

[REPUBLIC ACT NO. 9160, September 29, 2001]

**AN ACT DEFINING THE CRIME OF MONEY LAUNDERING,
PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES**

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

SECTION 1. *Short Title.* — This Act shall be known as the "Anti-Money Laundering Act of 2001."

SEC. 2. *Declaration of Policy.* — It is hereby declared the policy of the State to protect and preserve the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money laundering site for the proceeds of any unlawful activity. Consistent with its foreign policy, the State shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed.

SEC. 3. *Definitions.* — For purposes of this Act, the following terms are hereby defined as follows:

a. "Covered institution" refers to:

1. banks, non-banks, quasi-banks, trust entities, and all other institutions and their subsidiaries and affiliates supervised or regulated by the Bangko Sentral ng Pilipinas (BSP);
2. insurance companies and all other institutions supervised or regulated by the Insurance Commission; and
3. (i) securities dealers, brokers, salesmen, investment houses and other similar entities managing securities or rendering services as investment agent, advisor, or consultant, (ii) mutual funds, close-end investment companies, common trust funds, pre-need companies and other similar entities, (iii) foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities, and (iv) other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property supervised or regulated by Securities and Exchange Commission.

b. "Covered transaction" is a single, series, or combination of transactions involving a total amount in excess of Four million Philippine pesos (Php4,000,000.00) or an equivalent amount in foreign currency based on the prevailing exchange rate within five (5) consecutive banking days except those between a covered institution and a person who, at the time of the transaction was a properly identified client and the amount is commensurate with the

business or financial capacity of the client; or those with an underlying legal or trade obligation, purpose, origin or economic justification.

It likewise refers to a single, series or combination or pattern of unusually large and complex transactions in excess of Four million Philippine pesos (Php4,000,000.00) especially cash deposits and investments having no credible purpose or origin, underlying trade obligation or contract.

c. "Monetary instrument" refers to:

1. coins or currency of legal tender of the Philippines, or of any other country;
2. drafts, checks and notes;
3. securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and confirmations of sale or investments and money market instruments; and
4. other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

d. "Offender" refers to any person who commits a money laundering offense.

e. "Person" refers to any natural or juridical person.

f. "Proceeds" refers to an amount derived or realized from an unlawful activity.

g. "Supervising Authority" refers to the appropriate supervisory or regulatory agency, department or office supervising or regulating the covered institutions enumerated in Section 3(a).

h. "Transaction" refers to any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered institution.

i. "Unlawful activity" refers to any act or omission or series or combination thereof involving or having relation to the following:

1. Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;
2. Sections 3,4,5,7,8 and 9 of Article Two of Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972;
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 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 Electronic 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.

SEC. 4. *Money Laundering Offense.* — Money laundering is a crime whereby the proceeds of an unlawful activity 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 transact 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.

SEC. 5. *Jurisdiction of Money Laundering Cases.* — The regional trial courts shall have jurisdiction to try all cases on money laundering. Those committed by public officers and private persons who are in conspiracy with such public officers shall be under the jurisdiction of the Sandiganbayan.

SEC. 6. *Prosecution of Money Laundering.* —

- a. Any person may be charged with and convicted of both the offense of money laundering and the unlawful activity as herein defined.
- b. Any proceeding relating to the unlawful activity shall be given precedence over the prosecution of any offense or violation under this Act without prejudice to the freezing and other remedies provided.

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 members. The AMLC shall act unanimously in the discharge of its functions as defined hereunder:

1. to require and receive covered transaction reports from covered institutions;
2. to issue orders addressed to the appropriate Supervising Authority or the covered institution to determine the true identity of the owner of any monetary instrument or property subject of a covered 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 initiate investigations of covered transactions, money laundering activities and other violations of this Act;
6. to freeze any monetary instrument or property alleged to be proceeds of any unlawful activity;
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 money laundering, the viable means of preventing money laundering and the effective ways of prosecuting and punishing offenders; and
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.

SEC. 8. *Creation of a Secretariat.* — The AMLC is hereby authorized to establish a secretariat to be headed by an Executive Director who shall be appointed by the Council for a term of five (5) years. He must be a member of the Philippine Bar, at least thirty- five (35) years of age and of good moral character, unquestionable integrity and known probity. All members of the Secretariat must have served for at least five (5) years either in the Insurance Commission, the Securities and Exchange Commission or the Bangko Sentral ng Pilipinas (BSP) and shall hold full-time permanent positions within the BSP.

SEC. 9. *Prevention of Money Laundering; Customer Identification Requirements and Record Keeping.* —

- a. Customer Identification. - Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf.

The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited. Peso and foreign currency non-checking numbered accounts shall be allowed. The BSP may conduct annual testing solely limited to the determination of the existence and true identity of the owners of such accounts.

- b. Record Keeping. - All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. With respect to closed accounts, the records on customer identification, account files and business correspondence, shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

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

When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates 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 transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate 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 transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under this Act or any other Philippine law.

When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, the media, the fact that a covered 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, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

SEC. 10. *Authority to Freeze.* — Upon determination that probable cause exists that any deposit or similar account is in any way related to an unlawful activity, the AMLC may issue a freeze order, which shall be effective immediately, on the account for a period not exceeding fifteen (15) days. Notice to the depositor that his account has been frozen shall be issued simultaneously with the issuance of the freeze order. The depositor shall have seventy-two (72) hours upon receipt of the notice to explain why the freeze order should be lifted. The AMLC has seventy-two (72) hours to dispose of the depositor's explanation. If it fails to act within seventy-two (72) hours from receipt of the depositor's explanation, the freeze order shall automatically be dissolved. The fifteen (15)-day freeze order of the AMLC may be extended upon order of the court, provided that the fifteen (15)-day period shall be tolled pending the court's decision to extend the period.

No court shall issue a temporary restraining order or writ of injunction against any freeze order issued by the AMLC except the Court of Appeals or the Supreme Court.

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