

H. No. 6565
S. No. 3123

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Third Regular Session

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

[REPUBLIC ACT NO. 10365]

AN ACT FURTHER STRENGTHENING THE ANTI-MONEY LAUNDERING LAW, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE "ANTI-MONEY LAUNDERING ACT OF 2001", AS AMENDED

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

SECTION 1. Section 3(a) of Republic Act No. 9160, as amended, is hereby amended to read as follows:

"(a) 'Covered persons', natural or juridical, refer to:

"(1) banks, non-banks, quasi-banks, trust entities, foreign exchange dealers, pawnshops, money changers, remittance and

transfer companies and other similar entities and all other persons and their subsidiaries and affiliates supervised or regulated by the Bangko Sentral ng Pilipinas (BSP);

"(2) insurance companies, pre-need companies and all other persons supervised or regulated by the Insurance Commission (IC);

"(3) (i) securities dealers, brokers, salesmen, investment houses and other similar persons managing securities or rendering services as investment agent, advisor, or consultant, (ii) mutual funds, close-end investment companies, common trust funds, and other similar persons, and (iii) 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 the Securities and Exchange Commission (SEC);

"(4) jewelry dealers in precious metals, who, as a business, trade in precious metals, for transactions in excess of One million pesos (P1,000,000.00);

"(5) jewelry dealers in precious stones, who, as a business, trade in precious stones, for transactions in excess of One million pesos (P1,000,000.00);

"(6) company service providers which, as a business, provide any of the following services to third parties: (i) acting as a formation agent of juridical persons; (ii) acting as (or arranging for another person to act as) a director or corporate secretary of a company, a partner of a partnership, or a similar position in relation to other juridical persons; (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; and (iv) acting as (or arranging for another person to act as) a nominee shareholder for another person; and

"(7) persons who provide any of the following services:

(i) managing of client money, securities or other assets;

(ii) management of bank, savings or securities accounts;

(iii) organization of contributions for the creation, operation or management of companies; and

(iv) creation, operation or management of juridical persons or arrangements, and buying and selling business entities.

"Notwithstanding the foregoing, the term 'covered persons' shall exclude lawyers and accountants acting as independent legal professionals in relation to information concerning their clients or where disclosure of information would compromise client confidences or the attorney-client relationship: *Provided*, That these lawyers and accountants are authorized to practice in the Philippines and shall continue to be subject to the provisions of their respective codes of conduct and/or professional responsibility or any of its amendments."

SEC. 2. Section 3(i) of the same Act is hereby 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 the 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, 11, 12, 13, 14, 15 and 16 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs 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 Decree No. 532;

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

"(9) Swindling under Article 315 and Other Forms of Swindling under Article 316 of the Revised Penal Code, as amended;

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

"(11) Violations of 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;

"(13) Terrorism and conspiracy to commit terrorism as defined and penalized under Sections 3 and 4 of Republic Act No. 9372;

"(14) Financing of terrorism under Section 4 and offenses punishable under Sections 5, 6, 7 and 8 of Republic Act No. 10168, otherwise known as the Terrorism Financing Prevention and Suppression Act of 2012;

"(15) Bribery under Articles 210, 211 and 211-A of the Revised Penal Code, as amended, and Corruption of Public Officers under Article 212 of the Revised Penal Code, as amended;

"(16) Frauds and Illegal Exactions and Transactions under Articles 213, 214, 215 and 216 of the Revised Penal Code, as amended;

"(17) Malversation of Public Funds and Property under Articles 217 and 222 of the Revised Penal Code, as amended;

"(18) Forgeries and Counterfeiting under Articles 163, 166, 167, 168, 169 and 176 of the Revised Penal Code, as amended;

"(19) Violations of Sections 4 to 6 of Republic Act No. 9208, otherwise known as the Anti-Trafficking in Persons Act of 2003;

"(20) Violations of Sections 78 to 79 of Chapter IV, of Presidential Decree No. 705, otherwise known as the Revised Forestry Code of the Philippines, as amended;

"(21) Violations of Sections 86 to 106 of Chapter VI, of Republic Act No. 8550, otherwise known as the Philippine Fisheries Code of 1998;

"(22) Violations of Sections 101 to 107, and 110 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995;

"(23) Violations of Section 27(c), (e), (f), (g) and (i), of Republic Act No. 9147, otherwise known as the Wildlife Resources Conservation and Protection Act;

"(24) Violation of Section 7(b) of Republic Act No. 9072, otherwise known as the National Caves and Cave Resources Management Protection Act;

"(25) Violation of Republic Act No. 6539, otherwise known as the Anti-Carnapping Act of 2002, as amended;

"(26) Violations of Sections 1, 3 and 5 of Presidential Decree No. 1866, as amended, otherwise known as the decree Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing In, Acquisition or Disposition of Firearms, Ammunition or Explosives;

"(27) Violation of Presidential Decree No. 1612, otherwise known as the Anti-Fencing Law;

"(28) Violation of Section 6 of Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022;

"(29) Violation of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines;

"(30) Violation of Section 4 of Republic Act No. 9995, otherwise known as the Anti-Photo and Video Voyeurism Act of 2009;

"(31) Violation of Section 4 of Republic Act No. 9775, otherwise known as the Anti-Child Pornography Act of 2009;

"(32) Violations of Sections 5, 7, 8, 9, 10(c), (d) and (e), 11, 12 and 14 of Republic Act No. 7610, otherwise known as the Special Protection of Children Against Abuse, Exploitation and Discrimination;

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

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

SEC. 3. Section 3 of the same Act shall have new paragraphs (j) and (k).

"(j) 'Precious metals' shall mean gold, silver, platinum, palladium, rhodium, ruthenium, iridium and osmium. These include alloys of precious metals, solders and plating chemicals such as rhodium and palladium plating solutions and potassium gold cyanide and potassium silver cyanide and silver cyanide in salt solution.

"(k) 'Precious stones' shall mean diamond, ruby, emerald, sapphire, opal, amethyst, beryl, topaz, and garnet that are used in jewelry making, including those formerly classified as semi-precious stones."

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

"SEC. 4. *Money Laundering Offense.* – Money laundering is committed by any person who, knowing that any monetary instrument or property represents, involves, or relates to the proceeds of any unlawful activity:

"(a) transacts said monetary instrument or property;

"(b) converts, transfers, disposes of, moves, acquires, possesses or uses said monetary instrument or property;

"(c) conceals or disguises the true nature, source, location, disposition, movement or ownership of or rights with respect to said monetary instrument or property;

"(d) attempts or conspires to commit money laundering offenses referred to in paragraphs (a), (b) or (c);

"(e) aids, abets, assists in or counsels the commission of the money laundering offenses referred to in paragraphs (a), (b) or (c) above; and

"(f) performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in paragraphs (a), (b) or (c) above.

"Money laundering is also committed by any covered person who, knowing that a covered or suspicious transaction is required under this Act to be reported to the Anti-Money Laundering Council (AMLC), fails to do so."

SEC. 5. Section 6(a) of the same Act is hereby amended to read as follows:

"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) The prosecution of any offense or violation under this Act shall proceed independently of any proceeding relating to the unlawful activity."

SEC. 6. Section 7 of the same Act is hereby amended to read 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 members. The AMLC shall act unanimously in the discharge of its functions as defined hereunder:

"x x x

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

"x x x

"(12) to require the Land Registration Authority and all its Registries of Deeds to submit to the AMLC, reports on all real estate transactions involving an amount in excess of Five hundred thousand pesos (P500,000.00) within fifteen (15) days from the date of registration of the transaction, in a form to be prescribed by the AMLC. The AMLC may also require the Land Registration Authority and all its Registries of Deeds to submit copies of relevant documents of all real estate transactions."

SEC. 7. Section 9(c), paragraphs 1 and 4 of the same Act are hereby amended to read as follows:

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

"(a) x x x

"(b) x x x

"(c) *Reporting of Covered and Suspicious Transactions.* – Covered persons shall report to the AMLC all covered transactions and suspicious transactions within five (5) working days from occurrence thereof, unless the AMLC prescribes a different period not exceeding fifteen (15) working days.

"Lawyers and accountants acting as independent legal professionals are not required to report covered and suspicious transactions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege.

"x x x

"x x x

"When reporting covered or suspicious transactions to the AMLC, covered persons 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 has been reported or is about to be reported, the contents of the report, 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 person and media shall be held criminally liable."

SEC. 8. Section 10 of the same Act, as amended by Republic Act No. 10167, is hereby amended to read as follows:

"SEC. 10. *Freezing of Monetary Instrument or Property.* – Upon a verified *ex parte* petition 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, the Court of Appeals may issue a freeze order which shall be effective immediately, and which shall not exceed six (6) months depending upon the circumstances of the case: *Provided, That* if there is no case

filed against a person whose account has been frozen within the period determined by the court, the freeze order shall be deemed *ipso facto* lifted: *Provided, further*, That this new rule shall not apply to pending cases in the courts. In any case, the court should act on the petition to freeze within twenty-four (24) hours from filing of the petition. If the application is filed a day before a nonworking day, the computation of the twenty-four (24)-hour period shall exclude the nonworking days.

"A person whose account has been frozen may file a motion to lift the freeze order and the court must resolve this motion before the expiration of the freeze order.

"No court shall issue a temporary restraining order or a writ of injunction against any freeze order, except the Supreme Court."

SEC. 9. Section 12 of the same Act is hereby amended to read as follows:

"(a) *Civil Forfeiture*. – Upon determination by the AMLC 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) or a money laundering offense under Section 4 hereof, the AMLC shall file with the appropriate court through the Office of the Solicitor General, a verified *ex parte* petition for forfeiture, and the Rules of Court on Civil Forfeiture shall apply.

"The forfeiture shall include those other monetary instrument or property having an equivalent value to that of the monetary instrument or property found to be related in any way to an unlawful activity or a money laundering offense, when with due diligence, the former cannot be located, or it has been substantially altered, destroyed, diminished in value or otherwise rendered worthless by any act or omission, or it has been concealed, removed, converted, or otherwise transferred, or it is located outside the Philippines or has been placed or brought outside the jurisdiction of the court, or it has been commingled with other monetary instrument or property belonging to either the offender himself or a third person or entity, thereby rendering the same difficult to identify or be segregated for purposes of forfeiture.

"(b) *Claim on Forfeited Assets*. – Where the court has issued an order of forfeiture of the monetary instrument or property in a criminal prosecution for any money laundering offense defined under Section 4 of this Act, the offender or any other person claiming an interest therein may apply, by verified petition, for a declaration that the same legitimately belongs to him and for segregation or exclusion of the monetary instrument or property corresponding thereto. The verified petition shall be filed with the court which rendered the judgment of forfeiture, within fifteen (15) days from the date of the finality of the order of forfeiture, in default of which the said order shall become final and executory. This provision shall apply in both civil and criminal forfeiture.

"(c) *Payment in Lieu of Forfeiture*. – Where the court has issued an order of forfeiture of the monetary instrument or property subject of a money laundering offense defined under Section 4, and said order cannot be enforced because any particular monetary instrument or property cannot, with due diligence, be located, or it has been substantially altered, destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, attributable to the offender, or it has been concealed, removed, converted, or otherwise transferred to prevent the same from being found or to avoid forfeiture thereof, or it is located outside the Philippines or has been placed or brought outside the jurisdiction of the court, or it has been commingled with other monetary instruments or property belonging to either the offender himself or a third person or entity, thereby rendering the same difficult to identify or be segregated for purposes of forfeiture, the court may, instead of enforcing the order of forfeiture of the monetary instrument or property or part thereof or interest therein, accordingly order the convicted offender to pay an amount equal to the value of said monetary instrument or property. This provision shall apply in both civil and criminal forfeiture."

SEC. 10. Section 14 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 14. *Penal Provisions*. – (a) Penalties for the Crime of Money Laundering. The penalty of imprisonment ranging from seven (7) to fourteen (14) years and a fine of not less than

Three million Philippine pesos (Php3,000,000.00) but not more than twice the value of the monetary instrument or property involved in the offense, shall be imposed upon a person convicted under Section 4(a), (b), (c) and (d) of this Act.

"The penalty of imprisonment from four (4) to seven (7) years and a fine of not less than One million five hundred thousand Philippine pesos (Php1,500,000.00) but not more than Three million Philippine pesos (Php3,000,000.00), shall be imposed upon a person convicted under Section 4(e) and (f) of this Act.

"The penalty of imprisonment from six (6) months to four (4) years or 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), or both, shall be imposed on a person convicted under the last paragraph of Section 4 of this Act.

"(b) x x x

"(c) x x x

"(d) x x x

"(e) The penalty of imprisonment ranging from four (4) to seven (7) years and a fine corresponding to not more than two hundred percent (200%) of the value of the monetary instrument or property laundered shall be imposed upon the covered person, its directors, officers or personnel who knowingly participated in the commission of the crime of money laundering.

"(f) Imposition of Administrative Sanctions. The imposition of the administrative sanctions shall be without prejudice to the filing of criminal charges against the persons responsible for the violation.

"After due notice and hearing, the AMLC shall, at its discretion, impose sanctions, including monetary penalties, warning or reprimand, upon any covered person, its directors, officers, employees or any other person for the violation of this Act, its implementing rules and regulations, or for failure or

refusal to comply with AMLC orders, resolutions and other issuances. Such monetary penalties shall be in amounts as may be determined by the AMLC to be appropriate, which shall not be more than Five hundred thousand Philippine pesos (P500,000.00) per violation.

"The AMLC may promulgate rules on fines and penalties taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity.

"(g) The provision of this law shall not be construed or implemented in a manner that will discriminate against certain customer types, such as politically-exposed persons, as well as their relatives, or against a certain religion, race or ethnic origin, or such other attributes or profiles when used as the only basis to deny these persons access to the services provided by the covered persons. Whenever a bank, or quasi-bank, financial institution or whenever any person or entity commits said discriminatory act, the person or persons responsible for such violation shall be subject to sanctions as may be deemed appropriate by their respective regulators."

SEC. 11. New sections are hereby inserted after Section 19 of the same Act, as amended, to read as follows:

"SEC. 20. *Non-intervention in the Bureau of Internal Revenue (BIR) Operations.* – Nothing contained in this Act nor in related antecedent laws or existing agreements shall be construed to allow the AMLC to participate in any manner in the operations of the BIR."

"SEC. 21. The authority to inquire into or examine the main account and the related accounts shall comply with the requirements of Article III, Sections 2 and 3 of the 1987 Constitution, which are hereby incorporated by reference. Likewise, the constitutional injunction against *ex post facto* laws and bills of attainder shall be respected in the implementation of this Act."

SEC. 12. The succeeding sections are hereby renumbered accordingly.

SEC. 13. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 14. *Repealing Clause.* – All laws, decrees, orders, and issuances or portions thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended or modified accordingly.

SEC. 15. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in at least two (2) national newspapers of general circulation.

Approved,


JUAN PONCE ENRILE
President of the Senate


FELICIANO BELMONTE JR.
Speaker of the House
of Representatives

This Act which is a consolidation of House Bill No. 6565 and Senate Bill No. 3123 was finally passed by the House of Representatives and the Senate on February 6, 2013.


EMMA LIRIO REYES
Secretary of the Senate


MARILYN B. BARUA-YAP
Secretary General
House of Representatives

Approved: FEB 15 2013


BENIGNO S. AQUINO III
President of the Philippines



O

CERTIFIED COPY:


MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

2-18-2013