

Republic of the Philippines
Congress of the Philippines
Metro Manila

Twelfth Congress
Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second day of July, two thousand two.

Republic Act No. 9194 **March 7, 2003**

AN ACT AMENDING REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE "ANTI-MONEY LAUNDERING ACT OF 2001"

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

SECTION 1. Section 3, paragraph (b) of Republic Act No. 9160 is hereby amended as follows:

"(b) 'Covered transaction' is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of Five hundred thousand pesos (PhP 500,000.00) within one (1) banking day.

SECTION 2. Section 3 of the same Act is further amended by inserting between paragraphs (b) and (c) a new paragraph designated as (b-1) to read as follows:

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

1. there is no underlying legal or trade obligation, purpose or economic justification;
2. the client is not properly identified;
3. the amount involved is not commensurate with the business or financial capacity of the client;
4. taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the Act;
5. any circumstances relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;
6. the transactions is in a way related to an unlawful activity or offense under this Act that is about to be, is being or has been committed; or
7. any transactions that is similar or analogous to any of the foregoing."

SECTION 3. Section 3(i) of the same Act is further amended to read as follows:

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

"(1) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

"(2) Sections 4, 5, 6, 8, 9, 10, 12, 13, 14, 15, and 16 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Act of 2002;

"(3) Section 3 paragraphs B, C, E, G, H and I of republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;

"(4) Plunder under Republic Act No. 7080, as amended;

"(5) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the Revised Penal Code, as amended;

"(6) Jueteng and Masiao punished as illegal gambling under Presidential Decree No. 1602;

"(7) Piracy on the high seas under the Revised Penal Code, as amended and Presidential under the Revised Penal Code, as amended and Presidential Decree No. 532;

"(8) Qualified theft under Article 310 of the Revised penal Code, as amended;

"(9) Swindling under Article 315 of the Revised Penal Code, as amended;

"(10) Smuggling under Republic Act Nos. 455 and 1937;

"(11) Violations under Republic Act No. 8792, otherwise known as the Electric Commerce Act of 2000;

"(12) Hijacking and other violations under Republic Act No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets;

"(13) Fraudulent practices and other violations under Republic Act No. 8799, otherwise known as the Securities Regulation Code of 2000;

"(14) Felonies or offenses of a similar nature that are punishable under the penal laws of other countries."

SECTION 4. Section 4 of the same Act is hereby amended to read as follows:

"SEC. 4. *Money Laundering Offense.* -- Money laundering is a crime whereby the proceeds of an unlawful activity as herein defined are transacted, thereby making them appear to have originated from legitimate sources. It is committed by the following:

(a) Any person knowing that any monetary instrument or property represents, involves, or relates to, the proceeds of any unlawful activity, transacts or attempts to transacts said monetary instrument or property.

(b) Any person knowing that any monetary instrument or property involves the proceeds of any unlawful activity, performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in paragraph (a) above.

(c) Any person knowing that any monetary instrument or property is required under this Act to be disclosed and filed with the Anti-Money Laundering Council (AMLC), fails to do so."

SECTION 5. Section 7 of the same Act is hereby amended as follows:

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

"(1) to require and receive covered or suspicious transaction reports from covered institutions;

"(2) to issue orders addressed to the appropriate Supervising Authority or the covered institutions to determine the true identity of the owner of any monetary instrument or property subject of a covered transaction or suspicious transaction report or request for assistance from a foreign State, or believed by the Council, on the basis of substantial evidence, to be, in whole or in part, wherever located, representing, involving, or related to directly or indirectly, in any manner or by any means, the proceeds of an unlawful activity.

"(3) to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General;

"(4) to cause the filing of complaints with the Department of Justice or the Ombudsman for the prosecution of money laundering offenses;

"(5) to investigate suspicious transactions and covered transactions deemed suspicious after an investigation by AMLC, money laundering activities and other violations of this Act;

"(6) to apply before the Court of Appeals, *ex parte*, for the freezing of any monetary instrument or property alleged to be the proceeds of any unlawful activity as defined in Section 3(i) hereof;

"(7) to implement such measures as may be necessary and justified under this Act to counteract money laundering;

"(8) to receive and take action in respect of, any request from foreign states for assistance in their own anti-money laundering operations provided in this Act;

"(9) to develop educational programs on the pernicious effects of money laundering, the methods and techniques used in the money laundering, the viable means of preventing money laundering and the effective ways of prosecuting and punishing offenders;

"(10) to enlist the assistance of any branch, department, bureau, office, agency, or instrumentality of the government, including government-owned and -controlled corporations, in undertaking any and all anti-money laundering operations, which may include the use of its personnel, facilities and resources for the more resolute prevention, detection, and investigation of money laundering offenses and prosecution of offenders; and

"(11) to impose administrative sanctions for the violation of laws, rules, regulations, and orders and resolutions issued pursuant thereto."

SECTION 6. Section 9(c) of the same Act is hereby amended to read as follows:

"(c) Reporting of Covered and Suspicious Transactions. -- Covered institutions shall report to the AMLC all covered transactions and suspicious transactions within five(5) working days from occurrences thereof, unless the Supervising Authority prescribes a longer period not exceeding ten (10) working days.

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

"When reporting covered or suspicious transactions to the AMLC, covered institutions and their officers and employees shall not be deemed to have violated Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, the fact that a covered or suspicious transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer and employee of the covered institution shall be criminally liable. However, no administrative, criminal or civil proceedings, shall lie against any person for having made a covered or suspicious transaction report in the regular performance of his duties in good faith, whether or not such reporting results in any criminal prosecution under this Act of any other law.

"When reporting covered or suspicious transactions to the AMLC, covered instituting and their officers and employees are prohibited from communicating directly or indirectly, in any manner or by any means, to any person or entity, the media, the fact that a covered or suspicious transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation thereof, the concerned officer and employee of the covered institution and media shall be held criminally liable.

SECTION 7. Section 10 of the same Act is hereby amended to read as follows:

"Sec 10. *Freezing of Monetary Instrument or Property.* -- The Court of Appeals, upon application *ex parte* by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, may issue a freeze order which shall be effective immediately. The freeze order shall be for a period of twenty (20) days unless extended by the court.

SECTION 8. Section 11 of the same Act is hereby amended to read as follows:

"Sec. 11. *Authority to Inquire into Bank Deposits.* -- Notwithstanding the provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution upon order of any competent court in cases of violation of this Act, when it has been established that there is probable cause that the deposits or investments are related to an unlawful activities as defined in Section 3(l) hereof or a money laundering offense under Section 4 hereof, except that no court order shall be required in cases involving unlawful activities defined in Sections 3(l)1, (2) and (12).

"To ensure compliance with this Act, the Bangko Sentral ng Pilipinas (BSP) may inquire into or examine any deposit of investment with any banking institution or non-bank financial institution when the examination is made in the course of a periodic or special examination, in accordance with the rules of examination of the BSP.

SECTION 9. Section 14, paragraphs (c) and (d) of the same Act is hereby amended to read as follows:

"(c) Malicious Reporting. Any person who, with malice, or in bad faith, reports or files a completely unwarranted or false information relative to money laundering transaction against any person shall be subject to a penalty to six (6) months to four (4) years imprisonment and a fine of not less than One hundred thousand Philippine pesos (Php100,000.00) but not more than Five hundred thousand Philippine pesos (Php500,000.00), at the discretion of the court: *Provided*, That the offender is not

entitled to avail the benefits of the Probation Law.

"If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or allowed by their gross negligence, the commission of the crime. If the offender is a juridical person, the court may suspend or revoke its license. If the offer is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

"Any public official or employee who is called upon to testify and refuses to do the same or purposely fails to testify shall suffer the same penalties prescribed herein.

"(d) Breach of Confidentiality. The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than Five hundred thousand Philippine pesos (Php500,000.00) but not more than One million Philippine pesos (Php1,000,000.00) shall be imposed on a person convicted for a violation under Section 9(c). In the case of a breach of confidentiality that is published or reported by media, the responsible reporter, writer, president, publisher, manager and editor-in-chief shall be liable under this Act.

SECTION 10. Section 15 of Republic Act No. 9160 is hereby deleted.

SECTION 11. Section 23 of the same Act is hereby amended to read as follows:

"SEC. 23. *Effectivity.* -- This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

SECTION 12. *Transitory Provision.* -- Existing freeze orders issued by the AMLC shall remain in force for a period of thirty (30) days after the effectivity of this Act, unless extended by the Court of Appeals.

SECTION 13. *Effectivity.* -- This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,

FRANKLIN DRILON
President of the Senate

JOSE DE VENECIA JR.
Speaker of the House of
Representatives

This Act which is a consolidation of House Bill No. 5655 and Senate Bill No. 2419 was finally passed by the House of Representatives and the Senate on March 5, 2003.

OSCAR G. YABES
Secretary of Senate

ROBERTO P. NAZARENO
Secretary General
House of Representatives

Approved: March 7, 2003

GLORIA MACAPAGAL-ARROYO
President of the Philippines