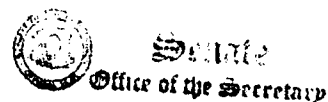


EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )



20 MAR 11 P12:53

SENATE  
S. No. 1412

RECEIVED BY

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Introduced by Senator Grace Poe

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**AN ACT**  
**TO FURTHER STRENGTHEN THE ANTI-MONEY LAUNDERING LAW, AMENDING**  
**FOR THE PURPOSE SECTIONS 2, 3, 7, 10, 12 AND 20 OF REPUBLIC ACT NO.**  
**9160, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001,**  
**AS AMENDED, AND FOR OTHER PURPOSES**

*Explanatory Note*

To better combat money laundering (ML), terrorist financing (TF) and other related threats to the integrity of the global financial system, an inter-governmental body, the "Financial Action Task Force" (FATF), was established to set and promote standards for the effective implementation of legal, regulatory and operational measures to combat ML and TF. The regional arm of the FATF, the Asia Pacific Group on Money Laundering (APG), has 41 members including the Philippines.

A country's efforts and/or measures to combat ML and TF are being assessed through a "peer review" called "Mutual Evaluations" (ME). A country's criminal justice system, supervision of financial institutions (FIs), and international cooperation, among others, are being evaluated. Two areas are being assessed: Technical Compliance and Effective Compliance.

On 22 August 2019, the APG adopted the Philippine Mutual Evaluations Report (MER). The Philippine MER was published on 24 October 2019.

Based on FATF's 40 Recommendations, the Philippines was evaluated or rated as follows: (a) for TECHNICAL COMPLIANCE – Philippines is COMPLIANT as to FATF's 8 recommendations; LARGELY COMPLIANT to FATF's 20 recommendations; PARTIALLY COMPLIANT to FATF's 11 recommendations; and NON-COMPLIANT to one FATF recommendation; and (b) for EFFECTIVE COMPLIANCE, Philippines was given the SUBSTANTIAL rating for one (1) of the Immediate Outcomes (IOs), MODERATE for 4 IOs, and LOW for 6 IOs.

After the "evaluations"/MER, the FATF has a mechanism to identify and respond to strategic deficiencies in a jurisdiction's/country's Anti-Money Laundering

(AML)/Combating the Financing of Terrorism (CFT) measures that may “pose risk to the international financial system and impede efforts against ML and TF”. This mechanism of the FATF is called the International Cooperation Review Group (ICRG). The ICRG then maintains a “list” of jurisdictions/countries with “strategic AML/CFT deficiencies” – this is the “Compliance Document”, known to the global network as the “GREY LIST”.

A jurisdiction/country will be referred to the ICRG listing based on its ratings under the MER, particularly if under the MER, it was: (a) rated Non-Compliant/Partially Compliant with 20 or more of the FATF recommendations; (b) rated Non-Compliant/Partially Compliant with 3 or more of the key FATF recommendations; (c) rated Low/Moderate on 9 or more of the 11 Immediate Outcomes; or (d) rated Low on 6 or more of the 11 Immediate Outcomes. The Philippines met the ICRG referral criteria based on 10 of 11 Immediate Outcomes rated Moderate/Low (4 rated Moderate, 6 rated Low).

To date, the Philippines is under ICRG’s 12-month “Observation Period” (October 2019 to October 2020) during which the Philippines is expected to remedy its identified shortcomings in the Philippine MER.

Based on the Philippine MER, the following amendments to Republic Act No. 9160, otherwise known as the “Anti-Money Laundering Act” or AMLA, as previously amended by Republic Act Nos. 9194, 10167, 10365, and 10927, must be incorporated to remedy the identified deficiencies in our legal framework in relation to combatting ML:

- a. Inclusion of real estate developers and brokers as covered persons;
- b. Inclusion of tax crimes and violation of the Strategic Trade Management Act which indirectly includes proliferation of weapons of mass destruction as predicate offenses to ML;
- c. Enhancement of the investigative powers of the Anti-Money Laundering Council (AMLC);
- d. Authorization of the AMLC to implement “Targeted Financial Sanctions” on proliferation financing;
- e. Prohibition on the issuance of injunctive relief against freeze orders and forfeiture proceedings; and
- f. Authorization of the AMLC to preserve, manage or dispose assets subject of Asset Preservation Order and Judgement Forfeiture.

According to the AMLC, if the Philippines fails to pass the above-enumerated amendments and demonstrate effective implementation of the same, the Philippines will be under the danger of being “grey-listed”. If that happens, the FATF will

publicly identify the Philippines as a "high-risk jurisdiction with strategic AML/CFT deficiencies".

"Grey Listing" of the Philippines would mean that: (a) the European Union (EU) will impose "enhanced due diligence" (EDD) on Filipino nationals and businesses; (b) EDD will entail additional cost and paperwork; (c) there will be higher interest rates/processing fees; (d) there will be higher cost of remittance for OFWs; (e) the Philippines will incur a "reputational risk" that would result in reduced investor and lender confidence; (f) there could be a decline in the GDP growth of the Philippines; and (g) there would be a setback in our efforts to achieve an "A" Credit Rating before 2022; among others.

The above-cited consequences of being "Grey Listed" by the FATF would surely have a negative impact not just to our OFWs, Filipino nationals and businesses abroad, but also, possibly, to our country's economy.

On top of the urgent concerns regarding "Grey Listing", just recently, the Bureau of Customs (BOC) and the Department of Finance (DOF) confirmed that "two suspected syndicates brought into the Philippines at least \$370 million (P18.7 billion) in foreign dirty money..." In response, DOF Secretary Carlos G. Dominguez III had ordered the BOC to work with the AMLC in investigating the entry of the aforementioned dirty money. In addition, Senator Richard Gordon even delivered a privilege speech in relation to the alleged entry of \$447 million (P22.68 billion) into the Philippines from September 2019 to February 2020 which, according to him, might be linked to money laundering due to the proliferation of Philippine Offshore Gaming Operators (POGOs). These being said, it truly is high time to further strengthen our country's Anti-Money Laundering Law, as well as the powers of the AMLC, for us to be able to more effectively combat the menaces brought about by money laundering.

In view of the foregoing, the immediate enactment into law of this legislative measure, which is a counterpart measure of Rep. Junie E. Cua's House Bill No. 6174, is hereby earnestly sought.

  
GRACE POE

EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )

20 MAR 11 P12:54

**SENATE**  
**S. No. 1412**

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Introduced by Senator Grace Poe

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**AN ACT**  
**TO FURTHER STRENGTHEN THE ANTI-MONEY LAUNDERING LAW, AMENDING**  
**FOR THE PURPOSE SECTIONS 2, 3, 7, 10, 12 AND 20 OF REPUBLIC ACT NO. 9160,**  
**OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001, AS**  
**AMENDED, AND FOR OTHER PURPOSES**

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

1       Section 1. Section 2 of Republic Act No. 9160, as amended, is hereby amended  
2 to read as follows:

3       "SEC 2. *Declaration of Policy.* It is hereby declared the policy of the State to  
4 protect and preserve the integrity and confidentiality of bank accounts and to  
5 ensure that the Philippines shall not be used as a money laundering site for the  
6 proceeds of any unlawful activity. Consistent with its foreign policy, the State  
7 shall extend cooperation in transnational investigations and prosecutions of  
8 persons involved in money laundering activities wherever committed[.], **AS**  
9 **WELL AS IN THE IMPLEMENTATION OF TARGETED FINANCIAL**  
10 **SANCTIONS RELATED TO THE FINANCING OF THE PROLIFERATION OF**  
11 **WEAPONS OF MASS DESTRUCTION, TERRORISM AND FINANCING OF**  
12 **TERRORISM, PURSUANT TO RESOLUTIONS OF THE UNITED NATIONS**

1       **SECURITY COUNCIL, AND IN OTHER RELATED OR ANALOGOUS CASES.**  
2       **IT IS LIKEWISE THE DECLARED POLICY OF THE STATE, ESPECIALLY**  
3       **ITS PERTINENT LAW ENFORCING AGENCIES, TO KEEP ABREAST WITH**  
4       **EXISTING AND FUTURE INTERNATIONAL EFFORTS AND MEASURES TO**  
5       **CURB MONEY LAUNDERING, TERRORISM FINANCING, AND**  
6       **PROLIFERATION FINANCING OF OF WEAPONS OF MASS**  
7       **DESTRUCTION, WITH THE END GOALS OF ADOPTING AND/OR**  
8       **INCORPORATING UPDATED MEANS OF INVESTIGATION AND**  
9       **PROSECUTION, AMONG OTHERS."**

10       Sec. 2. Section 3(a) of Republic Act No. 9160, as amended, is hereby further  
11 amended by inserting a new paragraph (9), as follows:

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

13               (1)    xxx

14               xxx

15               **"(9) REAL ESTATE DEVELOPERS AND BROKERS."**

16               xxx

17       Sec. 3. Section 3(b) of Republic Act No. 9160, as amended, is hereby further  
18 amended to read as follows:

19       "(b) "Covered transaction" is a transaction in cash or other equivalent monetary  
20 instrument involving a total amount in excess of Five Hundred Thousand Pesos  
21 (P500,000.00) within one (1) banking day; for covered persons under Section  
22 3(a)(8), a single casino cash transaction involving an amount in excess of Five  
23 Million Pesos (P5,000,000.00) or its equivalent in ay other currency; **FOR**  
24 **COVERED PERSONS UNDER SECTION 3(A)(9), A SINGLE CASH**

1        **TRANSACTION INVOLVING AN AMOUNT IN EXCESS OF ONE MILLION**  
2        **PESOS (P1,000,000.00)."**

3        Sec. 4. Section 3(i) of Republic Act No. 9160, as amended, is hereby further  
4        amended to read as follows:

5        xxx

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

8        (1)    xxx

9        xxx

10       (33) Fraudulent practices and other violations under Republic Act No.  
11       8799, otherwise known as the Securities Regulation Code of 2000;

12       **[and]**

13       **(34) VIOLATION OF SECTION 19(A)(3) OF REPUBLIC ACT NO. 10697,**  
14       **OTHERWISE KNOWN AS THE STRATEGIC TRADE MANAGEMENT ACT,**  
15       **ON TARGATED FINANCIAL SACTIONS IN RELATION TO THE**  
16       **FINANCING OF WEAPONS OF MASS DESTRUCTION PROLIFERATION;**

17       **(35) VIOLATIONS OF SECTION 254, 255, 260, 261, 262, 263, 264,**  
18       **264-A, 264-B, 265 AND 265-A OF CHAPTER II, TITLE X OF THE**  
19       **NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, IF**  
20       **THE FINAL ASSESSMENT IS IN EXCESS OF TEN MILLION PESOS**  
21       **(P10,000,000.00); AND**

22       **[(34)] (36) Felonies and offenses of a similar nature that are**  
23       **punishable under the penal laws of other countries."**

24       Sec. 5. Section 3 of Republic Act No. 9160, as amended, is hereby further

1 amended by inserting new paragraphs (m), (n) and (o) as follows:

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

3 xxx

4 **(M) 'REAL ESTATE DEVELOPER' REFERS TO ANY NATURAL OR**  
5 **JURIDICAL PERSON ENGAGED IN THE BUSINESS OF DEVELOPING**  
6 **REAL ESTATE DEVELOPMENT PROJECT FOR HIS/HER OR ITS OWN**  
7 **ACCOUNT AND OFFERING THEM FOR SALE OR LEASE;**

8 **(N) 'REAL ESTATE BROKER' REFERS TO A DULY REGISTERED AND**  
9 **LICENSED NATURAL PERSON WHO, FOR A PROFESSIONAL FEE,**  
10 **COMMISSION OR OTHER VALUABLE CONSIDERATION, ACTS AS AN**  
11 **AGENT OF A PARTY IN A REAL ESTATE TRANSACTION TO OFFER,**  
12 **ADVERTISE, SOLICIT, LIST, PROMOTE, MEDIATE, NEGOTIATE OR**  
13 **EFFECT THE MEETING OF THE MINDS ON THE SALE, PURCHASE,**  
14 **EXCHANGE, MORTGAGE, LEASE OR JOINT VENTURE, OR OTHER**  
15 **SIMILAR TRANSACTIONS ON REAL ESTATE OR ANY INTEREST**  
16 **THEREIN;**

17 **(O) 'TARGETED FINANCIAL SANCTIONS' REFER TO BOTH ASSET**  
18 **FREEZING AND PROHIBITION TO PREVENT FUNDS OR OTHER ASSETS**  
19 **FROM BEING MADE AVAILABLE, DIRECTLY OR INDIRECTLY, FOR THE**  
20 **BENEFIT OF ANY INDIVIDUAL, NATURAL OR LEGAL PERSONS OR**  
21 **ENTITY DESIGNATED PURSUANT TO RELEVANT UNITED NATIONS**  
22 **SECURITY COUNCIL RESOLUTIONS AND ITS DESIGNATION**  
23 **PROCESSES."**

24 Sec. 6. Section 7 of Republic Act No. 9160, as amended, is hereby further

1 amended to read as follows:

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

8 "(1) to require [and], receive **AND ANALYZE** covered or suspicious  
9 transactions reports from covered persons;

10 x x x

11 "(5) to investigate suspicious transactions and covered  
12 transactions deemed suspicious after [an investigation by]  
13 **DETERMINATION** by AMLC, money laundering activities, and  
14 other violations of this Act.

15 **IN THE CONDUCT OF ITS INVESTIGATIONS, THE AMLC**  
16 **MAY USE INVESTIGATION TECHNIQUES AVAILABLE TO**  
17 **OTHER LAW ENFORCEMENT AGENCIES, SUCH AS, BUT**  
18 **NOT LIMITED TO, THE CONDUCT OF WITNESS**  
19 **INTERVIEWS, SURVEILLANCE, UNDERCOVER**  
20 **INVESTIGATION, AND COURT-APPROVED SEARCHES**  
21 **AND SEIZURES.**

22 **AMLC INVESTIGATIONS SHALL BE KEPT STRICTLY**  
23 **CONFIDENTIAL FROM THE PUBLIC.**

24 x x x;



1           (12) x x x [.]; AND

2           **(13) TO SUBPOENA ANY PERSON AND COMPEL HIS**  
3           **ATTENDANCE, TO PRODUCE INFORMATION, BOOKS,**  
4           **PAPERS, DOCUMENTS, DATA, AND OTHER RELEVANT**  
5           **INFORMATION OR OBJECTS; OR TO GIVE**  
6           **STATEMENT, UNDER OATH, IN RELATION TO ITS**  
7           **INVESTIGATIVE POWERS. THOSE WHO REFUSE THE**  
8           **SUBPOENA WITHOUT JUSTIFIABLE CAUSE, OR WHO**  
9           **REFUSE TO SUPPLY THE AMLC WITH DATA REQUESTED**  
10          **OR REQUIRED, SHALL BE SUBJECT TO PUNISHMENT FOR**  
11          **CONTEMPT IN ACCORDANCE WITH THE PROVISIONS OF**  
12          **THE RULES OF COURT; AND TO ADMINISTER OATH OR**  
13          **AFFIRMATION TO ANY PERSON APPEARING IN THE**  
14          **COURSE OF INVESTIGATION OR ADMINISTRATIVE**  
15          **PROCEEDINGS;**

16          **“(14) TO IMPLEMENT TARGETED FINANCIAL SANCTIONS,**  
17          **INCLUDING EX PARTE FREEZE, WITHOUT DELAY, AGAINST**  
18          **ALL FUNDS AND OTHER ASSETS THAT ARE OWNED AND**  
19          **CONTROLLED, DIRECTLY OR INDIRECTLY, INCLUDING**  
20          **FUNDS AND ASSETS DERIVED OR GENERATED**  
21          **THEREFROM, BY INDIVIDUALS OR ENTITIES DESIGNATED**  
22          **AND LISTED UNDER UNITED NATIONS SECURITY COUNCIL**  
23          **RESOLUTIONS AS WELL AS ANY BINDING RESOLUTION OF**  
24          **THE SECURITY COUNCIL RELATING TO THE PREVENTION,**

1                   **SUPPRESSION AND DISRUPTION OF PROLIFERATION OF**  
2                   **WEAPONS OF MASS DESTRUCTION AND ITS FINANCING;**  
3                   **AND**

4                   **"(15) TO PRESERVE, MANAGE OR DISPOSE ASSETS SUBJECT OF**  
5                   **ASSET PRESERVATION ORDER, AND JUDGMENT OF**  
6                   **FORFEITURE."**

7           Sec. 7. Section 10 of Republic Act No. 9160, as amended, is hereby further  
8 amended to read as follows:

9           "Section 10. *Freezing of Monetary Instrument or Property.* –

10          Upon a verified *ex parte* petition by the AMLC and after determination that  
11          probable cause exists that any monetary instrument or property is in any way  
12          related to an unlawful activity as defined in Section 3(i) hereof, the Court of  
13          Appeals may issue a freeze order which shall be effective immediately, for a  
14          period of twenty (20) days. Within the twenty (20)-day period, the Court of  
15          Appeals shall conduct a summary hearing, with notice to the parties, to determine  
16          whether or not to modify or lift the freeze order, or extend its effectivity. The  
17          total period of the freeze order issued by the Court of Appeals under this provision  
18          shall not exceed six (6) months. This is without prejudice to an asset  
19          preservation order that the Regional Trial Court having jurisdiction over the  
20          appropriate anti-money laundering case or civil forfeiture case may issue on the  
21          same account depending on the circumstances of the case, where the Court of  
22          Appeals will remand the case and its records; *Provided*, That if there is no case  
23          filed against a person whose account has been frozen within the period  
24          determined by the Court of Appeals, not exceeding six (6) months, the freeze

1 order shall be deemed *ipso facto* lifted; *Provided, further,* That this new rule shall  
2 not apply to pending cases in the courts. In any case, the court should act on  
3 the petition to freeze within twenty-four (24) hours from filing of the petition. If  
4 the application is filed a day before a nonworking day, the computation of the  
5 twenty-four (24)-hour period shall exclude the nonworking days.

6 The freeze order or asset preservation order issued under this Act shall be limited  
7 only to the amount of cash or monetary instrument or value of property that  
8 court finds there is probable cause to be considered as proceeds of a predicate  
9 offense, and the freeze order or asset preservation order shall not apply to  
10 amounts in the same account in excess of the amount or value of the proceeds  
11 of the predicate offense.

12 A person whose account has been frozen may file a motion to lift the freeze order  
13 and the court must resolve this motion before the expiration of the freeze order.  
14 No court shall issue a temporary restraining order or a writ of injunction against  
15 any freeze order, except the Supreme Court.

16 **FOR PURPOSES OF IMPLEMENTING TARGETED FINANCIAL**  
17 **SANCTIONS, AS PROVIDED UNDER SECTION 7(14), THE AMLC**  
18 **SHALL HAVE THE POWER TO ISSUE, *EX PARTE*, AN ORDER TO**  
19 **FREEZE WITHOUT DELAY. THE FREEZE ORDER SHALL BE EFFECTIVE**  
20 **UNTIL THE BASIS FOR ITS ISSUANCE SHALL HAVE BEEN LIFTED.**  
21 **DURING THE EFFECTIVITY OF THE FREEZE ORDER, THE AGGRIEVED**  
22 **PARTY MAY, WITHIN TWENTY (20) DAYS FROM ISSUANCE, FILE WITH**  
23 **THE COURT OF APPEALS A PETITION TO DETERMINE THE BASIS OF**  
24 **THE FREEZE ORDER ACCORDING TO THE PRINCIPLE OF EFFECTIVE**

1       **JUDICIAL PROTECTION. THE AMLC, IF CIRCUMSTANCES WARRANTS,**  
2       **MAY INITIATE A CIVIL FORFEITURE PROCEEDINGS TO PRESERVE THE**  
3       **ASSETS AND TO PROTECT IT FROM DISSIPATION. NO COURT SHALL**  
4       **ISSUE A TEMPORARY RESTRAINING ORDER OR A WRIT OF**  
5       **INJUNCTION AGAINST THE FREEZE ORDER, EXCEPT THE COURT OF**  
6       **APPEALS OR THE SUPREME COURT."**

7       Sec. 8. Section 12 of Republic Act No. 9160, as amended, is hereby further  
8       amended to read as follows:

9       (a) *Civil Forfeiture.* – xxx

10      (b) *Claim on Forfeited Assets.* – xxx

11      (c) *Payment in Lieu of Forfeiture.* – xxx

12      **(D) NO COURT SHALL ISSUE A TEMPORARY RESTRAINING ORDER**  
13      **(TRO) OR A WRIT OF INJUNCTION AGAINST ANY PROVISIONAL**  
14      **ASSET PRESERVATION ORDER OR ASSET PRESERVATION ORDER,**  
15      **EXCEPT THE COURT OF APPEALS OR THE SUPREME COURT."**

16      Sec. 9. Section 20 of Republic Act No. 9160, as amended, is hereby deleted.

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

21      Sec. 10. *Implementing Rules and Regulations.* – The AMLC shall within  
22      ninety (90) days from the effectivity of this Act issue the necessary rules and  
23      regulations.

24      Sec. 11. *Separability Clause.* – If any provision or section of this Act is

1 held to be unconstitutional or invalid, the other provisions or sections hereof, which  
2 are not affected thereby shall continue to be in full force and effect.

3       Sec. 12. *Repealing Clause.* – All provisions of existing laws, orders, rules and  
4 regulations, or parts thereof which are in conflict or inconsistent with the provisions of  
5 this Act are hereby repealed, amended or modified accordingly; Provided, that all  
6 provisions of Republic Act No. 9160, as amended, which are not inconsistent  
7 with this Act are hereby adopted.

8       Sec. 13. *Effectivity.* – This Act shall take effect immediately after the  
9 completion of its publication in the *Official Gazette* or in a newspaper of general  
10 circulation.

Approved,