

'14 FEB -5 P5 :40

SENATE

S. B. No. 2106

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Introduced by **Senator TEOFISTO "TG" GUINGONA III**

**AN ACT DESIGNATING CASINO OPERATORS AS COVERED PERSONS UNDER
REPUBLIC ACT NO. 9160 (ANTI-MONEY LAUNDERING ACT OF 2001), AS
AMENDED, FOR THE PURPOSE OF STRENGTHENING THE ANTI-MONEY
LAUNDERING/ COMBATING THE FINANCING OF TERRORISM REGIME OF
THE PHILIPPINES, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Next to taxes, revenues from the casino sector are among the major sources of income of the government. It must be recognized that the casino and gaming industry, under the supervision and regulation of the Philippine Amusement and Gaming Corporation, has been a strong and responsible partner of the government in pursuing its development plans.

However, the casino sector is equally exposed to the raging threats of money laundering and financing of terrorism (ML/FT). Its vulnerabilities to criminal exploitation can be attributed to the fact that casinos are cash intensive businesses with high volumes of large cash transactions taking place very quickly; that they also offer many financial services such as remittance, cash issuing and foreign exchange; that the movement of funds, either internationally or domestically undertaken, associated with gaming-related tourism is poorly understood and may pose money laundering threats; and, that the casino industry is unregulated for anti-money laundering/combating the financing of terrorism (AML/CFT) purposes. With these identified vulnerabilities, the casino industry appears to be attractive in successfully undertaking money laundering activities.

On this note, it is highly imperative to establish an AML/CFT regulatory framework that would preserve the integrity of the gaming industry and protect it from the evils of ML/FT.

Under the FATF¹ Recommendations, the international standards on combating money laundering and the financing of terrorism and proliferation, casinos is one of the identified non-financial businesses vulnerable to the threats of ML/FT. Hence, casinos must be

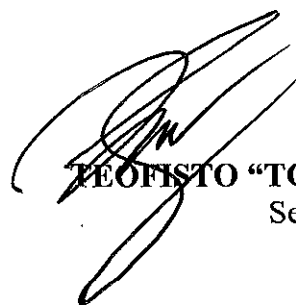
¹ Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions (G7 countries such as Canada, France, Germany, Italy, Japan, UK and USA). The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

regulated for AML/CFT purposes and be subjected to the requirements set out in the Recommendations particularly on customer due diligence, record-keeping and reporting of transactions. These requirements are the internationally-accepted preventive measures in combating ML/FT.

After the assessment of the Philippines' AML/CFT Regime in 2008, which was jointly conducted by the World Bank and the Asia Pacific Group on Money Laundering (APG), one of the recommended action plans by the assessment team in order to improve our country's AML/CFT system was to ensure that the casino sector is made subject to a comprehensive regulatory and supervisory regime as soon as possible.

Likewise, it must be noted that during the FATF meetings in June 2013 held in Oslo, Norway, members of the FATF noted the recent enactment of Republic Act No. 10168², Republic Act No. 10167³, and Republic Act No. 10365⁴ by the Philippine Congress. These important developments were the basis for the decision of the FATF to remove the Philippines from the list of jurisdictions that are subject to FATF's monitoring process under its on-going global AML/CFT compliance process. This development spared the Philippines from the possible imposition of countermeasures from other jurisdictions. However, in the same meeting, the Philippines was vehemently urged to work with the APG as it continues to address the full range of AML/CFT issues identified in its Mutual Evaluation Report, in particular, in regulating the casino sector in the Philippines for AML/CFT purposes and making it subject to AML/CFT requirements.

In view of the foregoing, early passage of this measure is strongly recommended.



TEOFISTO "TG" GUINGONA III
Senator

² "An Act Defining the Crime of Financing of Terrorism, Providing Penalties Therefor and for Other Purposes"

³ "An Act To Further Strengthen the Anti-Money Laundering Law, Amending for the Purpose Sections 10 and 11 of Republic Act No. 9160 Otherwise Known as the 'Anti-Money Laundering Act of 2001', As Amended, and for Other Purposes"

⁴ "An Act Further Strengthening the Anti-Money Laundering Law, Amending for the Purpose Republic Act No. 9160, Otherwise Known as the 'Anti-Money Laundering Act of 2001' as Amended"

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THE PHILIPPINES, AND FOR OTHER PURPOSES**

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

1 **Section 1. Short Title.**—This Act shall be known as the "CASINO AML/CFT ACT
2 **OF 2014."**

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

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

13 **Section 4. Definition of Terms.** - For purposes of this Act, the following terms are
14 hereby defined as follows:

15 (A) ACCOUNT – shall refer to membership account, customer's credit account, check
16 cashing account, deposit account or any other account opened with a casino by or
17 on behalf of a customer.

18
19 (B) AGGREGATION – shall refer to multiple or series of transactions that are treated
20 as a single cash transaction if done by or on behalf of a specific customer
21 involving an amount exceeding the designated threshold in one (1) trading day.
22

1 (C) CASH – means currency notes and coins considered as legal tender in the country
2 of issue.

3
4 (D) CHECK IN - shall mean transactions involving the receipt of cash by a casino
5 paid by or on behalf of a customer. These include, but are not limited to the
6 following:

- 7
- 8 1) Purchases of chips, tokens, and other gaming instruments;
- 9 2) Front money deposits;
- 10 3) Safekeeping deposits;
- 11 4) Payments on any form of credit, including markers and counter checks;
- 12 5) Currency received by a casino for transmittal of funds through wire
13 transfer for a customer;
- 14 6) Purchases of a casino's check;
- 15 7) Exchanges of currency for currency, including foreign currency; and
- 16 8) Bills inserted into electronic gaming devices.

17 (E) CHECK-OUT – shall mean transactions involving the payout of cash by a casino
18 to a customer or to any person in his behalf. These include, but are not limited to
19 the following:

- 20 1) Redemptions of chips, tokens, tickets, and other gaming instruments;
- 21 2) Front money withdrawals;
- 22 3) Safekeeping withdrawals;
- 23 4) Advances on any form of credit, including markers and counter checks;
- 24 5) Payments by a casino to a customer based on receipt of funds through wire
25 transfers;
- 26 6) Cashing of checks or other negotiable instruments;
- 27 7) Exchanges of currency for currency, including foreign currency;
- 28 8) Travel and complimentary expenses and gaming incentives; and
- 29 9) Payment for tournament, contests, and other promotions.

30 (F) CASINO – shall refer to gambling casinos where the building, room or space is
31 used for social amusements; specifically, one used for gambling through games of
32 chance, games of cards and games of numbers and are being regulated and
33 supervised by the Philippine Amusement and Gaming Corporation (PAGCOR),
34 the Cagayan Economic Zone Authority (CEZA), or any other appropriate
35 supervising authority. For purposes of this Act, it also includes internet- and ship-
36 based casinos.

- 37
- 38 1) Internet-Based Casino – shall refer to gambling casinos in which persons
39 participate by the use of remote communication facilities such as, but not
40 limited to, internet, telephone, television, radio or any other kind of
41 electronic or other technology for facilitating communication.
- 42
- 43 2) Ship-Based Casino - shall refer to gambling casinos, the operation of which
44 is undertaken on board a vessel, ship, boat or any other water-based craft
45 wholly or partly intended for gambling.
- 46

47 (G) COVERED TRANSACTION – Notwithstanding the provision of Section 3(b) of
48 Republic Act No. 9160, as amended, for purposes of casino-related transactions,
49 covered transaction shall refer to a single or an aggregate of transactions

1 undertaken by any individual with the casino involving an amount in excess of
2 Three million pesos (Php3,000,000.00).

3
4 (H) CUSTOMER – shall refer to any person who transacts or attempts to transact with
5 a casino, whether or not that person participates, or intends to participate, in the
6 gaming activities offered by the casino.

7
8 (I) MONETARY INSTRUMENT shall refer to:

- 9
10 1) Coins or currency of legal tender in the Philippines, or in any other
11 country;
12 2) Negotiable checks such as casino check, personal check, bank draft;
13 3) Casino Value instruments such as casino chips, casino reward cards,
14 Ticket in/Ticket out, markers, cashier's order, chip purchase order, chip
15 check, gift certificates, casino draft;and
16 4) Other similar instruments where title thereto passes to another by
17 endorsement, assignment or delivery.

18
19 (J) MONEY LAUNDERING – shall refer to acts punished under Section 4 of
20 Republic Act No. 9160, as amended.

21
22 (K) OFFENDER–shall refer to any person who commits money laundering offense
23 and/or terrorist financing.

24
25 (L) PERSON–shall refer to any natural or juridical person.

26
27 (M) PROCEEDS–shall refer to an amount derived or realized from an unlawful
28 activity. It includes:

- 29
30 1) All material results, profits, effects and any amount realized from any
31 unlawful activity;
32
33 2) All monetary, financial or economic means, devices, documents, papers or
34 things used in, or having any relation to, any unlawful activity; and
35
36 3) All moneys, expenditures, payments, disbursements, costs, outlays,
37 charges, accounts, refunds and other similar items for the financing,
38 operations, and maintenance of any unlawful activity.

39
40 (N) PROPERTY–shall refer to anything or item of value, real or personal, movable or
41 immovable, tangible or intangible, or any interest therein or any benefit, privilege,
42 claim or right with respect thereto.

43
44 (O) SUPERVISING AUTHORITY–shall refer to the PAGCOR, CEZA, or any other
45 appropriate agency, as may be determined by law.

46
47 (P) SUSPICIOUS TRANSACTION is a transaction, regardless of the amount
48 involved,where any of the following circumstances exists:
49

- 1) The casino operator or any of its employees knows, suspects, has reason to suspect, or should have known, by the exercise of due diligence, that the transaction:
- a. Involves funds derived from an unlawful activity or from a money laundering offense;
 - b. Is designed to evade any of the requirements under this Act or of Republic Act No. 9160, as amended;
 - c. Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the casino operator or any of its employees knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or
 - d. Involves the use of casinos to facilitate unlawful activity, money laundering and/or terrorist financing.
- 2) Any of the circumstances for the filing of Suspicious Transaction Report under Sec. 3 (b-1) of R.A. 9160, as amended.
- 3) And any other circumstances that may be determined suspicious by the Anti-Money Laundering Council (AMLC).

(Q) **TERRORIST FINANCING** – shall refer to acts defined and punished under Sections 4, 5, 6, 7 and 8 of Republic Act No. 10168.

(R) **TRADING DAY** – refers to the normal business day of a casino. If the casino offers 24-hour gaming, the term shall mean that 24-hour period by which the casino keeps its books and records for business and accounting purposes.

(S) **TRANSACTION**–means purchase or redemption of casino chips or tokens, or other gaming instruments or any other payment, transfer, or delivery by, through, or to a casino, by whatever means effected.

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

(T) **UNLAWFUL ACTIVITIES** – shall refer to the crimes or offenses listed under Section 3 (i) of Republic Act No. 9160, as amended.

Section 5. Prevention of Money Laundering; Customer Identification Requirements and Record Keeping. –

(A) Customer Identification, - Casino operators shall:

- 1) Based on official documents, establish and record the true and full identity of their customers engaging in a single or an aggregate transaction in excess of Two hundred thousand pesos (Php200,000.00).

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

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

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

37 **(C)Reporting of Covered and Suspicious Transactions –**

- 38 1) Casino operators shall report all covered transactions and suspicious
- 39 transactions to the AMLC in a manner and within the period prescribed
- 40 under Republic Act No. 9160, as amended.
- 41
- 42 2) Should a transaction be determined to be both a covered transaction and a
- 43 suspicious transaction, it shall be reported as a suspicious transaction.
- 44
- 45 3) Notwithstanding the preceding paragraphs, casino operators are exempted
- 46 from reporting the following covered transactions –
- 47
- 48 i. Check-out transactions to the extent the currency is won in a money
- 49 play and is the same currency the customer wagered in the money play,

1 or check in transactions to the extent the currency is the same currency
2 the customer previously wagered in a money play on the same table
3 game without leaving the table;

4
5 ii. Jackpot winnings from slot machine; and

6
7 iii. Other covered transactions that may be determined by the AMLC.

8 **(D) Confidentiality of Reports–**

9
10 When reporting covered or suspicious transactions to the AMLC, casino
11 operators and their officers and employees are prohibited from communicating,
12 directly or indirectly, in any manner or by any means, to any person or entity,
13 including the media, the fact that a covered or suspicious transaction has been
14 reported or is about to be reported, the contents of the report, or any other information
15 in relation thereto. Neither may such reporting be published or aired in any manner or
16 form by the mass media, electronic mail, or other similar devices. In case of violation
17 thereof, the concerned officer and employee of the casinos and media shall be held
18 criminally liable.

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

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

30 **(E) Safe Harbor Provision -**

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

35 **Section 6. Prohibited Transactions** – Casino operators shall be prohibited from
36 engaging in the following transactions or activities:

37 (A) Any transaction involving the conversion of money from one form to another
38 without being used for gaming, including –

- 39 1) The receipt of cash for transmittal of all or part thereof through wire or
40 telegraphic transfer for or on behalf of a customer;
41 2) Payments in cash of funds received through wire or telegraphic transfer;
42 3) The cashing of checks or other negotiable instruments; and
43

1 (B) Receiving money, the purpose or ownership of which cannot be ascertained
2 within a period of at least seven (7) days from the date of the receipt.

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

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

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

20 **Section 9. AML/CFT Program Requirements for Casinos**— Casino operators are
21 hereby given one (1) year, from the effectivity of the Implementing Rules and Regulations of
22 this Act, to formulate their respective money laundering and terrorism financing prevention
23 programs (ML/TF Prevention Programs) in accordance with this Act including, but not
24 limited to, information dissemination on money laundering and terrorism financing activities
25 and its prevention, detection and reporting, and the relevant training of responsible officers
26 and personnel of casinos. The program must be approved by their respective Board of
27 Directors.

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

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

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

37 **Section 11. Penal and Administrative Sanctions** – Non-compliance with any of the
38 provisions of this Act shall be punished with penalties and sanctions provided for under
39 Republic Act No. 9160, as amended.

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

1 **Section 13. *Separability Clause.*** – If any provision of this Act is declared
2 unconstitutional, the same shall not affect the validity and effectivity of other provisions
3 thereof.

4 **Section 14. *Repealing Clause.***—All laws, decrees, orders, and issuances or portions
5 thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended
6 or modified accordingly; *Provided*, that all provisions of Republic Act No. 9160, as amended,
7 which are not inconsistent with this Act are hereby adopted.

8 **Section 15. *Effectivity.***—This Act shall take effect fifteen (15) days following its
9 publication in at least two (2) newspapers of general circulation.