hereof, the BOC shall temporarily
8 restrain said foreign currency or foreign currency-denominated bearer monetary
9 instrument for a period of fifteen (15) calendar days, which may be extended for
10 another fifteen (15) calendar days, to give the person concerned the opportunity to
11 produce and submit required information and supporting documents.

12 The BOC shall, on the same day that the non-declaration or false declaration was
13 detected and reasonable grounds to suspect was present, refer the information to
14 other law enforcement agencies and to the AMLC, which shall conduct further
15 investigation on the matter pursuant to their investigative power under Republic Act
16 No. 9160, otherwise known as the Anti-Money Laundering Act of 2001, as amended;
17 Republic Act No. 10168, otherwise known as the Terrorism Financing Prevention and
18 Suppression Act of 2012; and Republic Act No. 11479, otherwise known as the Anti-
19 Terrorism Act of 2020.

20 If no case is filed within the period as mentioned in the first paragraph herein,
21 the temporary restraint imposed upon the foreign currency or foreign currency-
22 denominated bearer monetary instruments shall be ipso facto lifted, without prejudice
23 to the imposition of fine or filing of cases pursuant to Republic Act No. 9160, Republic
24 Act No. 10168, and Republic Act No. 11479.

25 Sec. 12. *Seizure of Currencies and Bearer Monetary Instruments.* - Upon
26 discovery of fraud as defined in Section 3 hereof, the foreign currency or foreign
27 currency-denominated bearer monetary instrument shall immediately be seized by the
28 BOC pursuant to Section 1113 of Republic Act No. 10863, otherwise known as the
29 Customs Modernization and Tariff Act (CMTA).

30 Sec. 13. Penalties. -

1 (1) Term of imprisonment - Any person or co-conspirator who commits bulk
2 foreign currency smuggling offense as defined under Section 9(a) of this Act shall be
3 imprisoned for not less than seven (7) years but not more than fourteen (14) years.

4 Any person or co-conspirator who commits the bulk foreign currency smuggling
5 offense as defined under Section 9(b) of this Act shall be imprisoned for not less than
6 six (6) months but not more than two (2) years.

7 If the offender is an alien, the alien shall, in addition to the penalties herein
8 prescribed, be deported without further proceedings after serving the penalties herein
9 prescribed. If the offender is a public official or employee, the public official or
10 employee shall, in addition to the penalties prescribed herein, be disqualified from
11 holding public office and from voting and participating in any public election for ten
12 (10) years.

13 (2) Fine - Any person or co-conspirator who commits bulk foreign currency
14 smuggling offense as defined under Section 9 of this Act shall, in addition to the
15 penalty prescribed under paragraph (1) of this Section, be punished to a fine
16 amounting to twice the amount of the smuggled foreign currency or foreign currency-
17 denominated bearer monetary instruments.

18 Any person or co-conspirator who commits fraud as defined under Section 3 of
19 this Act shall, in addition to the penalty prescribed in the preceding paragraph, be
20 punished with a fine amounting to five (5) times the amount of the falsely declared
21 foreign currency or foreign currency-denominated bearer monetary instruments.

22 (3) Forfeiture - In addition, the court shall, in imposing the penalty under
23 paragraphs (1) and (2) of this Section, order the defendant to forfeit to the Republic
24 of the Philippines, any property, real or personal, involved in the offense, and any
25 other property traceable to the property involved in the offense, except those which
26 are seized and forfeited by the BOC pursuant to Republic Act No. 10863.

27 The seizure and forfeiture of property and other criminal proceedings under this
28 Section shall be governed by Republic Act No. 9160, as referred to in Section 11 of
29 this Act.

30 (4) Personal money judgement - If the property subject to forfeiture under
31 paragraph (3) of this Section is unavailable, and the defendant has insufficient
32 substitute property that may be forfeited pursuant to Republic Act No. 9160, the court

1 shall enter a personal money judgement against the defendant for the amount that
2 would be subject to forfeiture.

3 Prosecution and imposition of penalties under this Act shall be without prejudice
4 to any liability or penalty that may be imposed under existing laws.

5 Sec. 14. *Unlawful Activity to Money Laundering.* - Bulk foreign currency
6 smuggling under Section 9 of this Act shall be a predicate offense to money laundering
7 as defined in Republic Act No. 9160.

8 Sec. 15. *Implementing Rules and Regulations.* - Within sixty (60) days from the
9 effectivity of this Act, the Department of Finance shall, in consultation with the BOC,
10 the AMLC, and the BSP, promulgate the rules and regulations to implement the
11 provisions of this Act.

12 Sec. 16. *Separability Clause.* - If any provision of this Act is declared
13 unconstitutional, the remaining parts or provisions not affected thereby shall remain
14 in full force and effect.

15 Sec. 17. *Repealing Clause.* - All laws, decrees, executive orders, implementing
16 rules and regulations, issuances, or any part thereof inconsistent with the provisions
17 of this Act are deemed repealed, amended or modified accordingly.

18 Sec. 18. *Effectivity.* - This Act shall take effect fifteen (15) days after its
19 publication in the Official Gazette or in a newspaper of general circulation.

Approved,