

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session
3455
House Bill No. _____



Introduced by Representative Henry S. Oaminal

EXPLANATORY NOTE

In February 2016, the Philippines was in the world's spotlight as the incident now known as the Bangladesh Bank Heist, in which eighty-one million dollars (USD 81 million) of the nearly one billion dollars (USD 1 billion) that cyber criminals attempted to steal from Bangladesh Bank in New York was funneled through bank accounts in Manila. The USD 81 million was then laundered through local casinos and junket operators. So far, only about USD 18 million of this amount has been accounted for.

The Bangladesh Bank Heist underscores the pressing need to include casinos within the scope and coverage of the country's anti-money laundering law.

The setbacks encountered during attempts to recover the funds lost from the Bank Heist encapsulate what we have cited before. That the casino sector is a major contributor of revenue to the nation's coffers is not in dispute. It is because of this fact that an anti-money laundering/combating the financing of terrorism (AML/CFT) framework must be established to preserve the integrity of the gaming sector and shield it from the ever-present threat of money laundering and financing of terrorism (ML/FT).

This bill seeks not only to respond to the Financial Action Task Force (FATF) Recommendations for casinos to be regulated for AML/CFT purposes and be subjected to due diligence, record-keeping, and transaction-reporting requirements, which are internationally-accepted standards in combating ML/FT.

In addition, this bill seeks to put in place these measures so that a repeat of the Bangladesh Bank Heist is prevented in the future. It is imperative that this august body immediately respond to this glaring need not only to show our goodwill towards our fellow sovereign states, but to protect the gaming industry itself from being corrupted.

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

HENRY S. OAMINAL

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“AN ACT
DESIGNATING CASINO OPERATORS AS COVERED PERSONS UNDER REPUBLIC ACT NO. 9160,
OTHERWISE KNOWN AS THE ‘ANTI-MONEY LAUNDERING ACT OF 2001’, AS AMENDED”

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 “CASINO ANTI-MONEY
2 LAUNDERING/COMBATING THE FINANCING OF TERRORIS (AML/CFT) ACT.”

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to ensure that the
4 Philippines shall not be used as a site for the laundering of proceeds of any unlawful activity and for
5 the financing of terrorism. To this end, it shall protect and preserve the integrity of the casino
6 industry with a strong and efficient Anti-Money Laundering / Combating the Financing of Terrorism
7 (AML/CFT) regime. Consistent with its foreign policy, the State shall extend cooperation in
8 transnational investigations and prosecutions of persons involved in money laundering and terrorist
9 financing activities wherever committed.

10 Sec. 3. *Designation of Casino Operators.*— Casino operators, with respect to their gaming
11 operations, are hereby designated as covered persons under Republic Act No. 9160, otherwise
12 known as the Anti-Money Laundering Act of 2001, as amended.

13 Sec. 4. *Definition of Terms.* - As used in this Act:

14 a. *Account* refers to membership account, customer’s credit account, check cashing
15 account, deposit account or any other account opened with a casino by or on behalf of a customer;

16 b. *Aggregation* refers to multiple or series of transactions that are treated as a single cash
17 transaction if done by or on behalf of a specific customer involving an amount exceeding the
18 designated threshold in one (1) trading day;

- 1 c. *Cash* refers to currency notes and coins considered as legal tender in the country of
2 issue.
- 3 d. *Check in* refers to transactions involving the receipt of cash by a casino paid by or on
4 behalf of a customer. These include the following:
- 5 1. Purchases of chips, tokens, and other gaming instruments;
 - 6 2. Front money deposits;
 - 7 3. Safekeeping deposits;
 - 8 4. Payments on any form of credit, including markers and counter checks;
 - 9 5. Currency received by a casino for transmittal of funds through wire transfer for a
10 customer;
 - 11 6. Purchases of a casino's check;
 - 12 7. Exchanges of currency for another currency, and
 - 13 8. Bills inserted into electronic gaming devices;
- 14 e. *Check-out* refers to transactions involving the payout of cash by a casino to a customer
15 or to any person in his behalf. These include, but are not limited to the following:
- 16 1. Redemptions of chips, tokens, tickets, and other gaming instruments;
 - 17 2. Front money withdrawals;
 - 18 3. Safekeeping withdrawals;
 - 19 4. Advances on any form of credit, including markers and counter checks;
 - 20 5. Payments by a casino to a customer based on receipt of funds through wire transfers;
 - 21 6. Cashing of checks or other negotiable instruments;
 - 22 7. Exchanges of currency for another currency;
 - 23 8. Travel and complimentary expenses and gaming incentives; and
 - 24 9. Payment for tournament, contests, and other promotions;
 - 25
- 26 f. *Casino* refers to gambling casinos where the building, room or space is used for social
27 amusements; specifically, one used for gambling through games of chance, games of cards and
28 games of numbers and are being regulated and supervised by the Philippine Amusement and
29 Gaming Corporation (PAGCOR), the Cagayan Economic Zone Authority (CEZA) or any other
30 appropriate supervising authority. For purposes of this Act, it also includes internet- and ship-based
31 casinos.
- 32 1. *Internet-Based Casino* refers to gambling casinos in which persons participate by the
33 use of remote communication facilities such as, but not limited to, internet,
34 telephone, television, radio or any other kind of electronic or other technology for
35 facilitating communication.

1 2. *Ship-Based Casino* refers to gambling casinos, the operation of which is undertaken
2 on board a vessel, ship, boat or any other water-based craft wholly or partly intended
3 for gambling;
4 g. *Covered Transaction*– Notwithstanding the provision of Section 3(b) of Republic Act No.
5 9160, as amended, for purposes of casino-related transactions, covered transaction shall refer to a
6 single transaction undertaken by any individual per day with the casino involving an amount in
7 excess of Five million pesos (Php 5, 000,000.00).
8 h. *Customer* refers to any person who transacts or attempts to transact with a casino,
9 whether or not that person participates, or intends to participate, in the gaming activities offered by
10 the casino;
11 i. *Monetary Instrument* refers to:
12 1. Coins or currency of legal tender in the Philippines, or in any other country;
13 2. Casino Value instruments such as casino chips, casino reward cards, Ticket in/Ticket
14 out, markers, cashier's order, chip purchase order, chip check, gift certificates, casino
15 draft;
16 3. Negotiable checks such as casino check, personal check, bank draft; and
17 4. Other similar instruments where title thereto passes to another by endorsement,
18 assignment or delivery;
19 j. *Money Laundering* refers to acts punished under Section 4 of Republic Act No. 9160, as
20 amended;
21 k. *Offender* refers to any person who commits money laundering offense and/or terrorist
22 financing;
23 l. *Person* refers to any natural or juridical person.
24 m. *Proceeds* refers to an amount derived or realized from an unlawful activity. It includes:
25 1. All material results, profits, effects and any amount realized from any unlawful
26 activity;
27 2. All monetary, financial or economic means, devices, documents, papers or things used
28 in, or having any relation to, any unlawful activity; and
29 3. All moneys, expenditures, payments, disbursements, costs, outlays, charges,
30 accounts, refunds and other similar items for the financing, operations, and
31 maintenance of any unlawful activity;
32 n. *Property* refers to anything or item of value, real or personal, movable or immovable,
33 tangible or intangible, or any interest therein or any benefit, privilege, claim or right with respect
34 thereto.
35

1 o. *Supervising authority* refers to the PAGCOR, CEZA or any other appropriate agency, as
2 may be determined by law;

3 p. *Suspicious transaction* is a transaction, regardless of the amount involved, where any of
4 the following circumstances exists:

- 5 1. the casino operator or any of its employees knows, suspects, has reason to suspect,
6 or should have known, by the exercise of due diligence, that the transaction:
 - 7 i. involves funds derived from an unlawful activity or from a money laundering
8 offense;
 - 9 ii. is designed to evade any of the requirements under this Act or Republic Act No.
10 9160, as amended;
 - 11 iii. has no business or apparent lawful purpose or is not the sort in which the
12 particular customer would normally be expected to engage, and the casino
13 operator or any of its employees knows of no reasonable explanation for the
14 transaction after examining the available facts, including the background and
15 possible purpose of the transaction; or
 - 16 iv. involves the use of casinos to facilitate unlawful activity, money laundering and
17 terrorist financing;
- 18 2. any of the circumstances for the filing of a suspicious transaction report under Section
19 3 (b-1) of Republic Act No.9160, as amended; and
- 20 3. any other circumstances that may be determined suspicious by the Anti-Money
21 Laundering Council (AMLC).

22 q. *Terrorist financing* refers to acts defined and punished under Sections 4, 5, 6, 7 and 8 of
23 Republic Act No. 10168;

24 r. *Trading day* refers to the normal business day of a casino. If the casino offers 24-hour
25 gaming, the term shall mean that 24-hour period by which the casino keeps its books and records for
26 business and accounting purposes;

27 s. *Transaction* refers to purchase or redemption of casino chips or tokens, or other gaming
28 instruments or any other payment, transfer, or delivery by, through, or to a casino, by whatever
29 means effected;

30 For purposes of reporting covered transactions, cash transaction shall mean the physical
31 transfer of cash from one person to another. A non-cash transaction, on the other hand, shall mean
32 the transfer of funds by means of bank check, bank draft, wire transfer, or other written order;

33 t. *Unlawful activities* refers to the crimes or offenses listed under Section 3 (i) of Republic
34 Act No. 9160, as amended.

35 Sec. 5. *Prevention of Money Laundering; Customer Identification Requirements and Record*
36 *Keeping.*—

1 a. Customer Identification. - Casino operators shall:

- 2 1. establish and record based on official documents the true and full identity of their
3 customers engaging in a single or an aggregate transaction in excess of Two hundred
4 thousand pesos (Php200,000.00);
- 5 2. maintain a system of verifying the true and full identity of their customers and, in case
6 of corporate customers, require a system of verifying their legal existence and
7 organizational or control structure, as well as the authority and identification of all
8 persons purporting to act on their behalf;
- 9 3. take reasonable measures to obtain information sufficient to identify and verify the
10 identity of every beneficial owner of the customer's account;
- 11 4. develop clear, written and graduated customer acceptance policies and procedures
12 including a set of criteria for customers that are likely to pose different levels of risk
13 to their operations, as well as the standards in applying the appropriate degree of due
14 diligence, including a set of conditions for the denial of account opening;
- 15 5. based on the assessment of risk, endeavor to identify politically-exposed persons
16 (PEPs) and shall apply enhanced customer due diligence;
- 17 6. based on the assessment of risk, continually monitor the transactions in each of its
18 customer's accounts to ascertain whether the transactions are consistent with the
19 casino operator's knowledge of the customer, his income profile and his source or
20 sources of funds; and
- 21 7. periodically review the adequacy of information they have obtained in respect of
22 customers and beneficial owners of customer's account and ensure that the
23 information is kept current, particularly for categories of customers that the casinos
24 may assess to present higher risk of money laundering and terrorism financing.

25 The provisions of existing laws to the contrary notwithstanding, anonymous accounts,
26 accounts under fictitious names, and all other similar accounts shall be absolutely prohibited.

27 b. Record Keeping – All records of all transactions of customers shall be maintained and
28 safely stored for at least five (5) years from the date of the last transaction, unless the casino
29 operator is required in writing by the AMLC to retain the records for a longer period, due to a
30 pending judicial action relevant to the records.

31 c. Reporting of Covered and Suspicious Transactions –

- 32 1. Casino operators shall report all covered transactions and suspicious transactions to
33 the AMLC in a manner and within the period prescribed under Republic Act No.
34 9160, as amended.
- 35 2. Should a transaction be determined to be both a covered transaction and a
36 suspicious transaction, it shall be reported as a suspicious transaction.

1 3. Notwithstanding the preceding paragraphs, casino operators are exempted from
2 reporting the following covered transactions –

- 3 i. Check-out transactions to the extent the currency is won in a money play and is
4 the same currency the customer wagered in the money play, or check in
5 transactions to the extent the currency is the same currency the customer
6 previously wagered in a money play on the same table game without leaving the
7 table;
8 ii. Jackpot winnings from slot machine; and
9 iii. Other covered transactions that may be determined by the AMLC.

10 d. Confidentiality of Reports– When reporting covered or suspicious transactions to the
11 AMLC, casino operators and their officers and employees are prohibited from communicating,
12 directly or indirectly, in any manner or by any means, to any person or entity, including the media,
13 the fact that a covered or suspicious transaction has been reported or is about to be reported, the
14 contents of the report, or any other information in relation thereto. Neither may such reporting be
15 published or aired in any manner or form by the mass media, electronic mail, or other similar
16 devices. In case of violation thereof, the concerned officer and employee of the casinos and media
17 shall be held criminally liable.

18 Casino operators, including any of its officers and employees, may not be compelled, by
19 subpoena or otherwise, to disclose a Suspicious Transaction Report, or disclose the fact that a
20 Suspicious Transaction Report was filed or is about to be filed, or disclose any information contained
21 in or in relation to a Suspicious Transaction Report. This, however, is without prejudice to the
22 exercise of the supervising authority of its supervisory or regulatory powers under its charter.

23 The AMLC, PAGCOR, CEZA, or any government or prosecutorial agency shall not be
24 compelled to identify or name, in any manner or in any venue, any casino as the source of
25 information about any person or entity that probably committed a money laundering offense,
26 terrorist financing or any other offense or violation under this Act or Republic Act No. 9160, as
27 amended.

28 e. Safe Harbor Provision -

29 No administrative, criminal or civil proceeding shall lie against any person for having made a
30 covered or suspicious transaction report in the regular performance of his/her duties in good faith,
31 whether or not such reporting results in any criminal prosecution under this Act or any other law.

32 Sec. 6. *Prohibited Transactions*– Casino operators shall be prohibited from engaging in the
33 following transactions or activities:

- 34 1. any transaction involving the conversion of money from one form to another without
35 being used for gaming, including –

- i. The receipt of cash for transmittal of all or part thereof through wire or telegraphic transfer for or on behalf of a customer;
 - ii. Payments in cash of funds received through wire or telegraphic transfer;
 - iii. The cashing of checks or other negotiable instruments; and
2. receiving money, the purpose or ownership of which cannot be ascertained within a period of at least seven (7) days from the date of the receipt.

Sec. 7. Authority to Inquire into Customer Accounts—The AMLC may inquire into or examine any particular account, including related accounts, with any casino operator that is deemed related to any unlawful activity or money laundering offense as defined under Republic Act No. 9160, as amended, or financing of terrorism as defined under Republic Act No. 10168.

For purposes of this section, 'related accounts' shall refer to accounts, the funds and sources of which originated from and/or are materially linked to the accounts subject of a freeze order(s) issued by a competent authority or subject of an inquiry under the preceding paragraph.

Sec. 8. Freezing and Forfeiture of Monetary Instruments or Properties— The freezing and forfeiture of monetary instruments or properties shall be governed by Republic Act No. 9160, as amended. Casino operators shall not lift the effects of any freeze order without seeking official confirmation from the AMLC: *Provided*, That freeze or forfeiture orders shall not apply against the general funds of casinos, in the event that the monetary instruments or properties of the customer have been commingled with other funds or properties of the casino, rendering the same difficult to be identified or segregated, for purposes of enforcing the freeze or forfeiture order.

Sec. 9. AML/CFT Program Requirements for Casinos— Casino operators are hereby given one (1) year, from the effectivity of the Implementing Rules and Regulations of this Act, to formulate their respective money laundering and terrorism financing prevention programs (ML/TF Prevention Programs) in accordance with this Act including information dissemination on money laundering and terrorism financing activities and its prevention, detection and reporting, and the relevant training of responsible officers and personnel of casinos. The program must be approved by their respective Board of Directors.

The ML/TF Prevention Program should be designed to ensure and monitor compliance with the requirements set forth in this Act. A system of internal control as well as internal testing for compliance must be in place to ensure ongoing compliance.

Casino operators should designate a compliance officer, to monitor the compliance with the policies and procedures under its own ML/TF Prevention Programs, and to conduct the necessary coordination to ensure compliance with the requirements set forth in this Act.

Sec. 10. On-site inspection— To ensure compliance of casino operators with this Act and Republic Act No. 9160, as amended, the AMLC may conduct on-site inspection of relevant casino records and documents.

1 Sec. 11. *Penal and Administrative Sanctions*— Non-compliance with any of the provisions of
2 this Act shall be punished with penalties and sanctions provided for under Republic Act No. 9160, as
3 amended.

4 Sec. 12. *Implementing Rules and Regulations*. – Within one hundred twenty (120) days from
5 the effectivity of this Act, the AMLC and the Supervising Authorities shall promulgate the rules and
6 regulations to implement its provisions.

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

9 Sec. 14. *Repealing Clause*.— All laws, decrees, orders, and issuances or portions thereof,
10 which are inconsistent with the provisions of this Act, are hereby repealed, amended or modified
11 accordingly: *Provided*, That all provisions of Republic Act No. 9160, as amended, that are not
12 inconsistent with this Act are hereby adopted.

13 Sec. 15. *Effectivity*.—This Act shall take effect fifteen (15) days following its publication in the
14 Official Gazette at least two (2) newspapers of general circulation.

15 Approved,