

H. No. 3083

S. No. 1745

Republic of the Philippines

Congress of the Philippines

Metro Manila

Twelfth Congress

First Regular Session

— 0 —

Begun and held in Metro Manila, on Monday, the twenty-third day of

July, two thousand one.

[**REPUBLIC ACT NO. 9160**]

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 has been established that there is probable cause that the deposits or investments involved are in any way related to a money laundering offense: *Provided*, That this provision shall not apply to deposits and investments made prior to the effectivity of this Act.

SEC. 12 Forfeiture Provisions. –

(a) Civil Forfeiture. - When there is a covered transaction report made, and the court has, in a petition filed for the purpose ordered seizure of any monetary instrument or property, in whole or in part, directly or indirectly, related to said report, the Revised Rules of Court on civil forfeiture shall apply.

(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 conviction and order of forfeiture, within fifteen (15) days from the date 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. 13. Mutual Assistance among States. –

(a) Request for Assistance from a Foreign State. - Where a foreign State makes a request for assistance in the investigation or prosecution of a money laundering offense, the AMLC may execute the request or refuse to execute the same and inform the foreign State of any valid reason for not executing the request or for delaying the execution thereof. The principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.

(b) Powers of the AMLC to Act on a Request for Assistance from a Foreign State. - The AMLC may execute a request for assistance from a foreign State by: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity under the procedures laid down in this Act; (2) giving information needed by the foreign State within the procedures laid down in this Act; and (3) applying for an order of forfeiture of any monetary instrument or property in the court: *Provided*, That the court shall not issue such an order unless the application is

accompanied by an authenticated copy of the order of a court in the requesting State ordering the forfeiture of said monetary instrument or property of a person who has been convicted of a money laundering offense in the requesting State, and a certification or an affidavit of a competent officer of the requesting State stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

(c) Obtaining Assistance from Foreign States. - The AMLC may make a request to any foreign State for assistance in (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity; (2) obtaining information that it needs relating to any covered transaction, money laundering offense or any other matter directly or indirectly related thereto; (3) to the extent allowed by the law of the foreign State, applying with the proper court therein for an order to enter any premises belonging to or in the possession or control of, any or all of the persons named in said request, and/or search any or all such persons named therein and/or remove any document, material or object named in said request: *Provided*, That the documents accompanying the request in support of the application have been duly authenticated in accordance with the applicable law or regulation of the foreign State; and (4) applying for an order of forfeiture of any monetary instrument or property in the

proper court in the foreign State: *Provided*, That the request is accompanied by an authenticated copy of the order of the regional trial court ordering the forfeiture of said monetary instrument or property of a convicted offender and an affidavit of the clerk of court stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

(d) Limitations on Requests for Mutual Assistance. - The AMLC may refuse to comply with any request for assistance where the action sought by the request contravenes any provision of the Constitution or the execution of a request is likely to prejudice the national interest of the Philippines unless there is a treaty between the Philippines and the requesting State relating to the provision of assistance in relation to money laundering offenses.

(e) Requirements for Requests for Mutual Assistance from Foreign States. - A request for mutual assistance from a foreign State must

(1) confirm that an investigation or prosecution is being conducted in respect of a money launderer named therein or that he has been convicted of any money laundering offense; (2) state the grounds on which any person is being investigated or prosecuted for money laundering or the details of his conviction; (3) give sufficient particulars as to the identity of said person; (4) give particulars sufficient to identify any covered institution

believed to have any information, document, material or object which may be of assistance to the investigation or prosecution; (5) ask from the covered institution concerned any information, document, material or object which may be of assistance to the investigation or prosecution; (6) specify the manner in which and to whom said information, document, material or object obtained pursuant to said request, is to be produced; (7) give all the particulars necessary for the issuance by the court in the requested State of the writs, orders or processes needed by the requesting State; and (8) contain such other information as may assist in the execution of the request.

(f) Authentication of Documents. - For purposes of this Section, a document is authenticated if the same is signed or certified by a judge, magistrate or equivalent officer in or of, the requesting State, and authenticated by the oath or affirmation of a witness or sealed with an official or public seal of a minister, secretary of State, or officer in or of, the government of the requesting State, or of the person administering the government or a department of the requesting territory, protectorate or colony. The certificate of authentication may also be made by a secretary of the embassy or legation, consul general, consul, vice consul, consular agent or any officer in the foreign service of the Philippines stationed in the foreign State in which the record is kept, and authenticated by the seal

of his office.

(g) Extradition. - The Philippines shall negotiate for the inclusion of money laundering offenses as herein defined among extraditable offenses in all future treaties.

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 (Php 3,000,000.00) 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) 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(b) 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 Section 4(c) of this Act.

(b) Penalties for Failure to Keep Records. The penalty of imprisonment from six (6) months to one (1) year 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 Section 9(b) of this Act.

(c) Malicious Reporting. Any person who, with malice, or in bad faith, reports or files a completely unwarranted or false information relative to money laundering transaction against any person shall be subject to a penalty of six (6) months to four (4) years imprisonment and 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), at the discretion of the court: *Provided*, That the offender is not entitled to avail the benefits of the Probation Law.

If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or

employee, he shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

Any public official or employee who is called upon to testify and refuses to do the same or purposely fails to testify shall suffer the same penalties prescribed herein.

(d) **Breach of Confidentiality.** The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than Five hundred thousand Philippine pesos (Php500,000.00) but not more than One million Philippine pesos (Php1,000,000.00), shall be imposed on a person convicted for a violation under Section 9(c).

SEC. 15. System of Incentives and Rewards. – A system of special incentives and rewards is hereby established to be given to the appropriate government agency and its personnel that led and initiated an investigation, prosecution and conviction of persons involved in the offense penalized in Section 4 of this Act.

SEC. 16. Prohibitions Against Political Harassment. – This Act shall not be used for political persecution or harassment or as an instrument to hamper competition in trade and commerce.

No case for money laundering may be filed against and no assets shall be frozen, attached or forfeited to the prejudice of a candidate for an

electoral office during an election period.

SEC. 17. Restitution. – Restitution for any aggrieved party shall

be governed by the provisions of the New Civil Code.

SEC. 18. Implementing Rules and Regulations. – Within thirty

(30) days from the effectivity of this Act, the Bangko Sentral ng Pilipinas,

the Insurance Commission and the Securities and Exchange Commission

shall promulgate the rules and regulations to implement effectively the

provisions of this Act. Said rules and regulations shall be submitted to the

Congressional Oversight Committee for approval.

Covered institutions shall formulate their respective money

laundering prevention programs in accordance with this Act including,

but not limited to, information dissemination on money laundering activities

and its prevention, detection and reporting, and the training of responsible

officers and personnel of covered institutions.

SEC. 19. Congressional Oversight Committee. – There is hereby

created a Congressional Oversight Committee composed of seven (7)

members from the Senate and seven (7) members from the House of

Representatives. The members from the Senate shall be appointed by the

Senate President based on the proportional representation of the parties

or coalitions therein with at least two (2) Senators representing the minority.

The members from the House of Representatives shall be appointed by

the Speaker also based on proportional representation of the parties or coalitions therein with at least two (2) members representing the minority.

The Oversight Committee shall have the power to promulgate its own rules, to oversee the implementation of this Act, and to review or revise the implementing rules issued by the Anti-Money Laundering Council within thirty (30) days from the promulgation of the said rules.

SEC. 20. Appropriations Clause. – The AMLC shall be provided with an initial appropriation of Twenty-five million Philippine pesos (Php25,000,000.00) to be drawn from the national government.

Appropriations for the succeeding years shall be included in the General Appropriations Act.

SEC. 21. Separability Clause. – If any provision or section of this Act or the application thereof to any person or circumstance is held to be invalid, the other provisions or sections of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SEC. 22. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof, including the relevant provisions of Republic Act No. 1405, as amended; Republic Act No. 6426, as amended; Republic Act No. 8791, as amended and other similar laws, as are inconsistent with this Act, are hereby repealed, amended or modified

accordingly.

SEC. 23. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

The provisions of this Act shall not apply to deposits and investments made prior to its effectivity.

Approved,

FRANKLIN M. DRILON JOSE DE VENECIA JR.

President of the Senate Speaker of the House

of Representatives

This Act which is a consolidation of House Bill No. 3083 and Senate Bill No. 1745 was finally passed by the House of Representatives and the Senate on September 29, 2001.

OSCAR G. YABES ROBERTO P. NAZARENO

Secretary of the Senate Secretary General

House of Representatives

Approved:

GLORIA MACAPAGAL-ARROYO

President of the Philippines

IMPLEMENTING RULES AND REGULATIONS

REPUBLIC ACT NO. 9160

ANTI-MONEY LAUNDERING ACT OF 2001

RULE 1

Title

Rule 1.a. Title . - These Rules shall be known and cited as the "Rules and Regulations Implementing Republic Act No. 9160", the Anti-Money Laundering Act of 2001 (AMLA).

Rule 1.b. Purpose. - These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the AMLA, taking into account R.A. 9160 and related laws of the Philippines for a comprehensive anti-money laundering regime.

RULE 2

Declaration of Policy

Rule 2. Declaration of Policy. - It is hereby declared the policy of the State to protect 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 Philippines shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed.

RULE 3

Definitions

Rule 3. Definition s. – For purposes of the Act, the following terms are hereby defined as follows:

Rule 3.a . "Covered

Institution" refers to:

Rule 3.a.1. Banks, offshore banking units, quasi-banks, trust entities, non-stock savings and loan associations, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the Bangko Sentral ng Pilipinas (BSP).

(a) A subsidiary means an entity more than fifty percent (50%) of the outstanding voting stock of which is owned by a bank, quasi-bank, trust entity or any other institution supervised or regulated by the BSP.

(b) An affiliate means an entity at least twenty percent (20%) but not exceeding fifty percent (50%) of the voting stock of which is owned by a bank, quasi-bank, trust entity, or any other institution supervised and/or regulated by the BSP.

Rule 3.a.2. Insurance companies, insurance agents, insurance brokers, professional reinsurers, reinsurance brokers, holding companies, holding company systems and all other persons and entities supervised and/or regulated by the Insurance Commission (IC).

(a) An insurance company includes those entities authorized to transact insurance business in the Philippines, whether life or non-life and whether domestic, domestically incorporated or branch of a foreign entity. A contract of insurance is an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event. Transacting insurance business includes making or proposing to make, as insurer, any insurance contract, or as surety, any contract of suretyship as a vocation and not as merely incidental to any other legitimate business or activity of the surety, doing any kind of business specifically recognized as constituting the doing of an insurance business within the meaning of Presidential Decree (P.D.) No. 612, as amended, including a reinsurance business and doing or proposing to do any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of P.D. No. 612, as amended.

(b) An insurance agent includes any person who solicits or obtains insurance on behalf of any insurance company or transmits for a person other than himself an application for a policy or contract of insurance to

or from such company or offers or assumes to act in the negotiation of such insurance.

(c) An insurance broker includes any person who acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risk or taking out insurance, on behalf of an insured other than himself.

(d) A professional reinsurer includes any person, partnership, association or corporation that transacts solely and exclusively reinsurance business in the Philippines, whether domestic, domestically incorporated or a branch of a foreign entity. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

(e) A reinsurance broker includes any person who, not being a duly authorized agent, employee or officer of an insurer in which any reinsurance is effected, acts or aids in any manner in negotiating contracts of reinsurance or placing risks of effecting reinsurance, for any insurance company authorized to do business in the Philippines.

(f) A holding company includes any person who directly or indirectly controls any authorized insurer. A holding company system includes a holding company together with its controlled insurers and controlled persons.

Rule 3.a.3.

(i) Securities dealers, brokers, salesmen, associated persons of brokers or dealers, investment houses, investment agents and consultants, trading advisors, and other entities managing securities or rendering similar services, (ii) mutual funds or open-end investment companies, close-end investment companies, common trust funds, pre-need companies or issuers 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 and/or regulated by the Securities and Exchange Commission (SEC).

(a) A securities broker includes a person engaged in the business of buying and selling securities for the account of others.

(b) A securities dealer includes any person who buys and sells securities for his/her account in the ordinary course of business.

(c) A securities salesman includes a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

(d) An associated person of a broker or dealer includes an employee thereof who directly exercises control or supervisory authority, but does not include a salesman, or an agent or a person whose functions are solely clerical or ministerial.

(e) An investment house includes an enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the underwriting of securities of another person or enterprise, including securities of the Government and its instrumentalities.

(f) A mutual fund or an open-end investment company includes an investment company which is offering for sale or has outstanding, any redeemable security of which it is the issuer.

(g) A closed-end investment company includes an investment company other than open-end investment company.

(h) A common trust fund includes a fund maintained by an entity authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money representing participation in the plan received by it in its capacity as trustee, for the purpose of administration, holding or management of such funds and/or properties for the use, benefit or advantage of the trustor or of others known as beneficiaries.

(i) A pre-need company or issuer includes any corporation supervised and/or regulated by the SEC and is authorized or licensed to sell or offer for sale pre-need plans. Pre-need plans are contracts which provide for the performance of future service(s) or payment of future monetary consideration at the time of actual need, payable either in cash or installment by the planholder at prices stated in the contract with or without interest or insurance coverage and includes life, pension, education, internment and other plans, which the Commission may, from time to time, approve.

(j) A foreign exchange corporation includes any enterprise which engages or purports to engage, whether regularly or on an isolated

basis, in the sale and purchase of foreign currency notes and such other foreign-currency denominated non-bank deposit transactions as may be authorized under its articles of incorporation.

(k) Investment Advisor/Agent/Consultant shall refer to any person:

(1) who for an advisory fee is engaged in the business of advising others, either directly or through circulars, reports, publications or writings, as to the value of any security and as to the advisability of trading in any security; or

(2) who for compensation and as part of a regular business, issues or promulgates, analyzes reports concerning the capital market, except:

- a. any bank or trust company;
- b. any journalist, reporter, columnist, editor, lawyer, accountant, teacher;
- c. the publisher of any bonafide newspaper, news, business or financial publication of general and regular circulation, including their employees;
- d. any contract market;
- e. such other person not within the intent of this definition, provided that the furnishing of such service by the foregoing persons is solely incidental to the conduct of their business or profession.

(3) any person who undertakes the management of portfolio securities of investment companies, including the arrangement of purchases, sales or exchanges of securities.

(l) A moneychanger includes any person in the business of buying or selling foreign currency notes.

(m) A money payment, remittance and transfer company includes any person offering to pay, remit or transfer or transmit money on behalf of any person to another person.

(n) "Customer" refers to any person or entity that keeps an account, or otherwise transacts business, with a covered institution and any person

or entity on whose behalf an account is maintained or a transaction is conducted, as well as the beneficiary of said transactions. A customer also includes the beneficiary of a trust, an investment fund, a pension fund or a company or person whose assets are managed by an asset manager, or a grantor of a trust. It includes any insurance policy holder, whether actual or prospective.

(o) "Property" includes any thing or item of value, real or personal, tangible or intangible, or any interest therein or any benefit, privilege, claim or right with respect thereto.

Rule 3.b.

"Covered Transaction" means:

1. A single transaction involving an 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 where the client is not properly identified and/or the amount is not commensurate with his business or financial capacity.
2. A single transaction involving an 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 which has no underlying legal or trade obligation, purpose, origin, or economic justification.
3. A series or combination of transactions conducted within five (5) consecutive banking days aggregating to a total amount in excess of Four million Philippine pesos (Php4,000,000.00) or an equivalent in foreign currency based on the prevailing exchange rate where the client is not properly identified and/or the amount is not commensurate with his business or financial capacity.
4. A series or combination of transactions conducted within five (5) consecutive banking days aggregating to a total amount in excess of Four Million Philippine Pesos (Php4,000,000.00) or an equivalent in foreign currency based on the prevailing exchange rate exchange rate where most, if not all the transactions, do not have any underlying legal or trade obligation, purpose, origin, or economic justification.
5. A single unusually large and complex transaction in excess of Four Million Philippine Pesos (Php4,000,000.00), especially a cash deposit or investment having no credible purpose or origin, underlying trade obligation or contract, regardless of whether or not the client is properly identified and/or the amount is commensurate with his business or financial capacity.
6. A series, combination or pattern of unusually large and complex transactions

aggregating to, without reference to any period, a total amount in excess of Four Million Philippine Pesos (Php4,000,000.00), especially cash deposits and/or investments having no credible purpose or origin, underlying trade obligation or contract, regardless of whether or not the client is properly identified and/or the amount is commensurate with his business or financial capacity.

Rule 3.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;
- (4) Contracts or policies of insurance, life or non-life, and contracts of suretyship; and
- (5) Other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

Rule 3.d. "Offender" refers to any person who commits a money laundering offense.

Rule 3.e. "Person" refers to any natural or juridical person.

Rule 3.f "Proceeds" refers to an amount derived or realized from an unlawful activity. It includes:

1. All material results, profits, effects and any amount realized from any unlawful activity;
2. All monetary, financial or economic means, devices, documents, papers or things used in or having any relation to any unlawful activity; and
3. All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing, operations, and maintenance of any unlawful activity.

Rule 3.g. "Supervising Authority" refers to the BSP, the SEC and the IC. Where the BSP, SEC or IC supervision applies only to the registration of the covered institution, the BSP, the SEC or the IC, within the limits of the AMLA, shall have the authority to require and ask assistance from the government agency having regulatory power and/or licensing authority over said covered institution for the implementation and enforcement of the AMLA and these Rules.

Rule 3.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.

Rule 3.i. "Unlawful activity" refers to any act or omission or series or combination thereof involving or having relation, to the following:

(A) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

1. Kidnapping for ransom

(B) 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;

2. Importation of prohibited drugs;
3. Sale of prohibited drugs;
4. Administration of prohibited drugs;
5. Delivery of prohibited drugs
6. Distribution of prohibited drugs
7. Transportation of prohibited drugs
8. Maintenance of a Den, Dive or Resort for prohibited users
9. Manufacture of prohibited drugs
10. Possession of prohibited drugs

11. Use of prohibited drugs
12. Cultivation of plants which are sources of prohibited drugs
13. Culture of plants which are sources of prohibited drugs

(C) 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;

14. Directly or indirectly requesting or receiving any gift, present, share, percentage or benefit for himself or for any other person in connection with any contract or transaction between the Government and any party, wherein the public officer in his official capacity has to intervene under the law;
15. Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license, in consideration for the help given or to be given, without prejudice to Section 13 of R.A. 3019;
16. Causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence;
17. Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby;
18. Directly or indirectly having financial or pecuniary interest in any business contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest;
19. Directly or indirectly becoming interested, for personal gain, or having material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercise of discretion in such approval, even if he votes against the same or he does not participate in the action of the board, committee, panel or group.

(D) Plunder under Republic Act No. 7080, as amended;

20. Plunder through misappropriation, conversion, misuse or malversation of public funds or raids upon the public treasury;

21. Plunder by receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
22. Plunder by the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies, instrumentalities or government-owned or controlled corporations or their subsidiaries;
23. Plunder by obtaining, receiving or accepting, directly or indirectly, any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;
24. Plunder by establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests;
25. Plunder by taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the republic of the Philippines.

(E) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the Revised Penal Code, as amended;

26. Robbery with violence or intimidation of persons;
27. Robbery with physical injuries, committed in an uninhabited place and by a band, or with use of firearms on a street, road or alley;
28. Robbery in an uninhabited house or public building or edifice devoted to worship.

(F) Jueteng and Masiao punished as illegal gambling under Presidential Decree No. 1602;

29. Jueteng;
30. Masiao.

(G) Piracy on the high seas under the Revised Penal Code, as amended and Presidential Decree No. 532;

31. Piracy on the high seas;

32. Piracy in inland Philippine waters;

33. Aiding and abetting pirates and brigands.

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

(34) Qualified theft.

(I) Swindling under Article 315 of the Revised Penal Code, as amended;

(35) Estafa with unfaithfulness or abuse of confidence by altering the substance, quality or quantity of anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration;

1. Estafa with unfaithfulness or abuse of confidence by misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;
2. Estafa with unfaithfulness or abuse of confidence by taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or any third person;
3. Estafa by using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits;
4. Estafa by altering the quality, fineness or weight of anything pertaining to his art or business;
5. Estafa by pretending to have bribed any government employee;
6. Estafa by postdating a check, or issuing a check in payment of an obligation when the offender has no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check;
7. Estafa by inducing another, by means of deceit, to sign any document;

8. Estafa by resorting to some fraudulent practice to ensure success in a gambling game;
9. Estafa by removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

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

10. Fraudulent importation of any vehicle;
11. Fraudulent exportation of any vehicle;
12. Assisting in any fraudulent importation;
13. Assisting in any fraudulent exportation;
14. Receiving smuggled article after fraudulent importation;
15. Concealing smuggled article after fraudulent importation;
16. Buying smuggled article after fraudulent importation;
17. Selling smuggled article after fraudulent importation;
18. Transportation of smuggled article after fraudulent importation;
19. Fraudulent practices against customs revenue.

(K) Violations under Republic Act No. 8792, otherwise known as the Electronic Commerce Act of 2000;

K.1. Hacking or cracking, which refers to:

20. unauthorized access into or interference in a computer system/server or information and communication system; or

21. any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system, including
22. the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic document;

K.2. Piracy, which refers to:

23. the unauthorized copying, reproduction,
24. the unauthorized dissemination, distribution,
25. the unauthorized importation,
26. the unauthorized use, removal, alteration, substitution, modification,
27. the unauthorized storage, uploading, downloading, communication, making available to the public, or
28. the unauthorized broadcasting,

of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights;

K.3. Violations of the Consumer Act or Republic Act No. 7394 and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents:

29. Sale of any consumer product that is not in conformity with standards under the Consumer Act;
30. Sale of any product that has been banned by a rule under the Consumer Act;
31. Sale of any adulterated or mislabeled product using electronic documents;
32. Adulteration or misbranding of any consumer product;
33. Forging, counterfeiting or simulating any mark, stamp, tag, label or other identification device;

34. Revealing trade secrets;
35. Alteration or removal of the labeling of any drug or device held for sale;
36. Sale of any drug or device not registered in accordance with the provisions of the E-Commerce Act;
37. Sale of any drug or device by any person not licensed in accordance with the provisions of the E-Commerce Act;
38. Sale of any drug or device beyond its expiration date;
39. Introduction into commerce of any mislabeled or banned hazardous substance;
40. Alteration or removal of the labeling of a hazardous substance;
41. Deceptive sales acts and practices;
42. Unfair or unconscionable sales acts and practices;
43. Fraudulent practices relative to weights and measures;
44. False representations in advertisements as the existence of a warranty or guarantee;
45. Violation of price tag requirements;

46. Mislabeled consumer products;
47. False, deceptive or misleading advertisements;
48. Violation of required disclosures on consumer loans;
49. Other violations of the provisions of the E-Commerce Act;

- (L) 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;**

50. Hijacking;

51. Destructive arson;
52. Murder;
53. Hijacking, destructive arson or murder perpetrated by terrorists against non-combatant persons and similar targets;

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

54. Sale, offer or distribution of securities within the Philippines without a registration statement duly filed with and approved by the SEC;
55. Sale or offer to the public of any pre-need plan not in accordance with the rules and regulations which the SEC shall prescribe;
56. Violation of reportorial requirements imposed upon issuers of securities;
57. Manipulation of security prices by creating a false or misleading appearance of active trading in any listed security traded in an Exchange or any other trading market;
58. Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that raises their prices to induce the purchase of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;
59. Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that depresses their price to induce the sale of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;
60. Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that creates active trading to induce such a purchase or sale through manipulative devices such as marking the close, painting the tape, squeezing the float, hype and dump, boiler room operations and such other similar devices;
61. Manipulation of security prices by circulating or disseminating information that the price of any security listed in an Exchange will or is likely to rise or fall because of manipulative market operations of any one or more persons conducted for the purpose of raising or depressing the price of the security for the purpose of inducing the purchase or sale of such security;
62. Manipulation of security prices by making false or misleading statements with respect

to any material fact, which he knew or had reasonable ground to believe was so false and misleading, for the purpose of inducing the purchase or sale of any security listed or traded in an Exchange;

63. Manipulation of security prices by effecting, alone or with others, any series of transactions for the purchase and/or sale of any security traded in an Exchange for the purpose of pegging, fixing or stabilizing the price of such security, unless otherwise allowed by the Securities Regulation Code or by the rules of the SEC;
64. Sale or purchase of any security using any manipulative deceptive device or contrivance;
65. Execution of short sales or stop-loss order in connection with the purchase or sale of any security not in accordance with such rules and regulations as the SEC may prescribe as necessary and appropriate in the public interest or the protection of the investors;
66. Employment of any device, scheme or artifice to defraud in connection with the purchase and sale of any securities;
67. Obtaining money or property in connection with the purchase and sale of any security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;
68. Engaging in any act, transaction, practice or course of action in the sale and purchase of any security which operates or would operate as a fraud or deceit upon any person;
69. Insider trading;
70. Engaging in the business of buying and selling securities in the Philippines as a broker or dealer, or acting as a salesman, or an associated person of any broker or dealer without any registration from the Commission;
71. Employment by a broker or dealer of any salesman or associated person or by an issuer of any salesman, not registered with the SEC;
72. Effecting any transaction in any security, or reporting such transaction, in an Exchange or using the facility of an Exchange which is not registered with the SEC;
73. Making use of the facility of a clearing agency which is not registered with the SEC;

74. Violations of margin requirements;
75. Violations on the restrictions on borrowings by members, brokers and dealers;
76. Aiding and Abetting in any violations of the Securities Regulation Code;
77. Hindering, obstructing or delaying the filing of any document required under the Securities Regulation Code or the rules and regulations of the SEC;
78. Violations of any of the provisions of the implementing rules and regulations of the SEC;
79. Any other violations of any of the provisions of the Securities Regulation Code.

(N) Felonies or offenses of a similar nature to the afore-mentioned unlawful activities that are punishable under the penal laws of other countries.

In determining whether or not a felony or offense punishable under the penal laws of other countries, is "of a similar nature", as to constitute the same as an unlawful activity under the AMLA, the nomenclature of said felony or offense need not be identical to any of the predicate crimes listed under Rule 3.i.

RULE 4

Money Laundering Offense

Rule 4.1.

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.

RULE 5

Jurisdiction over Money Laundering Cases and The Money Laundering Investigation Procedures

Rule 5.1. Jurisdiction over Money Laundering

Cases . - The Regional Trial Courts shall have the 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.

Rule 5.2. Investigation of Money Laundering Offenses

. - The AMLC shall initiate the investigation of covered transactions, money laundering activities and other violations of this Act, pursuant to Section 7 (5) of the AMLA, under any of the following circumstances:

- a. On the basis of a mandatory filing of a covered transaction report, pursuant to Section 9 (c) of the AMLA, where the covered institution reports a transaction in excess of Four Million Pesos (Php4,000,000.00) or an equivalent amount in foreign currency based on the prevailing exchange rate, and
 - i. The person involved in the transaction was not a properly identified client; and
 - ii. The amount is not commensurate with the business or financial capacity of the client;
or
 - iii. There was no underlying legal or trade obligation, purpose, origin or economic

justification.

- b. On the basis of a mandatory filing of a covered transaction report, pursuant to Section 9 (c) of the AMLA, where the covered institution reports a transaction in excess of Four Million Pesos (Php4,000,000.00) or an equivalent amount in foreign currency based on the prevailing exchange rate, in a single, series or combination or pattern of unusually large and complex transaction, especially cash deposits and investments having no credible purpose or origin, underlying trade obligation or contract.

- c. On the basis of any report on any suspicious transaction, where the covered institution has reasonable ground to believe that any money laundering activities or any money laundering offense or any violation of this Act under Section 4 and Section 7(5) of the AMLA and defined under Rule 4 of these Rules is about to be, is being or has been committed.

Rule 5.3. Suspicious Transactions

. - As may be directed by the AMLC and/or in the exercise of their supervisory and/or regulatory powers over covered institutions under their respective jurisdictions, supervising authorities may require all suspicious transactions with covered institutions, irrespective of the amounts involved, to be reported to the AMLC when there is reasonable belief that any money laundering activity or any money laundering offense or any violation of this Act under Section 4 and Section 7 (5) is about to be, is being or has been committed.

Administrative sanctions for non-compliance with such suspicious transaction reporting requirements may be imposed by supervising authorities as authorized under their respective charters.

Rule 5.4. Attempts at Transactions

. Section 4 (a) and (b) of the AMLA provides that any person who attempts to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity shall be prosecuted for a money laundering offense. Accordingly, the reports required under Rule 9.3 (a) and (b) of these Rules shall include those pertaining to any attempt by any person to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity.

RULE 6

Prosecution of Money Laundering

Rule 6.1. Prosecution of Money Laundering. -

Rule 6.1.a. Any person may be charged with and convicted of both the offense of money laundering and the unlawful activity as defined under Rule 3 (i) of the AMLA.

Rule 6.1.b . Any proceeding relating to the unlawful activity shall be given precedence over the prosecution of any offense or violation under the AMLA without prejudice to the issuance by the AMLC of a freeze order with respect to the deposit, investment or similar account involved therein and resort to other remedies provided under the AMLA.

Rule 6.2. When the AMLC finds, after investigation, that there is probable cause to charge any person with a money laundering offense under Section 4 of the AMLA, it shall cause a complaint to be filed, pursuant to Section 7 (4) of the AMLA, before the Department of Justice or the Ombudsman, which shall then conduct the preliminary investigation of the case.

Rule 6.3. After due notice and hearing in the preliminary investigation proceedings before the Department of Justice, or the Ombudsman, as the case may be, and the latter should find probable cause of a money laundering offense, it shall file the necessary information before the Regional Trial Courts or the Sandiganbayan.

Rule 6.4. Trial for the money laundering offense shall proceed in accordance with the Code of Criminal Procedure or the Rules of Procedure of the Sandiganbayan, as the case may be.

Rule 6.5. Knowledge of the offender that any monetary instrument or property represents, involves, or relates to the proceeds of an unlawful activity or that any monetary instrument or property is required under the AMLA to be disclosed and filed with the AMLC, may be established by direct evidence or inferred from the attendant circumstances.

Rule 6.6. All the elements of every money laundering offense under Section 4 of the AMLA must be proved by evidence beyond reasonable doubt, including the element of knowledge that the monetary instrument or property represents, involves or relates to the proceeds of any unlawful activity.

Rule 6.7. No element of the unlawful activity, however, including the identity of the perpetrators and the details of the actual commission of the unlawful activity need be established by proof beyond reasonable doubt. The elements of the offense of money laundering are separate and distinct from the elements of the felony or offense constituting the unlawful activity.

RULE 7

Creation of Anti-Money Laundering Council (AMLC)

Rule 7.1.a. Composition

. - 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.

Rule 7.1.b. Unanimous

Decision

. - The AMLC shall act unanimously in discharging its functions as

defined in the AMLA and in these Rules. However, in the case of the incapacity, absence or disability of any member to discharge his functions, the officer duly designated or authorized to discharge the functions of the Governor of the BSP, the Chairman of the SEC or the Insurance Commissioner, as the case may be, shall act in his stead in the AMLC.

Rule 7.2.

Functions.

- The functions of the

AMLC are 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, suspicious transaction report as defined under Rule 5.3 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, suspicious 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 inherent, necessary, implied, incidental and justified under the AMLA to counteract money laundering. Subject to such limitations as provided for by law, the AMLC is authorized under Rule 7 (7) of the AMLA to establish an information sharing system that will enable the AMLC to store, track and analyze money laundering transactions for the resolute prevention, detection and investigation of money laundering offenses. For this purpose, the AMLC shall install a computerized system that will be used in the creation and maintenance of an information database;

(8) to receive and take action in respect of any request from foreign states for assistance in their own anti-money laundering operations as provided in the AMLA. The AMLC is authorized under Sections 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations, in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provisions of the Constitution, or the execution thereof is likely to prejudice the national interest of the Philippines.

(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.

(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. The AMLC may require the intelligence units of the Armed Forces of the Philippines, the Philippine National Police, the Department of Finance, the Department of Justice, as well as their attached agencies, and other domestic or transnational governmental or non-governmental organizations or groups to divulge to the AMLC all information that may, in any way, facilitate the resolute prevention, investigation and prosecution of money laundering offenses and other violations of the AMLA.

Rule 7.3. Meetings.

- The AMLC shall meet every first Monday of the month, or as often as may be necessary at the call of the Chairman.

RULE 8

Creation of a Secretariat

Rule 8.1.

The Executive

Director . - The Secretariat shall be headed by an Executive Director who shall be appointed by the AMLC for a term of five (5) years. He must be a member of the Philippine Bar,

at least thirty-five (35) years of age, must have served at least five (5) years either at the BSP, the SEC or the IC and of good moral character, unquestionable integrity and known probity. He shall be considered a regular employee of the BSP with the rank of Assistant Governor, and shall be entitled to such benefits and subject to such rules and regulations, as well as prohibitions, as are applicable to officers of similar rank.

Rule 8.2. Composition. - In organizing the Secretariat, the AMLC may choose from those who have served, continuously or cumulatively, for at least five (5) years in the BSP, the SEC or the IC. All members of the Secretariat shall be considered regular

employees of the BSP and shall be entitled to such benefits and subject to such rules and regulations as are applicable to BSP employees of similar rank.

Rule 8.3. Detail and Secondment. - The AMLC is authorized under Section 7 (10) of the AMLA to enlist the assistance of the BSP, the SEC or the IC, or any other 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. This includes the use of any member of their personnel who may be detailed or seconded to the AMLC, subject to existing laws and Civil Service Rules and Regulations. Detailed personnel shall continue to receive their salaries, benefits and emoluments from their respective mother units. Seconded personnel shall receive, in lieu of their respective compensation packages from their respective mother units, the salaries, emoluments and all other benefits to which their AMLC Secretariat positions are entitled to.

Rule 8.4. Confidentiality Provisions. - The members of the AMLC, the Executive Director, and all the members of the Secretariat, whether permanent, on detail or on secondment, shall not reveal, in any manner, any information known to them by reason of their office. This prohibition shall apply even after their separation from the AMLA. In case of violation of this provision, the person shall be punished in accordance with the pertinent provisions of the Central Bank Act.

RULE 9

Prevention of Money Laundering;

Customer Identification Requirements and Record Keeping

*Rule 9.1.
Identification Requirements*

Customer

*Rule 9.1.a.
Identification*

Customer

. - 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. Covered institutions shall establish appropriate systems and methods based on internationally compliant standards and adequate internal controls for verifying and recording the true and full identity of their customers.

For this purpose, they shall develop clear customer acceptance policies and procedures when conducting business relations or specific transactions, such as, but not limited to, opening deposit accounts, accepting deposit substitutes, entering into trust and other fiduciary transactions, renting safety deposit boxes, performing remittances and other large cash transactions.

*Rule 9.1.b.
Nominee and Agent
Accounts.*

Trustee,

- When dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, covered institutions shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted. Covered institutions shall also establish and record the true and full identity of such trustees, nominees, agents and other persons and the nature of their capacity and duties. In case a covered institution has doubts as to whether such persons are being used as dummies in circumvention of existing laws, it shall immediately make the necessary inquiries to verify the status of the business relationship between the parties.

*Rule 9.1.c.
Information/Documents
Required for Individual
Customers
original*

Minimum

. - Covered institutions shall require customers to produce

documents of identity issued by an official authority, bearing a photograph of the customer. Examples of such documents are identity cards and passports. The following minimum information/documents shall be obtained from individual customers:

1. Name;
2. Present address;
3. Permanent address;

4. Date and place of birth;
5. Nationality;
6. Nature of work and name of employer or nature of self-employment/business;
7. Contact numbers;
8. Tax identification number, Social Security System number or Government Service and Insurance System number;
9. Specimen signature;
10. Source of fund(s); and
11. Names of beneficiaries in case of insurance contracts and whenever applicable.

*Rule 9.1.d.
Information/Documents
Required for Corporate
and Juridical Entities*

Minimum

. - Before establishing business relationships, covered institutions shall endeavor to ensure that the customer is a corporate or juridical entity which has not been or is not in the process of being, dissolved, wound up or voided, or that its business or operations has not been or is not in the process of being, closed, shut down, phased out, or terminated. Dealings with shell companies and corporations, being legal entities which have no business substance in their own right but through which financial transactions may be conducted, should be undertaken with extreme caution. The following minimum information/documents shall be obtained from customers that are corporate or juridical entities, including shell companies and corporations:

1. Articles of Incorporation/Partnership;
2. By-laws;
3. Official address or principal business address;
4. List of directors/partners;
5. List of principal stockholders owning at least two percent (2%) of the capital stock;
6. Contact numbers;
7. Beneficial owners, if any; and

8. Verification of the authority and identification of the person purporting to act on behalf of the client.

*Rule 9.1.e.
against Certain Accounts*

Prohibition

Covered institutions shall maintain accounts only in the true and full name of the account owner or holder. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited.

*Rule 9.1.f. Prohibition
against opening of
Accounts without Face-to-
face Contact*

. - No new accounts shall be opened and created without face-to-face contact and full compliance with the requirements under Rule 9.1.c of these Rules.

*Rule 9.1.g.
Accounts. -*

Numbered

Peso and foreign currency non-checking numbered accounts shall be allowed: *Provided,* That the true identity of the customers of all peso and foreign currency non-checking numbered accounts are satisfactorily established based on official and other reliable documents and records, and that the information and documents required under the provisions of these Rules are obtained and recorded by the covered institution. No peso and foreign currency non-checking

accounts shall be allowed without the establishment of such identity and in the manner herein provided. The BSP may conduct annual testing for the purpose of determining the existence and true identity of the owners of such accounts. The SEC and the IC may conduct similar testing more often than once a year and covering such other related purposes as may be allowed under their respective charters.

*Rule 9.2. Record Keeping
Requirements.*

*Rule 9.2.a.
Keeping: Kinds of Records
and Period for Retention.*

Record

All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. Said records and files shall contain the full and true identity of the owners or holders of the accounts involved in the covered transactions and all other customer identification documents. Covered institutions shall undertake the necessary adequate security measures to ensure the confidentiality of such file. Covered institutions shall prepare and maintain documentation, in accordance with the aforementioned client identification requirements, on their customer accounts, relationships and transactions such that any account, relationship or transaction can be so reconstructed as to enable the AMLC, and/or the courts to establish an audit

trail for money laundering.

Rule 9.2.b.

Existing and

New Accounts and New Transactions.

- All records of existing and new accounts and of new transactions shall be maintained and safely stored for five (5) years from October 17, 2001 or from the dates of the accounts or transactions, whichever is later.

Rule 9.2.c. Closed

Accounts.

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.

Rule 9.2.d.

Retention of

Records in Case a Money Laundering Case has been Filed in Court.

- If a money laundering case based on any record kept by the covered institution concerned has been filed in court, said file must be retained beyond the period stipulated in the three (3) immediately preceding sub-Rules, as the case may be, until it is confirmed that the case has been finally resolved or terminated by the court.

Rule 9.2.e.

Form of

Records.

- Records shall be retained as originals in such forms as are admissible in court pursuant to existing laws and the applicable rules promulgated by the Supreme Court.

Rule 9.3. Reporting of Covered Transactions.

Rule 9.3.a. Covered

Transaction Report Form

. - The Covered Transaction Report (CTR) shall be in the form prescribed by the appropriate supervising authority and approved by the AMLC. It shall be signed by the employee(s) who dealt directly with the customer in the transaction and/or who made the initial internal report within the covered institution, the compliance officer or his equivalent, and a senior official of the covered institution with a rank not lower than senior vice-president. The CTR shall be filed with the AMLC in a central location, to be determined by the AMLC, as indicated in the instructions on the CTR form.

Rule 9.3.b.

Period of

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.

*Rule 9.3.c.
from Bank Secrecy Laws.*

Exemption

– When

reporting covered transactions to the AMLC, banks and their officers, employees, representatives, agents, advisors, consultants or associates shall not be deemed to have violated R.A. No. 1405, as amended, R.A. No. 6426, as amended, R.A. No. 8791 and other similar laws.

*Rule 9.3.d.
Confidentiality Provisions*

When reporting covered transactions or suspicious 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, or 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 hereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

*Rule 9.3.e.
Provisions*

Safe Harbor

– No administrative, criminal or civil proceedings shall lie against any covered institution, their personnel, directors or officers or any person for having made a covered transaction report or a suspicious 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.

RULE 10

Authority to Freeze Accounts

*Rule 10.1. When a Freeze
Order may be Issued by
the AMLC.*

Rule 10.1.a. The AMLC is authorized under Sections 7 (6) and 10 of the AMLA to freeze any account or any monetary instrument or property subject thereof, irrespective of the amount or value involved, upon determination that probable cause exists that the same is in any way related to any unlawful activity and/or money laundering offense. The AMLC may issue a freeze order on any account or any monetary instrument or property subject thereof prior to the institution, or in the course of, the criminal proceedings involving the unlawful activity and/or money laundering offense to which said account, monetary instrument or property is any way related.

Rule 10.1.b. The freeze order on such account shall be effective immediately for a period not exceeding fifteen (15) days.

Rule 10.2. Definition of Probable Cause. - Probable cause includes such facts and circumstances which would lead a reasonably discreet, prudent or cautious man to believe that an unlawful activity and/or a money laundering offense is about to be, is being or has been committed and that the account or any monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.

Rule 10.3. Remedy when AMLC is Unable to Secure Addresses of Account Owners/holders. - If, after exercising diligence in obtaining the addresses of the owners or holders of the accounts sought to be frozen, the AMLC is not able to secure said addresses, and there is extreme urgency necessitating the immediate issuance of the freeze orders, the covered institution concerned shall, upon request of the AMLC, supply the needed addresses based on their updated records. If, notwithstanding this procedure, the needed addresses cannot be obtained, service of the freeze order on the owners or holders of the subject accounts shall be deemed made upon notice by the bank on them that their accounts have been frozen in accordance with the order of the AMLC.

Rule 10.4. Procedure for Service of Freeze Order and Duty of Covered Institution upon Receipt Thereof . -

Rule 10.4.a. The AMLC shall serve notice of the freeze order upon the covered institution concerned and the owner or holder of the account, simultaneously with the issuance thereof.

Rule 10.4.b. Upon receipt of the notice of the freeze order, the covered institution concerned shall immediately freeze the account and the monetary instrument or property subject thereof.

Rule 10.4.c. Within twenty-four (24) hours from receipt of the freeze order, the covered institution concerned shall submit to the AMLC, by personal delivery, a detailed written return on the freeze order, specifying the account number, name of the account owner or holder, the balance of the account as of the time it was frozen, and the time when the freeze thereon was effectuated.

Rule 10.4.d. The return shall likewise include the information on the web of subsequent accounts whose funds originate from the account(s) subject

to the freeze order(s).

Rule 10.4.e. Considering the intricate and diverse web of related and interlocking accounts that any person may open or create in the different covered institutions, their branches and/or other units, the AMLC may order the freezing, not only of the accounts in the names of the reported account owner(s)/holder(s), or accounts under the account numbers indicated in the freeze orders and/or resolution of the AMLC directing the issuance thereof, but also all other subsequent accounts whose funds originate from the account(s) subject to the freeze order(s).

Rule 10.5. Notice to Account Owner/Holder. - The owner/holder of the account or depositor so notified shall have a non-extendible period of seventy-two (72) hours upon receipt of the notice to explain why the freeze order should be lifted. Such explanation shall be in writing and verified. Failure of the owner or holder of the account to file such verified explanation shall be deemed a waiver of his right to question the freeze order.

Rule 10.6. Filing and Service of Pleadings. -

10.6.a. When to file. - In computing any period of time prescribed or allowed by these Rules, if the last day of the period falls on a Saturday, a Sunday or a legal holiday, the time shall not run until the next working day.

10.6.b. Personal Service . - Service of pleadings shall be made by delivering personally a copy to the party/ies involved or his/their counsel, or by leaving it in his office with his clerk or with a person having charge thereof. If no person is found in his office, or his office is not known, or he has no office, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion then residing therein.

Rule 10.7. Procedure for Determination of whether Freeze Order should be Lifted. -

The AMLC shall have 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. However, the covered institution shall not lift the effects of the freeze order without securing official confirmation from the AMLC. Before the fifteen (15)-day period expires, the AMLC may apply in court for an extension of said period. Upon the timely filing of such

application and pending the decision of the court to extend the period, said period shall be

suspended and the freeze order shall remain effective.

Rule 10.8. Violation of Procedures

. - Any violation of any of the foregoing procedures shall constitute an unsafe and unsound business practice that may justify administrative sanctions to be imposed by supervising authorities on the covered institutions under their respective jurisdictions.

Rule 10.9. Prohibition against Issuance of Temporary Restraining Orders

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

Rule 10.10. Prohibition against Issuance of Freeze Orders against Candidates for an Electoral Office during Election Period

. - No assets shall be frozen to the prejudice of a candidate for an electoral office during an election period.

RULE 11.

Authority to Inquire into Bank Deposits.

Rule 11.1. 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 has been established that there is probable cause that the deposits or investments involved are in any way related to a money laundering offense.

Rule 11.2.

The AMLC may file the application for authority to inquire into or examine any particular deposit or investment of any banking institution or non-bank financial institution in court, regardless of the amount involved, prior to the institution or in the course of, the criminal proceedings involving the unlawful activity and/or money laundering offense to which said bank deposit or investment is in any way related. For purposes of this Rule, probable cause includes such facts and circumstances which would lead a reasonably discreet, prudent or cautious man to believe that an unlawful activity and/or a money laundering offense is about to

be, is being or has been committed and that the bank deposit or investment sought to be inquired into or examined is in any way related to said unlawful activity and/or money laundering offense.

Rule 11.2.a . Pursuant to Section 7 (2) of the AMLA, the AMLC may issue orders addressed to the BSP 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.

Rule 11.2.b . Pursuant to Section 7 (2) of the AMLA and considering that no secrecy law applies to transactions with covered institutions under the jurisdiction of the SEC and the IC, the AMLC may issue orders addressed to the SEC or IC or the covered institution to make any kind of determination or inquiry or to require any kind of disclosure regarding 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.

Rule 11.3. Limitation on Authority to Inquire into Bank Deposits

. - The provisions of Section 11 of the AMLA and Rule 11 of these Rules shall not apply to deposits and investments that were opened or created prior to the effectivity of the AMLA on October 17, 2001. Hence, no covered transaction reports, investigation and prosecution of money laundering cases, or any other action authorized under the AMLA, may be undertaken with respect to such deposits and investments as well as transactions or circumstances in relation thereto, that have been completed prior to October 17, 2001. However, the AMLA and these Rules shall apply to all transactions occurring, initiated or commenced on or after October 17, 2001, although said transactions relate to or involve deposit accounts and investment accounts opened or created prior to October 17, 2001.

RULE 12

Forfeiture Provisions

Rule 12.1. Institute Civil

Authority to

Forfeiture Proceedings.

The AMLC is authorized under Section 7 (3) of the AMLA to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General.

Rule 12.2. When Civil Forfeiture may be Applied.

When there is a covered transaction report made pursuant to Section 9 (c) or a suspicious transaction report made pursuant to Section 7 (5) and the court has, in a petition filed for the purpose, ordered the seizure of any monetary instrument or property, in whole or in part, directly or indirectly, related to said report, the Revised Rules of Court on civil forfeiture shall apply.

Rule 12.3. 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 under Section 4 of the AMLA, 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 conviction and order of forfeiture within fifteen (15) days from the date 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.

Rule 12.4. 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 under Section 4 of the AMLA, 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.

RULE 13

Mutual Assistance among States

Rule 13.1. Request for Assistance from a Foreign State

. - Where a foreign state makes a request for assistance in the investigation or prosecution of a money laundering offense, the AMLC may execute the request or refuse to execute the same and inform the foreign state of any valid reason for not executing the request or for delaying the execution thereof. The principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.

Rule 13.2. Powers of the AMLC to Act on a Request for Assistance from a Foreign State

. - The AMLC may execute a request for assistance from a foreign state by: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity under the procedures laid down in the AMLA and in these Rules; (2) giving information needed by the foreign state within the procedures laid down in the AMLA and in these Rules; and (3) applying for an order of forfeiture of any monetary instrument or property in the court: *Provided*, That the court shall not issue such an order unless the application is accompanied by an authenticated copy of the order of a court in the requesting state ordering the forfeiture of said monetary instrument or property of a person who has been convicted of a money laundering offense in the requesting state, and a certification or an affidavit of a competent officer of the requesting state stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.3. Obtaining Assistance from Foreign States

. - The AMLC may make a request to any foreign state for assistance in (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity; (2) obtaining information that it needs relating to any covered transaction, money laundering offense or any other matter directly or indirectly related thereto; (3) to the extent allowed by the law of the foreign state, applying with the proper court therein for an order to enter any premises belonging to or in the possession or control of, any or all of the persons named in said request, and/or search any or all such persons named therein and/or remove any document, material or object named in said request: *Provided*, That the documents accompanying the request in support of the application have been duly authenticated in accordance with the applicable law or regulation of the foreign state; and (4) applying for an order of forfeiture of any monetary instrument or property in the proper court in the foreign state: *Provided*, That the request is accompanied by an authenticated copy of the order of the Regional Trial Court ordering the forfeiture of said monetary instrument or property of a convicted offender and an affidavit of the clerk of court stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.4. Limitations on

Requests for Mutual Assistance

. - The AMLC may refuse to comply with any request for assistance where the action sought by the request contravenes any provision of the Constitution or the execution of a request is likely to prejudice the national interest of the Philippines, unless there is a treaty between the Philippines and the requesting state relating to the provision of assistance in relation to money laundering offenses.

*Rule 13.5.
for Requests for Mutual Assistance from Foreign States*

Requirements

. - A request for mutual assistance from a foreign state must (1) confirm that an investigation or prosecution is being conducted in respect of a money launderer named therein or that he has been convicted of any money laundering offense; (2) state the grounds on which any person is being investigated or prosecuted for money laundering or the details of his conviction; (3) give sufficient particulars as to the identity of said person; (4) give particulars sufficient to identify any covered institution believed to have any information, document, material or object which may be of assistance to the

investigation or prosecution; (5) ask from the covered institution concerned any information, document, material or object which may be of assistance to the investigation or prosecution; (6) specify the manner in which and to whom said information, document, material or object obtained pursuant to said request, is to be produced; (7) give all the particulars necessary for the issuance by the court in the requested state of the writs, orders or processes needed by the requesting state; and (8) contain such other information as may assist in the execution of the request.

*Rule 13.1.6.
Authentication of Documents*

. - For purposes of Section 13 (f) of the AMLA and Section 7 of the AMLA, a document is authenticated if the same is signed or certified by a judge, magistrate or equivalent officer in or of, the requesting state, and authenticated by the oath or affirmation of a witness or sealed with an official or public seal of a minister, secretary of state, or officer in or of, the government of the requesting state, or of the person administering the government or a department of the requesting territory, protectorate or colony. The certificate of authentication may also be made by a secretary of the embassy or legation, consul general, consul, vice consul, consular agent or any officer in the foreign service of the Philippines stationed in the foreign state in which the record is kept, and authenticated by the seal of his office.

*Rule 13.7.
Application of the Revised Rules of Court.*

Suppletory

Rule 13.7.1. For attachment of Philippine properties in the name of persons convicted of any unlawful activity as defined in Section 3 (i) of the AMLA,

execution and satisfaction of final judgments of forfeiture, application for examination of witnesses, procuring search warrants, production of bank documents and other materials and all other actions not specified in the AMLA and these Rules, and assistance for any of the aforementioned actions, which is subject of a request by a foreign state, resort may be had to the proceedings pertinent thereto under the Revised Rules of Court.

*Rule 13.7.2.
to Assist the United
Nations and other
International
Organizations and Foreign
States*

Authority

– The AMLC is authorized under Section 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations. It is also authorized under Section 7 (7) of the AMLA to cooperate with the National Government and/or take appropriate action in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provision of the Constitution or the execution thereof is likely to prejudice the national interest of the Philippines.

*Rule 13.1.8.
Extradition*

– The Philippines shall negotiate for the inclusion of money laundering offenses as defined under Section 4 of the AMLA among the extraditable offenses in all future treaties. With respect, however, to the state parties that are signatories to the United Nations Convention Against Transnational Organized Crime that was ratified by the Philippine Senate on October 22, 2001, money laundering is deemed to be included as an extraditable offense in any extradition treaty existing between said state parties, and the Philippines shall include money laundering as an extraditable offense in every extradition treaty that may be concluded between the Philippines and any of said state parties in the future.

RULE 14

Penal Provisions

*Rule 14.1. Penalties for
the Crime of Money
Laundering.*

*Rule 14.1.a. Penalties
under Section 4 (a) of
the AMLA*

. - 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) of the AMLA.

Rule 14.1.b. Penalties under Section 4 (b) of the AMLA

- 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 (b) of the AMLA.

Rule 14.1.c. Penalties under Section 4 (c) of the AMLA.

- 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 Section 4(c) of the AMLA.

Rule 14.2. Penalties for Failure to Keep Records under Section 9 (b) of the AMLA.

- The penalty of imprisonment from six (6) months to one (1) year 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 Section 9 (b) of the AMLA.

Rule 14.3. Penalties for Malicious Reporting

- Any person who, with malice, or in bad faith, reports or files a completely unwarranted or false information relative to money laundering transaction against any person shall be subject to a penalty of six (6) months to four (4) years imprisonment and 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), at the discretion of the court: *Provided,* That the offender is not entitled to avail the benefits of the Probation Law.

Rule 14.4. Where Offender is a Juridical Person

- If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer

perpetual or temporary absolute disqualification from office, as the case may be.

*Rule 14.5. Refusal by a
Public Official or
Employee to Testify*

. - Any public official or employee who is called upon to testify and refuses to do the same or purposely fails to testify shall suffer the same penalties prescribed herein.

*Rule 14.6. Penalties for
Breach of Confidentiality*

. - The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than Five Hundred Thousand Philippine Pesos (Php500,000.00) but not more than One Million Philippine Pesos (Php 1,000,000.00), shall be imposed on a person convicted for a violation under Section 9(c) of the AMLA.

RULE 15

System of Incentives and Rewards

*Rule 15.1. Authority to
Establish System of
Incentives and Rewards.*

– The AMLC is authorized under Section 15 of the AMLA to establish a system of special incentives and rewards to be given to the appropriate government agency and its personnel that led and initiated the investigation, prosecution, and conviction of persons involved in money laundering offenses under Section 4 of the AMLA.

*Rule 15.2. Establishment
of System of Incentives
and Rewards for Covered
Institutions and their
Personnel*

- Pursuant to its powers under Section 7 (7) of the AMLA, the AMLC shall establish a system of special incentives and rewards to be given to the appropriate covered institutions and their personnel that led to the investigation, prosecution, and conviction of persons involved in money laundering offenses under Section 4 of the AMLA.

RULE 16

Prohibitions Against Political Harassment

Rule 16.1 . Prohibition

*against Political
Persecution.*

– The AMLA and these Rules shall not be used for political persecution or harassment or as an instrument to hamper competition in trade and commerce. No case for money laundering may be filed to the prejudice of a candidate for an electoral office during an election period.

*Rule 16.2. Provisional
Remedies Application;
Exception*

Rule 16.2.a . - The AMLC may apply, in the course of the criminal proceedings, for provisional remedies to prevent the monetary instrument or property subject thereof from being removed, concealed, converted, commingled with other property or otherwise to prevent its being found or taken by the applicant or otherwise placed or taken beyond the jurisdiction of the court. However, no assets shall be attached to the prejudice of a candidate for an electoral office during an election period.

Rule 16.2.b . Where there is conviction for money laundering under Section 4 of the AMLA, the court shall issue a judgment of forfeiture in favor of the Government of the Philippines with respect to the monetary instrument or property found to be proceeds of one or more unlawful activities. However, no assets shall be forfeited to the prejudice of a candidate for an electoral office during an election period.

RULE 17

Restitution

Rule 17. Restitution. -
Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

RULE 18

Implementing Rules and Regulations and Money Laundering Prevention Programs

*Rule 18.1.
Rules and Regulation*

Implementing

s. –

Rule 18.1.a. Within thirty (30) days from the effectivity of these Rules, the BSP, the IC and the SEC shall promulgate the Implementing Rules and Regulations of the

AMLA, which shall be submitted to the Congressional Oversight Committee for approval.

Rule 18.1.b . The Supervising Authorities, the BSP, the SEC and the IC shall, under their own respective charters and regulatory authority, issue their Guidelines and Circulars on anti-money laundering to effectively implement the provisions of the AMLA.

Rule 18.2. *Money*
Laundering Prevention
Programs. —

Rule 18.2.a . Covered institutions shall formulate their respective money laundering prevention programs in accordance with Section 9 and other pertinent provisions of the AMLA and these Rules, including, but not limited to, information dissemination on money laundering activities and their prevention, detection and reporting, and the training of responsible officers and personnel of covered institutions, subject to such guidelines as may be prescribed by their respective supervising authority. Every covered institution shall submit its own money laundering program to the supervising authority concerned within the non-extendible period that the supervising authority has imposed in the exercise of its regulatory powers under its own charter.

Rule 18.2.b. Every money laundering program shall establish detailed procedures implementing a comprehensive, institution-wide "know-your-client" policy, set-up an effective dissemination of information on money laundering activities and their prevention, detection and reporting, adopt internal policies, procedures and controls, designate compliance officers at management level, institute adequate screening and recruitment procedures, and set-up an audit function to test the system.

Rule 18.2.c. Covered institutions shall adopt, as part of their money laundering programs, a system of flagging and monitoring transactions that qualify as suspicious transactions, regardless of amount or covered transactions involving amounts below the threshold to facilitate the process of aggregating them for purposes of future reporting of such transactions to the AMLC when their aggregated amounts breach the threshold. All covered institutions, including banks insofar as non-deposit and non-government bond investment transactions are concerned, shall incorporate in their money laundering programs the provisions of these Rules and such other guidelines for reporting to the AMLC of all transactions that engender the reasonable belief that a money laundering offense is about to be, is being, or has been committed.

Rule 18.2.

Personnel.

Training of

- Covered institutions shall provide all their responsible officers and personnel with efficient and effective training and continuing education programs to enable them to fully comply with all their obligations under the AMLA and these Rules.

Rule 18.3. Amendments

These Rules or any portion thereof may be amended by unanimous vote of the members of the AMLC and submitted to the Congressional Oversight Committee as provided for under Section 19 of the AMLA.

RULE 19

Congressional Oversight Committee

Rule 19.1.

*Congressional Oversight
Committee*

Composition of

ee . - There is hereby created a Congressional Oversight Committee composed of seven (7) members from the Senate and seven (7) members from the House of Representatives. The members from the Senate shall be appointed by the Senate President based on the proportional representation of the parties or coalitions therein with at least two (2) Senators representing the minority. The members from the House of Representatives shall be appointed by the Speaker also based on proportional representation of the parties or coalitions therein with at least two (2) members representing the minority.

*Rule 19.2. Powers of the
Congressional Oversight
Committee.*

- The Oversight Committee shall have the power to promulgate its own rules, to oversee the implementation of this Act, and to review or revise the implementing rules issued by the Anti-Money Laundering Council within thirty (30) days from the promulgation of the said rules.

RULE 20

Appropriations For and Budget of the AMLC

Rule 20.1.

Budget. - The budget of Php25,000,000.00 appropriated by Congress under the AMLA shall be used to defray the initial operational expenses of the AMLC. Appropriations for succeeding years shall be included in the

General Appropriations Act. The BSP shall advance the funds necessary to defray the capital outlay, maintenance and other operating expenses and personnel services of the AMLC subject to reimbursement from the budget of the AMLC as appropriated under the AMLA and subsequent appropriations.

Rule 20.2. Costs and Expenses

. - The budget shall answer for indemnification for legal costs and expenses reasonably incurred for the services of external counsel in connection with any civil, criminal or administrative action, suit or proceedings to which members of the AMLC and the Executive Director and other members of the Secretariat may be made a party by reason of the performance of their functions or duties. The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the AMLC in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member to repay the amount advanced should it be ultimately determined that said member is not entitled to such indemnification.

RULE 21

Separability Clause

Rule 21. Separability Clause.
– If any provision of these Rules or the application thereof to any person or circumstance is held to be invalid, the other provisions of these Rules, and the application of such provision or Rule to other persons or circumstances, shall not be affected thereby.

RULE 22

Repealing Clause

Rule 22. Repealing Clause
– All laws, decrees, executive orders, rules and regulations or parts thereof, including the relevant provisions of Republic Act No. 1405, as amended; Republic Act No. 6426, as amended; Republic Act No. 8791, as amended, and other similar laws, as are inconsistent with the AMLA, are hereby repealed, amended or modified accordingly.

RULE 23

Effectivity of The Rules

Rule 23.1.

Effectivity

—

These Rules shall take effect after its approval by the Congressional Oversight Committee and fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Rule 23.2. Limitations of the Rules

- The provisions of Section 11 of the AMLA and Rule 11 of these Rules shall not apply to deposits and investments that were opened or created prior to the effectivity of the AMLA on October 17, 2001. Hence, no covered transaction reports, investigation and prosecution of money laundering cases, or any other action authorized under the AMLA, may be undertaken with respect to such deposits and investments as well as transactions or circumstances in relation thereto, that have been completed prior to October 17, 2001. However, the AMLA and these Rules shall apply to all transactions occurring, initiated or commenced on or after October 17, 2001, although said transactions relate to or involve bank accounts and investment accounts opened or created prior to October 17, 2001.

APPROVED, this 8th day of March, 2002 in the City of Manila.

BY THE CONGRESSIONAL OVERSIGHT COMMITTEE:

**SENATE PANEL:
HOUSE OF**

**REPRESENTATIVES
PANEL:**

HON. RAMON B. MAGSAYSAY, JR. HON. JAIME C. LOPEZ

Chairman Chairman

HON. FRANCIS N. PANGILINAN HON. OSCAR S. MORENO

Member Member

HON. RENATO L. CAYETANO HON. MARCELINO C. LIBANAN

Member Member

HON. ROBERT Z. BARBERS HON. TEODORO L. LOCSIN, JR.

Member Member

HON. VICENTE C. SOTTO HON. JOSE CARLOS V. LACSON

Member Member

HON. EDGARDO J. ANGARA HON. CELSO L. LOBREGAT

Member Member

HON. SERGIO R. OSMENA III HON. DIDAGEN P. DILANGALEN

Member Member