



HOUSE OF REPRESENTATIVES

H. No. 6768

BY REPRESENTATIVES CUA, SALCEDA, HERNANDEZ, VILLAFUERTE, LEGARDA,
TIANGCO, SY-ALVARADO AND NIETO, PER COMMITTEE REPORT NO. 310

AN ACT AFFORDING MORE PROTECTION TO CONSUMERS OF FINANCIAL PRODUCTS AND SERVICES

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

1 **Section 1. Short Title** — This Act shall be known as the “Financial
2 Products and Services Consumer Protection Act”.

3
4 **Sec. 2. Declaration of Policy** – It is the policy of the State to ensure that
5 appropriate mechanisms are in place to protect the interest of consumers of financial
6 products and services under conditions of transparency, fair and sound market
7 conduct, and fair, reasonable, and effective handling of financial consumer disputes.
8 When aligned with international best practices, these mechanisms reinforce
9 confidence in the financial market and foster the stability of the Philippine financial
10 system. Towards this end, the State shall implement measures to protect the following
11 rights of financial consumers:

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

18
19 **Sec. 3. Definition of Terms** - As used in this Act:

- 1
2 a) *Financial consumer* refers to a person or entity, or their duly-appointed
3 representative, who is a purchaser, lessee, recipient, or prospective
4 purchaser, lessor or recipient of Financial Products or Services. It shall
5 also refer to any person, natural or juridical, who had or has current or
6 prospective financial transaction with a Financial Service Provider
7 pertaining to Financial Products or Services.;
- 8
9 b) *Financial consumer complaint* refers to an expression of dissatisfaction
10 submitted by a financial consumer against a financial service provider
11 relative to a financial product or service on which a response or
12 resolution is expected;
- 13
14 c) *Financial product or service* refers to financial products or services
15 which are developed or marketed by a financial service provider which
16 may include savings, credit, insurance, pre-need and health maintenance
17 organization (HMO) products, investments, payments, remittances and
18 other similar products and services. This also includes digital financial
19 products and services which pertain to the broad range of financial
20 services accessed and delivered through digital channels;
- 21 d) *Financial regulators* refer to the *Bangko Sentral ng Pilipinas* (BSP),
22 Securities and Exchange Commission (SEC), Insurance Commission
23 (IC), and the Cooperative Development Authority (CDA);
- 24 e) *Financial service provider* refers to a person, natural or juridical, which
25 provides financial products or services that are under the jurisdiction of
26 financial regulators as defined in this Act. This term shall include
27 investment advisers as defined under Section 7 of this Act;
- 28 f) *Investment fraud* refers to any form of deceptive solicitation of
29 investments from the public. This includes Ponzi schemes and such
30 other schemes involving the promise or offer of profits or returns which
31 are sourced from the investments or contributions made by the investors
32 themselves, boiling room operations, and the offering or selling of
33 investment schemes to the public without a license or permit from the
34 SEC, unless such offering or selling involves exempt securities or
35 exempt transactions as provided for under existing laws;
- 36 g) *Market conduct* refers to the manner by which a financial service
37 provider designs and delivers its financial products and services and
38 manages its relationships with its clients and the public;
- 39 h) *Marketing* refers to the act of communicating, offering, promoting,
40 advertising, or delivering of financial products and services by financial
41 service providers;
- 42 i) *Responsible pricing* refers to the pricing, terms, and conditions of
43 financial products and/or services that are set in a way that is both
44 affordable to clients and sustainable for financial institutions by taking
45 into account, among others, client needs and the pricing schemes of

competitors; (Note: if we use “competitive landscape”, we’d have to define it; better be straight to the point)

Sec. 4. Scope and Coverage – This Act applies to all financial products and services offered or marketed by any financial service provider.

Sec. 5. Financial Regulators – The BSP, SEC, and IC shall enforce the provisions of this Act on all financial service providers under their jurisdiction by virtue of their respective charters, special laws and amendments thereto. The CDA shall be considered an implementing government agency of this Act only with respect to cooperatives offering financial products and services, such as savings and credit, except insurance cooperatives which shall be under the jurisdiction of the IC for purposes of this Act.

Sec. 6. Powers of the Financial Regulators. – Financial regulators under this Act shall have the following powers:

a) **Rulemaking** – Financial regulators shall have the authority to formulate their own standard and rules for the application of the provisions of this Act to the specific financial products or services within their jurisdiction guided by internationally accepted standards and practices. Financial regulators may also determine reasonableness of interest, charges or fees which a financial service provider may demand, collect, or receive for any service or product offered to consumer. Likewise, they may issue their respective rules of procedure concerning administrative actions arising from the implementation of this Act.

b) **Market Conduct Surveillance and Examination** – Financial regulators may conduct surveillance and examination, on-site or off-site, on their respective supervised financial service providers, consistent with their respective risk-based supervision policies, to ascertain that the provisions of this Act are complied with. The examination for financial consumer protection compliance may be conducted separately from examination of prudential regulations compliance. The provisions on the conduct of examination and surveillance provided in the respective charters of financial regulators, and pertinent special laws shall be made applicable in examination and surveillance activities authorized under this Act.

The department heads and the examiners of the financial regulators shall be authorized to administer oaths to any director, officer, or employee of the supervised financial service providers subject to the examination of their market conduct and compliance with this Act, and to compel the presentation of all books, documents, papers, or records in any form necessary in their judgment to ascertain compliance of financial service providers to this Act.

The supervised financial service provider shall afford to its financial regulator full opportunity to examine its records, and

review its systems and procedures at any time during business hours when requested to do so by the financial regulator.

- c) **Market Monitoring** – Financial regulators shall have the authority to require their respective supervised financial service providers and their third party agents/service providers to submit reports or documents, as needed.

For purposes of market monitoring, the financial regulators may obtain relevant data about financial products, services and markets from other government agencies, which shall be duty-bound to furnish the same.

- d) **Enforcement** – Financial regulators shall have the authority to impose enforcement actions on their respective supervised financial service providers for non-compliance with this Act and other existing laws pertinent to the jurisdiction and authority of the respective financial regulators. Such enforcement actions may include the following:

- 1) Restriction on the ability of the supervised financial service provider to continue to collect excessive or unreasonable interests, fees or charges including all other interests, fees and charges covered under Republic Act No. 10870, otherwise known as the "Philippine Credit Card Industry Regulation Law";
- 2) Disqualification and/or suspension of directors, trustees, officers, or employees of the supervised financial service provider responsible for violations of the provisions of this Act, its implementing regulations, or orders of the financial regulators;
- 3) Imposition of fines, suspension, or penalties for any non-compliance with or breach of this Act, its implementing rules and regulations (IRR), or the orders of the financial regulators;
- 4) Issuance of a cease and desist order to the financial service provider without the necessity of a prior hearing if in the financial service regulator's judgment, the act or practice, unless restrained, amounts to fraud or a violation of the provisions of this Act, or may unjustly cause grave or irreparable injury or prejudice to financial consumers. The financial service provider shall be afforded an opportunity to defend its act or practice in a summary hearing before the financial regulator or its designated body, upon request made by the financial service provider within five (5) calendar days from its receipt of the order. If no such hearing is requested within the said period, the order shall be final. If a hearing is requested by the financial service provider, the proceedings

1 shall be conducted summarily without adhering to the
2 technical rules of evidence, and all issues shall be determined
3 primarily on the basis of records, after which the financial
4 regulator may either reconsider or finalize and execute its
5 order;

6 5) Suspension of the operation of any supervised financial
7 service provider in relation to a particular financial product or
8 service when in the financial regulator's judgment based on
9 findings, the financial service provider is operating in
10 violation of the provisions of this Act and its implementing
11 rules and regulations.

12 6) In any proceeding in which the financial regulators may
13 impose a penalty for non-compliance with or breach of this
14 Act and other existing laws under their jurisdiction, the
15 financial regulators, in addition to the imposed fine, may
16 enter an order requiring accounting and disgorgement of
17 profits obtained, or losses avoided, as a result of a violation
18 of this Act and other existing laws, including reasonable
19 interest. The financial regulators are authorized to adopt
20 rules, regulations, and orders concerning the creation and
21 operation of a disgorgement fund, payments to financial
22 consumers, rate of interest, period of accrual, and such other
23 matters as deemed appropriate to implement this provision.

24
25 e) *Consumer Redress or Complaints Handling Mechanism* -
26 Financial regulators shall provide an efficient and effective
27 consumer redress or complaints handling mechanism to address
28 conflict/dissatisfaction from financial consumers arising from
29 financial products or services. The financial consumer may avail of
30 the mechanism prior to adjudication.

31 f) *Adjudication* - Financial regulators shall have the authority to
32 adjudicate all actions as provided under existing laws.

33 The BSP and SEC shall have the authority to adjudicate actions
34 arising from or in connection with financial transactions that are
35 purely civil in nature, and the claim or relief prayed for by the
36 financial consumer is solely for payment or reimbursement of a sum
37 of money not exceeding the amount that may be prescribed by the
38 concerned financial regulators. The decision of the financial
39 regulators in the adjudication shall be final and executory, and may
40 not be restrained or set aside by the court except on petition for
41 certiorari on the ground of grave abuse of discretion, or lack or
42 excess of jurisdiction of the financial regulators. The petition for
43 certiorari may only be filed within ten (10) days from receipt by the
44 aggrieved party of the decision: *Provided*, That in the case of BSP
45 and SEC, the aggrieved party may file the petition with the Court of

1 Appeals. The adjudicatory power shall be exercised by the Head of
2 the concerned financial regulator or a duly authorized officer or
3 body: *Provided*, That in the case of BSP and SEC, the decision of
4 the authorized officer or body is not appealable to the Monetary
5 Board or the Commission *en banc*, respectively.
6

7 The BSP and SEC may order the payment or reimbursement of
8 money which is subject of the action filed before them. In the
9 exercise of their adjudicatory powers, they shall have the power to
10 issue *subpoena duces tecum* and summon witnesses to appear in
11 their proceedings and when appropriate, order the examination,
12 search and seizure of all documents, and books of accounts of any
13 entity or person under investigation as may be necessary for the
14 proper disposition of the cases before them. Further, the BSP and
15 SEC shall have the authority to punish for contempt, both directly
16 and indirectly, in accordance with the pertinent provisions of and
17 penalties prescribed by the Rules of Court.
18

- 19 g) **Other Powers** - Financial regulators may exercise such other
20 powers as may be provided by their enabling laws or charters as
21 well as those which may be implied from, or which are necessary
22 or incidental to the carrying out of the express powers granted to
23 the financial regulators to achieve the objectives and purposes of
24 these laws.

25
26 **Section 7. Investment Adviser** – Investment advisers shall be subject to the
27 rules and regulations to be issued by the SEC.
28

29 The term “investment adviser” shall mean any person who, for compensation,
30 engages in the business of advising others, either directly or through publications or
31 writings, as to the value of investment products or as to the advisability of investing
32 in, purchasing, or selling investment products, or who, for compensation and as part
33 of a regular business, issues or promulgates analyses or reports concerning investment
34 products; but does not include the following:
35

- 36 a) Trust Department/Unit of Banks;
37
38 b) Stand-alone Trust Entities;
39
40 c) A lawyer, accountant, engineer, or teacher whose performance of such
41 services is solely incidental to the practice of the profession;
42
43 d) An insurance agent whose performance of such services is solely
44 incidental to the practice of profession;
45
46 e) Any investment banker or broker dealer whose performance of such
47 services is solely incidental to the conduct of the business as such

1 investment banker or broker dealer, and who receives no special
2 compensation therefor;

3
4 f) The publisher of any *bona fide* newspaper, news magazine, or business or
5 financial publication of general and regular circulation;

6
7 g) Such other persons as the SEC may designate by rules and regulations, or
8 appropriate order.

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

11
12 a) *Board and Senior Management Oversight* – The Board of Directors and
13 the members of senior management of financial service providers shall
14 ensure conformity with this Act and shall provide the means by which
15 they shall identify, measure, monitor, control, and manage consumer
16 protection risks inherent in their operations, in accordance with their
17 respective rules and regulations of their financial regulators.

18
19 b) *Appropriate product design and delivery* – Financial service providers
20 shall continuously evaluate their financial products and services to ensure
21 that they are appropriately targeted to the needs, understanding and
22 capacity of both their markets and their clients. This shall include, among
23 others, the following:

24 1. *Affordability and suitability assessment* – Financial service
25 providers should have written procedures for determining
26 whether a particular financial product or service is suitable and
27 affordable for their clients. This shall include the determination
28 of whether or not the amount and terms of the offered financial
29 product or service allow various clients to meet their respective
30 obligations with a low probability of serious hardship, and that
31 there is a reasonable prospect that the financial product or service
32 will provide value to its client. For the purpose of extending
33 credit, this assessment will include measures to prevent over-
34 indebtedness.

35
36 2. *Cooling-off period* – Financial service providers are expected to
37 adopt a clear cooling-off policy as may be prescribed by law or
38 by rules and regulations issued by the relevant financial regulator
39 upon its determination that a cooling-off period is necessary for a
40 product that is subject to its regulation. Such policy should,
41 among others, provide a cooling-off period that will allow a
42 client to consider the costs and risks of a financial product or
43 service, free from the pressure of the sales team of the financial
44 service provider. The length of the cooling-off period should be
45 individually determined by financial service providers based on
46 reasonable expectation of the time required for a client to fully
47 evaluate all the terms and risks of the financial products or
48 service and contact concerned parties who may be affected by its
49 terms and conditions, unless a minimum or fixed period is

1 prescribed by the financial regulator for the compliance of a
2 financial service provider or when stipulated in the terms of the
3 offer for such a financial product or service. Financial regulators
4 may opt not to provide for a cooling-off period for short term
5 transactions or contracts.
6

7 During the cooling-off period, the financial consumer may cancel
8 or return the contract without penalty; however, nothing herein
9 shall prevent financial service providers from recovering the
10 processing costs incurred, as may be approved by the financial
11 regulators. Financial service providers are prohibited from
12 engaging in practices that unreasonably burden the financial
13 consumer in the exercise of the right of cancellation during the
14 cooling-off period. If the financial product is a contract of
15 insurance, a pre-need or a health maintenance organization
16 (HMO) product, the right of return cannot be exercised after the
17 financial consumer has made a claim.
18

19 3. *Pre-payment of loans and other credit accommodations* –A
20 borrower may, at any time prior to the agreed maturity date,
21 prepay a loan or other credit transactions in whole or in part:
22 *Provided*, That costs or fees charged to the borrower for such
23 pre-payment, if any, shall be disclosed to ensure transparency,
24 disclosure, and responsible pricing as required under this
25 Section.

26 c) *Transparency, disclosure, and responsible pricing* - Financial service
27 providers must ensure that they adopt disclosure principles in their
28 communications and their contracts with financial consumers including
29 the use of clear and concise language to ensure that all information
30 concerning the financial service is understood by target clients. This shall
31 also include updated and accurate disclosure of information such as on
32 pricing or any cost associated with the product or service, and should be
33 made in a consistent manner to facilitate a comparison between similar
34 financial products and services across the industry.

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

39 In their advertising materials, financial service providers shall disclose the
40 contact information of their consumer assistance unit providing consumer
41 assistance and handling financial consumer complaints. Financial service
42 providers shall also disclose that they are regulated and the advertising
43 materials must identify the relevant financial regulator.
44

45 Financial service providers are legally responsible for all statements made
46 in the marketing and sales materials that they produce relative to their
47 products or services. Disclosure of information on financial products or
48 services shall be made available to the public by the financial service

1 provider through printed materials, mass media, websites or digital
2 platforms.

3
4 Financial service providers must have internal policies and procedures on
5 setting prices for their products and services that take into consideration,
6 among others, the principle of responsible pricing.

- 7
8 d) *Fair and respectful treatment of clients* – Financial service providers shall
9 have the right to select their clients: *Provided*, That they shall not
10 discriminate against clients on the basis of race, age, financial capacity,
11 ethnicity, origin, gender, disability, health condition, sexual orientation,
12 religious affiliation, or political affiliation: *Provided, further*, That
13 financial service providers may provide distinction, as necessary, when
14 making a risk assessment on a specific financial product or service.

15
16 Financial service providers are prohibited from employing abusive
17 collection or debt recovery practices against their financial consumers.

- 18
19 e) *Privacy and protection of client data* – Each financial service provider
20 must respect the privacy and protect the data of their clients. Consistent
21 with the provisions of Republic Act No. 10173, otherwise known as the
22 Data Privacy Act, the financial regulators shall issue regulations in
23 coordination with the National Privacy Commission, governing the
24 disclosure of client data to a third party.

25
26 Clients shall have the right to review their data to ensure that inaccurate or
27 deficient data is corrected or amended.

- 28
29 f) *Financial consumer protection assistance mechanism* – Each financial
30 service provider must establish a single consumer assistance mechanism
31 for free assistance to financial consumers on financial transactions
32 concerns. This shall include handling of complaints, inquiries and requests.

33
34 Financial consumers who are unsatisfied with the financial service
35 provider's handling of their complaints, inquiries and requests, may
36 elevate their concerns to the financial regulator which has jurisdiction over
37 the financial service provider concerned.

38
39 ***Sec. 9. Bundling of Products*** – When a financial consumer is obliged by the
40 financial service provider to purchase any product, including an insurance policy, as a
41 pre-condition for availing a financial product or service, the financial consumer shall
42 have the option to choose the provider of such product subject to reasonable
43 standards set by the financial service provider, and this information shall be made
44 available to the financial consumer.

45 ***Sec. 10. Training*** – Staff members of financial service providers who deal
46 directly with financial consumers, including those who are involved in financial
47 consumer protection assistance mechanism, must receive adequate training suitable to
48 the complexity of the financial products or services they offer. Financial service

1 providers must be qualified as appropriate for the complexity of the financial product
2 or service they offer.

3 **Sec. 11. Investment Fraud**– It shall be unlawful for any person or persons to
4 commit investment fraud as defined in this Act.

5 **Sec. 12. No waiver of rights** – No provision of a contract for a financial
6 product or service shall be lawful or enforceable if such provision waives or otherwise
7 deprives a client of a legal right to sue the financial service provider, receive
8 information, have their complaints addressed and resolved, have their non-public
9 client data protected, or cancel the use of the financial product or service without an
10 unreasonable penalty.

11
12 **Sec. 13. Liability of a Financial Service Provider For Acts or Omissions of**
13 **Its Authorized Representatives** – The financial service provider shall be responsible
14 for the acts or omissions of its directors, trustees, officers, employees, or agents, in
15 marketing and transacting with financial consumers for its financial products and
16 services.

17
18 **Sec. 14. Prescription** – All actions or claims accruing under the provisions of
19 this Act, and the rules and regulations issued pursuant thereto, shall prescribe after
20 five (5) years from the time the financial consumer transaction was consummated, or
21 after five (5) years from the discovery of deceit or non-disclosure of material facts:
22 *Provided*, That such actions shall, in any event, prescribe after ten (10) years from the
23 commission of the violation: *Provided, further*, That for insurance contracts, the
24 prescriptive period for the commencement of action provided under the Insurance
25 Code shall apply.

26
27 **Sec. 15. Penalties** - Any person who willfully violates any provision of this
28 Act or any related rules, regulations, orders, or instructions issued by financial
29 regulators, shall be punished by imprisonment of not less than one (1) year, but not
30 more than five(5) years, or by a fine of not less than Fifty thousand pesos
31 (P50,000.00) but not more than Two million pesos (P2,000,000.00), or both at the
32 discretion of the court: *Provided*, That if the violation is committed by a corporation
33 or a juridical entity, the directors, officers, employees, or other officers who are
34 directly responsible for such violation shall be held liable thereto.

35
36 **Sec. 16. Administrative Sanctions** – The administrative sanctions of the
37 respective charters of the financial regulators shall be made applicable to financial
38 service provider, its directors, trustees, officers, employees or agents without prejudice
39 to the enforcement actions prescribed under Section 6(D) of this Act for willful
40 violation of this Act or any related rules, regulations, orders or instructions of financial
41 regulators: *Provided*, That in case profit is gained or loss is avoided as a result of the
42 violation, a fine not more than three (3) times the profit gained or loss avoided may
43 also be imposed by the Financial Regulator: *Provided, further*, That in addition to the
44 administrative sanctions that may be imposed, the authority of the Financial Service
45 Provider to operate in relation to a particular Financial Product or Service may be
46 suspended or cancelled by the Financial Regulator.

47

1 *Sec. 17. Independent Civil Action* – A financial regulator, consistent with
2 public interest and the protection of financial consumers, is authorized to institute an
3 independent civil action on behalf of aggrieved financial consumers for violations of
4 this Act and its implementing rules and regulations.
5

6 If in any of these proceedings, the financial regulators obtain a civil penalty
7 against any person or entity, or such person or entity agrees to settle such civil
8 penalty, the amount of the penalty shall, upon the motion of the financial regulators,
9 be added to and become part of a disgorgement fund or another fund established for
10 the benefit of the aggrieved financial consumer.
11

12 *Sec. 18. Transitory provision* – The financial regulators shall prepare the
13 necessary rules and regulations to implement the provisions of this Act within one (1)
14 year from its effectivity.
15

16 *Sec. 19. Separability Clause.* – If any provision of this Act is held
17 unconstitutional or invalid, all other provisions not affected thereby shall remain
18 valid.
19

20 *Sec. 20. Repealing Clause* – All laws, executive orders, rules and regulations
21 or parts thereof which are inconsistent with this Act are hereby repealed or amended
22 accordingly. Articles 131 to 147 of Title IV of Republic Act No. 7394 are hereby
23 repealed.
24

25 *Sec. 20. Effectivity clause* – This Act shall take effect fifteen (15) days after
26 its publication in the *Official Gazette* or in a national newspaper of general
27 circulation.
28

Approved.