CONGRESS OF THE PHILIPPINES
EIGHTEENTH CONGRESS
Second Regular Session

HOUSE OF REPRESENTATIVES

H. No. 7904

BY REPRESENTATIVES CUA, LIM, TAMBUNTING, NIETO AND TAN (A.), PER COMMITTEE REPORT NO. 565

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

> "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, **AS WELL AS IN THE IMPLEMENTATION OF TARGETED FINANCIAL SANCTIONS RELATED TO THE FINANCING OF THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION, TERRORISM, AND FINANCING OF TERRORISM, PURSUANT TO THE RESOLUTIONS OF THE UNITED NATIONS SECURITY COUNCIL."**

SEC. 2. Section 3 of the same Act is hereby amended as follows:

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

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

(1) xxx;

"(9) REAL ESTATE DEVELOPERS AND BROKERS."

x x x

(b) "Covered transaction" is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of Five hundred thousand pesos (P500,000.00) within one (1) banking day; for covered persons under Section 3(a)(8), a single casino cash transaction involving an amount in excess of Five million pesos (P5,000,000.00) or its equivalent in any other currency.

"FOR COVERED PERSONS UNDER SECTION 3(a)(9) HEREIN, A SINGLE CASH TRANSACTION INVOLVING AN AMOUNT IN EXCESS OF FIVE MILLION PESOS (P5,000,000.00)."

(b-1) "Suspicious transactions" are transactions with covered persons, 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 circumstance 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 person;

6. The transaction is in any 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 transaction that is similar or analogous to any of the foregoing.

xxx.

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

(1) xxx;

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

"(34) VIOLATION OF SECTION 19 (a) (1) and/or (3) OF REPUBLIC ACT NO. 10697, OTHERWISE KNOWN AS THE STRATEGIC TRADE MANAGEMENT ACT, IN RELATION TO THE FINANCING OF PROLIFERATION OF WEAPONS OF MASS DESTRUCTION;

"(35) VIOLATIONS OF SECTION 254, 255, 260, 261, 262, 263, 264, 264-A, 264-B, 265 AND 265-A OF CHAPTER II, TITLE X OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, WHERE THE BASIC TAX DUE IN THE FINAL ASSESSMENT IS IN EXCESS OF TWENTY MILLION PESOS (P20,000,000.00) PER TAXABLE YEAR, FOR EACH TAX TYPE COVERED AND THERE HAS BEEN A FINDING OF PROBABLE CAUSE BY THE COMPETENT AUTHORITY; PROVIDED FURTHER, THAT IN CASE OF VIOLATIONS OF SECTIONS 254, 255,264&264A, THERE MUST BE A FINDING OF FRAUD, MISREPRESENTATION OR MALICIOUS INTENT ON THE PART OF THE TAX PAYER; PROVIDED FINALLY, THAT IN NO CASE SHALL THE AMLC INSTITUTE FORFEITURE PROCEEDINGS TO RECOVER MONETARY INSTRUMENTS, PROPERTY OR PROCEEDS REPRESENTING, INVOLVING , OR RELATING TO A TAX CRIME, IF THE SAME HAS ALREADY BEEN RECOVERED OR COLLECTED BY THE BUREAU OF INTERNAL REVENUE (BIR) IN A SEPARATE PROCEEDING"; AND

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

"xxx.

"(M) REAL ESTATE DEVELOPER" REFERS TO ANY NATURAL OR JURIDICAL PERSON ENGAGED IN THE BUSINESS OF DEVELOPING REAL ESTATE DEVELOPMENT PROJECT FOR THE ACCOUNT OF THE DEVELOPER AND OFFERING THEM FOR SALE OR LEASE.

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

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

SEC. 3. 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:

"(1) to require, receive **AND ANALYZE** covered or suspicious transactions reports from covered persons;

"xxx;

"(5) to investigate suspicious transactions and covered transactions deemed suspicious after **DETERMINATION** by AMLC, money laundering activities, and other violations of this Act. **IN THE CONDUCT OF ITS INVESTIGATIONS, THE AMLC MAY USE INVESTIGATION TECHNIQUES AVAILABLE TO OTHER LAW ENFORCEMENT AGENCIES AND ONLY THROUGH COURT–APPROVED SEARCHES AND SEIZURES.**

x x x

"(12) xxx;

"(13) TO COMPEL THROUGH THE APPROPRIATE SUBPOENA, THE ATTENDANCE OF ANY PERSON OR THE PRODUCTION OF BOOKS, PAPERS, DOCUMENTS, DATA, AND OTHER RELEVANT INFORMATION OR OBJECTS; OR TO COMPEL ANY PERSON TO GIVE A STATEMENT, UNDER OATH, IN RELATION TO CASES UNDER INVESTIGATION. THOSE WHO REFUSE THE SUBPOENA WITHOUT JUSTIFIABLE CAUSE, OR WHO REFUSE TO PROVIDE THE AMLC WITH DATA REQUESTED OR REQUIRED, SHALL BE SUBJECT TO PUNISHMENT FOR CONTEMPT IN ACCORDANCE WITH THE PROVISIONS OF THE RULES OF COURT; AND TO ADMINISTER THE OATH OR AFFIRMATION TO ANY PERSON APPEARING IN THE COURSE OF INVESTIGATION OR ADMINISTRATIVE PROCEEDINGS;

"(14) TO IMPLEMENT TARGETED FINANCIAL SANCTIONS, INCLUDING *EX PARTE* FREEZE ORDER, WITHOUT DELAY, AGAINST ALL FUNDS OR OTHER ASSETS THAT ARE OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, INCLUDING FUNDS AND ASSETS DERIVED OR GENERATED THEREFROM, BY INDIVIDUALS OR ENTITIES DESIGNATED AND LISTED UNDER UNITED NATIONS SECURITY COUNCIL RESOLUTION NUMBERS 1718 (2006) AND 2231 (2015) AND THEIR SUCCESSOR RESOLUTIONS AS WELL AS ANY BINDING RESOLUTION OF THE

SECURITY COUNCIL RELATING TO THE PREVENTION, SUPPRESSION, AND DISRUPTION OF PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND ITS FINANCING; AND

"(15) TO PRESERVE, MANAGE OR DISPOSE ASSETS THAT ARE THE SUBJECT OF A FREEZE ORDER, ASSET PRESERVATION ORDER, AND JUDGMENT OF FORFEITURE: PROVIDED, HOWEVER, THAT PENDING THEIR TURN OVER TO THE NATIONAL GOVERNMENT, ALL EXPENSES INCURRED IN RELATION TO THE DUTIES HEREIN MENTIONED SHALL BE DEDUCTED FROM THE AMOUNT TO BE TURNED OVER TO THE NATIONAL GOVERNMENT."

SEC. 4. Section 10 of the same Act is hereby further amended by inserting a new paragraph to read as follows:

"Section 10. Freezing Monetary Instrument or Property. –

"**(A)** 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, for a period of twenty (20) days. Within the twenty (20)-day period, the Court of Appeals shall conduct a summary hearing, with notice to the parties, to determine whether or not to modify or lift the freeze order, or extend its effectivity. The total period of the freeze order issued by the Court of Appeals under this provision shall not exceed six (6) months. This is without prejudice to an asset preservation order that the Regional Trial Court having jurisdiction over the appropriate anti-money laundering case or civil forfeiture case may issue on the same account depending on the circumstances of the case, where the Court of Appeals will remand the case and its records; *Provided,* That if there is no case filed against a person whose account has been frozen within the period determined by the Court of Appeals, not exceeding six (6) months, 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.

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

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.

"(B) FOR PURPOSES OF IMPLEMENTING TARGETED FINANCIAL

SANCTIONS, AS PROVIDED UNDER SECTION 7, PAR. 14, THE AMLC SHALL HAVE THE POWER TO ISSUE, *EX PARTE*, AN ORDER TO FREEZE WITHOUT DELAY.

THE FREEZE ORDER SHALL BE EFFECTIVE UNTIL THE BASIS FOR ITS ISSUANCE SHALL HAVE BEEN LIFTED. DURING THE EFFECTIVITY OF THE FREEZE ORDER, THE AGGRIEVED PARTY MAY, WITHIN TWENTY (20) DAYS FROM ISSUANCE, FILE WITH THE COURT OF APPEALS A PETITION TO DETERMINE THE BASIS OF THE FREEZE ORDER ACCORDING TO THE PRINCIPLE OF EFFECTIVE JUDICIAL PROTECTION.

THE AMLC, IF CIRCUMSTANCES WARRANT, MAY INITIATE A CIVIL FORFEITURE PROCEEDINGS TO PRESERVE THE ASSETS AND TO PROTECT IT FROM DISSIPATION.

NO COURT SHALL ISSUE A TEMPORARY RESTRAINING ORDER OR A WRIT OF INJUNCTION AGAINST THE FREEZE ORDER, EXCEPT THE COURT OF APPEALS OR THE SUPREME COURT."

SEC. 5. Section 12 of the same Act is hereby amended by inserting a new paragraph to read as follows:

"SEC. 12. (a) Civil Forfeiture – xxx.

"NO COURT SHALL ISSUE A TEMPORARY RESTRAINING ORDER OR A WRIT OF INJUNCTION AGAINST ANY PROVISIONAL ASSET PRESERVATION ORDER OR ASSET PRESERVATION ORDER, EXCEPT THE COURT OF APPEALS OR THE SUPREME COURT."

SEC. 6. Section 20 of the same Act is hereby deleted and the succeeding sections are renumbered accordingly.

SEC. 7. Implementing Rules and Regulations - The AMLC shall within ninety (90) days from the effectivity of this Act issue the necessary rules and regulations.

SEC. 8. Separability Clause. - If any provision or section of this Act is held to be unconstitutional or invalid, the other provisions or sections hereof, which are not affected thereby shall continue to be in full force and effect.

SEC. 9. Repealing Clause. - All provisions of existing laws, orders, rules and regulations, or parts thereof which are in conflict or inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly; *Provided*, That all provisions of Republic Act No. 9160, as amended, which are not inconsistent with this Act are hereby adopted.

SEC. 10. Effectivity. -This Act shall take effect immediately after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,