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Metro Manila

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Begun and held in Metro Manila, on Monday, the twenty-fifth day of July, two thousand eleven.

REPUBLIC ACT NO. 10168 June 20, 2012

AN ACT DEFINING THE CRIME OF FINANCING OF TERRORISM, 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 Terrorism Financing Prevention and Suppression Act of 2012".

Section 2. Declaration of Policy. – It is the policy of the State to protect life, liberty, and property from acts of terrorism and to condemn terrorism and those who support and finance it and to recognize it as inimical and dangerous to national security and the welfare of the people, and to make the financing of terrorism a crime against the Filipino people, against humanity, and against the law of nations.

The State, likewise, recognizes and adheres to international commitments to combat the financing of terrorism, specifically to the International Convention for the Suppression of the Financing of Terrorism, as well as other binding terrorism-related resolutions of the United Nations Security Council pursuant to Chapter 7 of the Charter of the United Nations (UN).

Toward this end, the State shall reinforce its fight against terrorism by criminalizing the financing of terrorism and related offenses, and by preventing and suppressing the commission of said offenses through freezing and forfeiture of properties or funds while protecting human rights.

Section 3. Definition of Terms. – As used in this Act:

(a) *Anti-Money Laundering Council (AMLC)* refers to the Council created by virtue of Republic Act No. 9160, as amended, otherwise known as the "Anti-Money Laundering Act of 2001, as amended".

(b) *Anti-Terrorism Council (ATC)* refers to the Council created by, virtue of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007".

(c) *Covered institutions* refer to or shall have the same meaning as defined under the Anti-Money Laundering Act (AMLA), as amended.

(d) *Dealing, with regard to property or funds* refers to receipt, acquisition, transacting, representing, concealing, disposing or converting, transferring or moving, use as security of or providing financial services.

(e) *Designated persons* refers to:

(1) any person or entity designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable United Nations Security Council Resolution or by another jurisdiction or supranational jurisdiction;

(2) any organization, association, or group of persons proscribed pursuant to Section 17 of the Human Security Act of 2007; or

(3) any person, organization, association, or group of persons whose funds or property, based on probable cause are subject to seizure and sequestration under Section 39 of the Human Security Act of 2007.

(f) *Forfeiture* refers to a court order transferring in favor of the government, after due process, ownership of property or funds representing, involving, or relating to financing of terrorism as defined in Section 4 or an offense under Sections 5, 6, 7, 8, or 9 of this Act.

(g) Freeze refers to the blocking or restraining of specific property or funds from being transacted, converted, concealed, moved or disposed without affecting the ownership thereof.

(h) *Property or funds* refer to financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets.

(i) *Terrorist* refers to any natural person who: (1) commits, or attempts, or conspires to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully; (2) participates, as a principal or as an accomplice, in terrorist acts; (3) organizes or directs others to commit terrorist acts; or (4) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

(j) Terrorist acts refer to the following:

(1) Any act in violation of Section 3 or Section 4 of the Human Security Act of 2007;

(2) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act;

(3) Any act which constitutes an offense under this Act, that is within the scope of any of the following treaties of which the Republic of the Philippines is a State party:

(a) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 ;

(b) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 ;

(c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;

(d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;

(e) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 ;

(f) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988 ;

(g) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 ;

(h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988; or

(i) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

(k) *Terrorist organization, association or a group of persons* refers to any entity owned or controlled by any terrorist or group of terrorists that: (1) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully; (2) participates as an accomplice in terrorist acts; (3) organizes or directs others to commit terrorist acts; or (4) contributes to the commission of terrorist acts by a group of persons acting with common purpose of furthering the terrorist act where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

Section 4. *Financing of Terrorism.* – Any person who, directly or indirectly, willfully and without lawful excuse, possesses, provides, collects or uses property or funds or makes available property, funds or financial service or other related services, by any means, with the unlawful and willful intention that they should be used or with the knowledge that they are to be used, in full or in part: (a) to carry out or facilitate the commission of any terrorist act; (b) by a terrorist organization, association or group; or (c) by an individual terrorist, shall be guilty of the crime of financing of terrorism and shall suffer the penalty of reclusion temporal in its maximum period to reclusion perpetua and a fine of not less than Five hundred thousand pesos (Php500,000.00) nor more than One million pesos (Php1,000,000.00).

Any person who organizes or directs others to commit financing of terrorism under the immediately preceding paragraph shall likewise be guilty of an offense and shall suffer the same penalty as herein prescribed.

For purposes of this Act, knowledge or intent may be established by direct evidence or inferred from the attendant circumstances.

For an act to constitute a crime under this Act, it shall not be necessary that the funds were actually used to carry out a crime referred to in Section 3(j).

Section 5. *Attempt or Conspiracy to Commit the Crimes of Financing of Terrorism and Dealing with Property or Funds of Designated Persons.* – Any attempt to commit any crime under Section 4 or Section 8 under this Act shall be penalized by a penalty two degrees lower than that prescribed for the commission of the same as provided under this Act.

Any conspiracy to commit any crime under Section 4 or Section 8 of this Act shall be penalized by the same penalty prescribed for the commission of such crime under the said sections.

There is conspiracy to commit the offenses punishable under Sections 4 and 8 of this Act when two (2) or more persons come to an agreement concerning the commission of such offenses and decided to commit it.

Section 6. *Accomplice.* – Any person who, not being a principal under Article 17 of the Revised Penal Code or a conspirator as defined in Section 5 hereof, cooperates in the execution of either the crime of financing of terrorism or conspiracy to commit the crime of financing of terrorism by previous or simultaneous acts shall suffer the penalty one degree lower than that prescribed for the conspirator.

Section 7. *Accessory.* – Any person who, having knowledge of the commission of the crime of financing of terrorism but without having participated therein as a principal, takes part subsequent to its commission, by profiting from it or by assisting the principal or principals to profit by the effects of the crime, or by concealing or destroying the effects of the crime in order to prevent its discovery, or by harboring, concealing or assisting in the escape of a principal of the crime shall be guilty as an accessory to the crime of financing of terrorism and shall be imposed a penalty two degrees lower than that prescribed for principals in the crime of financing terrorism.

Section 8. *Prohibition Against Dealing with Property or Funds of Designated Persons.* – Any person who, not being an accomplice under Section 6 or accessory under Section 7 in relation to any property or fund: (i) deals directly or indirectly, in any way and by any means, with any property or fund that he knows or has reasonable ground to believe is owned or controlled by a designated person, organization, association or group of persons, including funds derived or generated from property or funds owned or controlled, directly or indirectly, by a designated person, organization, association or group of persons; or (ii) makes available any property or funds, or financial services or other related services to a designated and/or identified person, organization, association, or group of persons, shall suffer the penalty of reclusion temporal in its maximum period to reclusion perpetua and a fine of not less than Five hundred thousand pesos (Php500,000.00) nor more than One million pesos (Php1,000,000.00).

Section 9. *Offense by a Juridical Person, Corporate Body or Alien.* – 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, or allowed by their gross negligence, 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, the alien shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed.

Section 10. *Authority to Investigate Financing of Terrorism.* – The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to investigate: (a) any property or funds that are in any way related to financing of terrorism or acts of terrorism; (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of terrorism or acts of terrorism as defined herein.

The AMLC may also enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and -controlled corporations in undertaking measures to counter the financing of terrorism, which may include the use of its personnel, facilities and resources.

For purposes of this section and notwithstanding the provisions of Republic Act No. 1405, otherwise known as the "Law on Secrecy of Bank Deposits", as amended; Republic Act No. 6426, otherwise known as the "Foreign Currency Deposit Act of the Philippines", as amended; Republic Act No. 8791, otherwise known as "The General Banking Law of 2000" and other laws, the AMLC is hereby authorized to inquire into or examine deposits and investments with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a court order.

Section 11. *Authority to Freeze.* – The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to issue an ex parte order to freeze without delay: (a) property or funds that are in any way related to financing of terrorism or acts of terrorism; or (b) property or funds of any person, group of persons, terrorist organization, or association, in relation to whom

there is probable cause to believe that they are committing or attempting or conspiring to commit, or participating in or facilitating the commission of financing of terrorism or acts of terrorism as defined herein.

The freeze order shall be effective for a period not exceeding twenty (20) days. Upon a petition filed by the AMLC before the expiration of the period, the effectivity of the freeze order may be extended up to a period not exceeding six (6) months upon order of the Court of Appeals: Provided, That the twenty-day period shall be tolled upon filing of a petition to extend the effectivity of the freeze order.

Notwithstanding the preceding paragraphs, the AMLC, consistent with the Philippines' international obligations, shall be authorized to issue a freeze order with respect to property or funds of a designated organization, association, group or any individual to comply with binding terrorism-related Resolutions, including Resolution No. 1373, of the UN Security Council pursuant to Article 41 of the Charter of the UN. Said freeze order shall be effective until the basis for the issuance thereof shall have been lifted. During the effectivity of the freeze order, an aggrieved party may, within twenty (20) days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection.

However, if the property or funds subject of the freeze order under the immediately preceding paragraph are found to be in any way related to financing of terrorism or acts of terrorism committed within the jurisdiction of the Philippines, said property or funds shall be the subject of civil forfeiture proceedings as hereinafter provided.

Section 12. *Exceptions for Investigative Requirements.* – Notwithstanding the immediately preceding provision, the AMLC may decide to defer the issuance of a freeze order for as long as necessary for any specific investigative/prosecutorial purposes.

Section 13. *Humanitarian Exemptions.* – The person whose property or funds have been frozen under the first paragraph of Section 11 may withdraw such sums as the court determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person. *1âwphi1*

The person whose property or funds have been frozen under the third paragraph of Section 11 may withdraw such sums as the AMLC determines to be reasonably needed for monthly family needs including the services of counsel and the family medical needs of such person.

Section 14. *Appropriation and Use of Funds of Public Attorney's Office (PAO).* – Any appropriation and use of funds of PAO to provide free legal assistance or services to persons charged of the offenses defined and penalized herein shall not be construed as a violation of this Act, thereby exempting the PAO from any liability.

Section 15. *Publication of Designation.* – The Department of Foreign Affairs with respect to designation under Section 3 (e) (1) of this Act, and the ATC with respect to designation under Section 3 (e) (2) and (3) and Section 11 of this Act, shall publish a list of the designated persons to which this Act or the Human Security Act applies. The concerned agencies shall ensure that an electronic version of the document is made available to the public on their respective website.

Each respective agency or authority shall ensure that information on procedures established in rules and regulations issued pursuant to this Act for delisting, unfreezing and exemptions for basic, necessary or extraordinary expenses shall likewise be made available in their respective website.

Section 16. *Duty of the Covered Institutions and/or Relevant Government Agencies Upon Receipt of the Freeze Order.* – Upon receipt of the notice of a freeze order, the covered institutions and/or relevant government agencies shall immediately preserve the subject property or funds in accordance with the order of the AMLC and shall forthwith serve a copy of the notice of the freeze order upon the owner or holder of the property or funds. Any responsible officer or other person who fails to comply with a freeze order shall suffer the penalty of imprisonment from six (6) months to four (4) years and a fine of not less than One hundred thousand pesos (Php100,000.00) nor more than Five hundred thousand pesos (Php500,000.00), at the discretion of the court,

without prejudice to the administrative sanctions that the AMLC may impose on the erring covered institution.

Section 17. Predicate Offense to Money Laundering. – Financing of terrorism under Section 4 and offenses punishable under Sections 5, 6, and 7 of this Act shall be predicate offenses to money laundering as defined in Republic Act No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001", as amended, and subject to its suspicious transaction reporting requirement.

Section 18. Civil Forfeiture. – The procedure for the civil forfeiture of property or funds found to be in any way related to financing of terrorism under Section 4 and other offenses punishable under Sections 5, 6, and 7 of this Act shall be made in accordance with the AMLA, as amended, its Revised Implementing Rules and Regulations and the Rules of Procedure promulgated by the Supreme Court.

Section 19. Extra-Territorial Application of this Act. – Subject to the provision of an existing treaty, including the International Convention for the Suppression of the Financing of Terrorism of which the Philippines is a State Party, and to any contrary provision of any law of preferential application, the criminal provisions of this Act shall apply: (a) to individual persons who, although physically outside the territorial limits of the Philippines, commit, conspire or plot to commit any of the crimes defined and punished in this Act inside the territorial limits of the Philippines; (b) to individual persons who, although physically outside the territorial limits of the Philippines, commit any of the said crimes on board Philippine ship or Philippine airship; (c) to individual persons who commit any of said crimes within any embassy, consulate, or diplomatic premises belonging to or occupied by the Philippine government in an official capacity; (d) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes against Philippine citizens or persons of Philippine descent, where their citizenship or ethnicity was a factor in the commission of the crime; and (e) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes directly against the Philippine government.

The provisions of this Act shall likewise apply to a Filipino national who, although outside the territorial jurisdiction of the Philippines, commit, conspire or plot to commit any of the crimes defined and punished in this Act.

In case of an alien whose extradition is requested pursuant to the International Convention for the Suppression of the Financing of Terrorism, and that alien is not extradited to the requesting State, the Republic of the Philippines, without exception whatsoever and whether or not the offense was committed in the Philippines, shall submit the case without undue delay to the Department of Justice for the purpose of prosecution in the same manner as if the act constituting the offense had been committed in the Philippines, in which case, the courts of the Philippines shall have jurisdiction over the offense.

Section 20. Extradition. – The Philippines may, at its option, subject to the principle of reciprocity, consider the International Convention for the Suppression of the Financing of Terrorism as a legal basis for requesting or granting extradition in respect of the offenses set forth under this Act.

Section 21. Applicability of the Revised Penal Code. – The provisions of Book I of the Revised Penal Code shall apply suppletorily to this Act.

Section 22. Implementing Rules and Regulations. – Within thirty (30) days from the effectivity of this Act, the AMLC, in coordination with relevant government agencies, shall promulgate rules and regulations to implement effectively the provisions of this Act.

The rules and regulations to be promulgated may include, but not limited to, designation, delisting, notification of matters of interest of persons affected by the Act, exceptions for basic, necessary and extraordinary expenses, matters of evidence, definition of probable cause, inter-agency coordination, publication of relevant information, administrative offenses and penalties, procedures and forms, and other mechanisms for implementation of the Act.

Section 23. Separability Clause. – If, for any reason, any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in force and effect.

Section 24. Repealing Clause. – All laws, decrees, executive orders, proclamations, rules and regulations, and other issuances, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 25. Effectivity Clause. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,

(Sgd.) **FELICIANO BELMONTE JR.**
Speaker of the House of Representatives

(Sgd.) **JUAN PONCE ENRILE**
President of the Senate

This Act which is a consolidation of Senate Bill No. 3127 and House Bill No. 5015 was finally passed by the Senate and the House of Representatives on June 6, 2012 .

(Sgd.) **MARILYN B. BARUA-YAP**
Secretary General
House of Representatives

(Sgd.) **EMMA LIRIO-REYES**
Secretary of Senate

Approved:

(Sgd.) **BENIGNO S. AQUINO III**
President of the Philippines