



Eighteenth Congress
First Regular Session
HOUSE BILL NO. 6603



Introduced by
REPRESENTATIVE LOREN B. LEGARDA

**AN ACT PROVIDING FOR THE PROTECTION OF FINANCIAL CONSUMERS
AND FOR OTHER PURPOSES**

Explanatory Note

Consumer confidence and trust in the financial system promotes stability, growth, efficiency, and innovation. However, with the rapid development of complex financial products coupled with the use of advanced technologies, consumer fraud, abuse and misconduct have increased. Time and again, we hear stories of consumers putting their life long savings in investment scams or suffering from or facing collection cases due to over indebtedness. These are just some of the travails experienced by financial consumers.

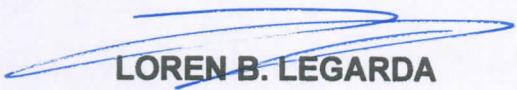
Thus, recognizing the role of regulators in ensuring that the rights of each and every consumer are protected, this bill provides, among others, financial regulators such as the Bangko Sentral ng Pilipinas, Insurance Commission and the Securities and Exchange Commission, rulemaking, surveillance and inspection, market monitoring, enforcement and adjudication powers relative to consumer protection.

In the international arena, the G20¹, in February 2011, called on the Organization for Economic Cooperation and Development (OECD), the Financial Stability Board (FSB) and other relevant international organizations to develop common principles on consumer protection in the field of financial services. Foremost of these principles is that financial consumer protection should be an integral part of the legal, regulatory and supervisory framework.

¹ The Group of Twenty, or G20, is the central forum for international cooperation on financial and economic issues. It is composed of the EU and 19 countries, namely Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United Kingdom (UK) and the United States of America (USA).

It is in this light that this bill is being introduced in order to have in place a comprehensive financial consumer protection regime wherein financial inclusion, financial education, good governance and effective supervision all come to play given that consumer protection is a shared responsibility among the regulators, consumers and other stakeholders.

In view of the foregoing, immediate passage of this bill is earnestly sought.



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

1 **SECTION 1. Title.** – This Act shall be known as the “Financial Consumer Protection
2 Act of 2020.”

3 **SEC. 2. Declaration of Policy.** – It is the policy of the state to ensure that
4 appropriate mechanisms are in place to protect the interest of Financial Consumers
5 under the conditions of transparency, fair and sound market conduct, and fair,
6 reasonable and effective handling of Financial Consumer disputes, which are
7 aligned with global best practices. These mechanisms reinforce their confidence in
8 the financial market and foster the stability of the Philippine financial system.
9 Towards this end, the State shall implement measures to protect the following rights
10 of financial consumers:

- 11 a. Right to equitable and fair treatment;
12 b. Right to disclosure and transparency of Financial Products and Services;
13 c. Right to protection of consumer assets against fraud and misuse;
14 d. Right to data privacy and protection;
15 e. Right to complaints handling and redress.

- 1 **SEC. 3. Definition of Terms.** – For purposes of this Act, the following terms shall
2 mean or be understood as follows:
- 3 a) “*Financial Consumer*” – a person or entity who is purchaser, lessee,
4 recipient or prospective purchaser, lessor or recipient of Financial
5 Products or Services. It shall also refer to any natural person or micro,
6 small or medium-sized enterprise that had or has current or prospective
7 financial transaction with financial entities pertaining to Financial Products
8 or Services;
- 9 b) “*Financial Consumer Complaint*” – an expression of dissatisfaction filed by
10 a Financial Consumers against a Financial Service Provider relative to a
11 financial product or service in which a response or resolution is expected;
- 12 c) “*Financial Products or Services*” – financial products or services which are
13 developed or marketed by a Financial Service Provider which may include,
14 but are not limited to savings, credit, insurance, investments, payments,
15 remittances and other similar products and services. This also includes
16 digital financial services, which pertain to the broad range of financial
17 services accessed and delivered through digital channels;
- 18 d) “*Financial Regulators*” – The implementing government agencies of this
19 Act, namely, the *Bangko Sentral ng Pilipinas (BSP)*, *Securities and*
20 *Exchange Commission (SEC)*, *Insurance Commission (IC)* and the
21 *Cooperative Development Authority (CDA)*;
- 22 e) “*Financial Service Provider*” – a person, natural or juridical which provides
23 financial products or services and are being supervised or regulated by
24 any Financial Regulators enumerated in this Act. This term shall include
25 Investment Advisers as defined under Section 7 of this Act;

1 f) *“Marketing”* – The act of communicating, offering, promoting, advertising
2 or delivering of Financial Products and Services by Financial Service
3 Providers;
4 g) *“Micro, Small or Medium-sized Enterprise (MSME)”* – Any business activity
5 or enterprise engaged in industry, agri-business and/or services whether
6 single proprietorship, cooperative, partnership or corporation as defined
7 under R.A. No. 9501, as amended or the Magna Carta for Micro, Small or
8 Medium-sized Enterprise. Such definition shall be subject to review and
9 adjustment by the Magna Carta for Micro, Small or Medium-sized
10 Enterprise (MSMED) Council.

11 **SEC. 4. Scope and Coverage.** – This Act applies to all Financial Products and
12 Services offered or marketed by any Financial Service Provider.

13 **SEC. 5. Financial Regulators.** – The BSP, SEC, IC shall enforce the provisions of
14 this Act on all Financial Service Providers they supervise or regulate by virtue of their
15 respective charters, special laws and amendments thereto. The CDA shall be
16 considered an implementing government agency of this Act only with respect to
17 cooperatives offering financial services such as but not limited to savings and credit
18 except insurance cooperatives, which shall be under the jurisdiction of the IC for
19 purposes of this Act.

20 **SEC. 6. Powers of the Financial Regulators.** – Financial Regulators shall have the
21 following powers:

22 a. **Rulemaking** – Financial Regulators shall have the authority to formulate their
23 own standard and rules for the application of the provisions of this Act to the
24 specific Financial Products or Services within their jurisdiction guided by
25 internationally accepted standards and practices. Financial Regulators may

1 also determine reasonableness of charges or fees which a Financial Service
2 Provider may demand, collect or receive for any service or product offered to
3 consumers, except interest rates which shall be governed by the Usury Law.
4 Likewise, they may issue their respective rules of procedure concerning
5 administrative actions arising from the implementation of this Act.

- 6 b. ***Surveillance and Examination.*** – Financial Regulators may conduct off-site
7 surveillance and on-site examination on their respective supervised Financial
8 Service Providers to ascertain that the provisions of this Act are complied
9 with. The examination for Financial Consumer protection compliance may be
10 conducted separately from examination of prudential regulations compliance.
11 The provisions on the conduct of examination and surveillance provided in the
12 respective charters of Financial Regulators, and pertinent special laws shall
13 be made applicable in the examination and surveillance.

14 The department heads and the examiners of the Financial Regulators
15 shall be authorized to administer oaths to any director, officer, or employee of
16 the supervised Financial Service Providers subject to their examination, and
17 to compel the presentation of all books, documents, papers, or records
18 necessary in their judgment to ascertain the facts relative to the compliance of
19 Financial Service Providers to this Act.

20 The supervised Financial Service Provider shall afford to its respective
21 Financial Regulator full opportunity to examine its records, and review its
22 systems and procedures at any time during business hours when requested
23 to do so by the Financial Regulator.

- 24 c. ***Market Monitoring.*** – Financial Regulators shall have the authority to require
25 their respective supervised Financial Service Providers and their third party
26 agents/service providers to submit reports or documents, as needed, and to

1 access relevant data about financial products, services and markets from
2 other government agencies in connection with market monitoring.

3 d. **Enforcement.** – The Financial Regulators shall have the authority to impose
4 enforcement actions on their respective supervised Financial Service
5 Providers for non-compliance with this Act. Such enforcement actions may
6 include, but are not limited to, the following:

7 1. Restriction on the ability of the supervised Financial Service Provider to
8 continue to collect fees or charges in cases of excessive fees or charges
9 imposed by the Financial Service Provider, except interest rates which
10 shall be governed by the Usury Law;

11 2. Disqualification and/or suspension of directors, officers or employees of
12 the supervised Financial Service Provider responsible for violations of the
13 provisions of this Act, its implementing regulations, or orders of the
14 Financial Service Providers;

15 3. Imposition of fines, suspension, or penalties for any non-compliance with
16 or breach of this Act, its implementing regulations, or orders of the
17 Financial Service Providers;

18 4. Issuance of a cease and desist order to the Financial Service Provider
19 without the necessity of a prior hearing if in the Financial Regulator's
20 judgment, the act or practice, unless restrained, amounts to fraud or a
21 violation the provisions of this Act and its implementing regulations or may
22 unjustly cause grave or irreparable injury or prejudice to Financial
23 Consumers.

24 The Financial Service Provider shall be afforded an opportunity to defend
25 its act or practice in a summary hearing before the Financial Regulator or
26 its designated body, upon request made by the Financial Service Provider
27 within five (5) calendar days from its receipt of the order. If no such

1 hearing is requested within said period, the order shall be final. If a hearing
2 is requested by the Financial Service Provider, the proceedings shall be
3 conducted summarily without adhering to the technical rules of evidence,
4 and all issues shall be determined primarily on the basis of records, after
5 which the Financial Regulator may either reconsider or make final its
6 order;

7 5. Suspension of operation of any supervised Financial Service Provider in
8 relation to a particular Financial Product or Service when in the Financial
9 Regulator's judgment based on findings, the Financial Service Provider is
10 operating in violation of the provisions of this Act and its implementing
11 regulations;

12 e. ***Adjudication.*** – Financial Regulators shall have the authority to adjudicate all
13 actions arising from or in connection with financial transactions that are purely
14 civil in nature and the claim or relief prayed for by the Financial Consumer is
15 solely for payment or reimbursement of sum of money not exceeding the
16 amount of P 100,000.00 or as may be prescribed by the Financial Regulators.

17 The decision of the Financial Regulators in the adjudication shall be final and
18 executor, and may not be restrained or set aside by the court except on
19 petition for certiorari on the ground of lack or excess of jurisdiction of the
20 Financial Regulators. The petition for certiorari may only be filed within ten
21 (10) days from receipt by the aggrieved party of the decision. The
22 adjudicatory power shall be exercised by the Head of the concerned Financial
23 Regulator or a duly authorized officer or body, *Provided*, that in case of BSP,
24 the decision of the authorized officer or body is not appealable to the
25 Monetary Board.

26 Financial Regulator may order the payment or reimbursement of money,
27 which is subject of the action filed before them. The Financial Regulators, in

1 the exercise of their adjudicatory powers, shall have the power to issue
2 *subpoena duces tecum* and summon witnesses to appear in its proceedings
3 and in appropriate cases, order the examination, search and seizure of all
4 documents, and books of accounts of any entity or person under investigation
5 as may be necessary for the proper disposition of the cases before them.

6 Further, Financial Regulators shall have the authority to punish for contempt,
7 both direct and indirect, in accordance with the pertinent provisions of any
8 penalties prescribed by the Rules of Court;

9 f. ***Other Powers.*** – Financial Regulators may exercise such other powers as
10 may be provided by their enabling laws or charters as well as those which
11 may be implied from, or which are necessary or incidental to the carrying out
12 of, the express powers granted the Financial Regulators to achieve the
13 objectives and purposes of these laws.

14 **SEC. 7. *Investment Adviser.*** – Investment Advisers shall be subject to the rules
15 and regulation to be issued by the SEC.

16 Investment Adviser shall mean any person who, for compensation,
17 engages in the business of advising others, either directly or through
18 publications or writings, as to the value of investment products or as to the
19 advisability of investing in, purchasing, or selling investment products, or who,
20 for compensation and as part of a regular business, issues or promulgates
21 analyses or reports concerning investment products; but does not include the
22 following:

23 a) Trust Department/Unit of Banks;

24 b) Lawyer, accountant, engineer, or teacher whose performance of such
25 services is solely incidental to the practice of his profession;

- 1 c) Any investment banker or broker dealer whose performance of such
2 service is solely incidental to the conduct of his business as such
3 investment banker or broker dealer and who receives any special
4 compensation therefor;
- 5 d) The publisher of any bona fide newspaper, news magazine or business or
6 financial publication of general and regular circulation;
- 7 e) Such other persons as the SEC may designate by rules and regulation or
8 order.

9 **SEC. 8. Duties and Responsibilities of Financial Service Providers. –**

10 a. *Board and Senior Management Oversight.* – The Board of Directors
11 (BOD) and Senior Management of Financial Service Providers shall
12 oversee the implementation of the Compliance Management System
13 (CMS) of Financial Service Providers that effectively ensures conformity
14 with this Act and shall provide the means by which Financial Service
15 Providers shall identify, measure, monitor and control consumer protection
16 risks inherent in its operations.

17 b. *Appropriate product design and delivery.* – Financial Service Providers
18 shall continuously evaluate their Financial Products and Services to
19 ensure that they are appropriately targeted to the needs, understanding
20 and capacity of both their markets and their clients. This shall include,
21 among others, the following:

22 1. *Affordability and suitability assessments* – Financial Service Providers
23 should have written procedures for determining whether a particular
24 Financial Consumer product or service is suitable and affordable for a
25 client. This shall include determination of whether the amount and
26 terms of the offered financial product or service allow a client, in terms

1 of the individual ability, to meet the obligations with a low probability of
2 a serious hardship and reasonable prospect that the Financial Product
3 or Service will provide value to its client. For the purpose of extending
4 credit, this assessment will include measures to prevent over
5 indebtedness.

6 2. *Cooling-off period* – Financial Service Providers are expected to adopt
7 a clear cooling-off policy, as may be prescribed by law or by rules and
8 regulations issued by the relevant Financial Regulator upon its
9 determination that a cooling-off period is necessary for a particular
10 product subject of regulation by such Financial Regulator. Such policy
11 should, among others, provide a client with a cooling-off period that
12 will allow a client to consider the costs and risks of Financial Product or
13 Service, free from the pressure of the sales team of the Financial
14 Service Provider. The length of the cooling-off period should be
15 individually determined by Financial Service Providers based on
16 reasonable expectation of the time required for a client to fully evaluate
17 all the terms and risks of Financial Products or Service and contract
18 concerned parties who may be affected by its terms and conditions
19 unless a minimum or fixed period is required by the Financial
20 Regulator for compliance by the Financial Service Provider or to be
21 incorporated in the terms of the Financial Product or Service. Short
22 period transaction or contracts may be allowed to have no cooling-off
23 period which shall be provided in the regulation by the Financial
24 Regulators.

25 During the cooling-off period, the Financial Consumer may cancel or
26 return the contract without penalty; however, nothing herein prevents

the Financial Service Providers from recovering the processing fees incurred. The Financial Service Providers are prohibited from engaging in practices that unreasonably burden the Financial Consumer in the exercise of the right of cancellation during the cooling-off period. If the financial product is a contract of insurance, the right of return cannot be exercised after the Financial Consumer has made a claim under the contract of insurance.

3. *Prepayment of loans and other credit accommodations* – a borrower may at any time prior to the agreed maturity date prepay, in whole or in part, Provided that any cost or fees charged to the borrower for such pre-payment shall be disclosed as required under the succeeding provision of this Section on the transparency, disclosure and responsible pricing.

c. *Transparency, disclosure and responsible pricing* – Financial Service Providers must ensure that they adopt disclosure principles in their communications with Financial Consumers that will include the use of clear and concise language understood by the target clients. This must also include updated and accurate disclosure of information such as, pricing or any cost associated with the product or service that should be made in a consistent manner to facilitate comparison between similar Financial Products and Services across the industry.

Sufficient product disclosure must be provided before the contracting of the product or service to give the client enough basis and time for review. Any change in the terms of conditions of a product or service shall be provided to the client.

In their advertising materials, Financial Service Providers shall disclose the contact information of their consumer assistance unit providing

1 consumer assistance and handling Financial Consumer Complaints.
2 Financial Service Providers shall also disclose that they are regulated and
3 the advertising materials must identify the relevant Financial Regulator.
4 Financial Service Providers are legally responsible for all statements
5 made in the marketing and sales materials that they produced related to
6 their products. Disclosure of information on Financial Products or Services
7 shall be made available to the public by the Financial Service Provider
8 through printed materials, mass media, websites or digital platforms.

9 d. *Responsible pricing* – in addition to the requirements of R.A. No. 3765 or
10 the Truth in Lending Act, Financial Service Providers are required to
11 document the reasons for setting the price of each financial product or
12 service. Where the pricing procedures of a Financial Service Provider are
13 inadequate or unreasonably high, the concerned Financial Regulator shall
14 impose appropriate corrective actions.

15 e. *Fair and respectful treatment of clients* – Financial Service Providers shall
16 have the right to select their clients, *Provided*, that the selection and
17 treatment of their clients shall not involve discrimination on the basis of a
18 person's race, ethnicity, origin, gender, disability, sexual orientation,
19 religious affiliation or political affiliation, *Provided further*, that Financial
20 Service Providers are not precluded from instituting the necessary risk
21 mitigating measures.

22 f. *Privacy and Protection of client data* – Each Financial Service Provider
23 must respect the privacy and protect the date of their clients. Consistent
24 with the provisions of the Data Privacy Act, the Financial Regulators shall
25 issue regulations governing the disclosure of client data to a third party.

26 Clients have the right to review their client data to ensure that inaccurate
27 or deficient data is correct or amended.

1 g. *Financial consumer protection assistance mechanism* – Each Financial
2 Service Provider must establish a single consumer assistance unit to
3 render free assistance to Financial Consumers on financial transactions
4 concerns. This shall include handling of complaints, inquiries and
5 requests.

6 Financial Consumers who are unsatisfied with the Financial Service
7 Provider's handling of their complaints, inquiries and requests, may
8 elevate their concerns to the Financial Regulator that supervises the
9 Financial Service Provider concerned.

10 **SEC. 9. *Bundling of Products*.** – When a borrower is obliged by the Financial
11 Service Provider to purchase any product, including an insurance policy, as a pre-
12 condition for receiving a loan from the Financial Service Provider, the borrower
13 should be free to choose the provider of the product and this information should be
14 known to the borrower.

15 **SEC. 10. *Training*.** – Staff of Financial Service Providers who deal directly with
16 Financial Consumers must receive adequate training, suitable for the complexity
17 of the products or services they sell. Financial Service Providers must be qualified
18 as appropriate for the complexity of the financial product or service they sell.

19 **SEC. 11. *No waiver of rights*.** – No provision of a contract for a Financial
20 Product or Service shall be lawful or enforceable if such provision waives or
21 otherwise deprives a client of legal right to sue the Financial Service Product or
22 Service without an unreasonable penalty.

23 **SEC. 12. *Non-exemption from compliance*.** – Notwithstanding any prior
24 stipulation in a contract, financial entities shall not be exempted from compliance

1 "with the provisions of this Act, or deprive Financial Consumers of its Financial
2 Products and Services.

3 **SEC. 13. Liability of a Financial Service Provider on the acts or omissions**
4 **of its authorized representatives** – The Financial Service Provider shall be
5 responsible for the acts or omissions of its directors, officers, employees or
6 agents, in marketing and transacting with Financial Consumers of its Financial
7 Products and Services.

8 **SEC. 14. Prescription** – All actions or claims accruing under the provisions of
9 this Act and the rules and regulations issued pursuant thereto shall prescribe
10 within five (5) years from the time the Financial Consumer transaction was
11 consummated, or within five (5) years from the discovery of deceit or non-
12 disclosure of material facts. For insurance contracts, the prescriptive period for
13 the commencement of action provided under the Insurance Code shall apply.

14 **SEC. 15. Penalty for Violation of this Act** – Whenever a Financial Service
15 Provider willfully violates any provision of this Act or any related rules,
16 regulations, order or instructions, issued by the Financial Regulators, the person
17 or persons responsible for such violation shall be punished by imprisonment of
18 not less than one (1) year but not more than five (5) years, or by a fine of not
19 less than Fifty thousand (P50,000.00) pesos but not more than Two Million
20 Pesos (P2,000,000.00), or both, at the discretion of the court. In addition, in case
21 profit is gained or loss is avoided as a result of the violation, a fine of no more
22 than three (3) times the profit gained or loss avoided may also be imposed.

23 **SEC. 16. Administrative Sanctions** – The provision on administrative sanctions
24 of the respective charters of the Financial Regulators shall be made applicable
25 to any Financial Service Provider, its directors, officers, employees or agents

1 'without prejudice to the enforcement actions provided under Section 6 (D) of this
2 Act and the criminal sanctions provided under Section 15 of this Act, or any
3 willful violation of this Act or any related rules, regulations, orders or instructions
4 of the Financial Regulators, *Provided*, That in addition to the administrative
5 sanctions that may be imposed, the authority of the Financial Service Provider to
6 operate in relation to a particular Financial Products or Services may be
7 suspended or cancelled by the Financial Regulator.

8 **SEC. 17. Repealing clause** – All laws, executive orders, rules and regulations
9 or parts thereof which are inconsistent with this Act are hereby repealed or
10 amended accordingly. Articles 131 to 147 of Title IF of Republic Act No. 7394
11 are hereby repealed.

12 **SEC. 18. Transitory provision** – The Financial Regulators shall prepare the
13 necessary rules and regulations to implement the provisions of this Act within
14 one (1) year from its effectivity.

15 **SEC. 19. Effectivity clause** – This Act shall take effect fifteen (15) days after its
16 publication in the Official Gazette or in at least two (2) national newspaper of
17 general circulation.

18 Approved,