



EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

20 FEB 10 P 6 :10

SENATE

RECEIVED DEPT. OF STATE [Signature]

Senate Bill No. 1329

Introduced by SENATOR SONNY ANGARA

**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 lifelong 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.

Globally, the G20, 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.

It is in this light that the passage of this bill is earnestly sought in order to have a comprehensive financial consumer protection regime where financial inclusion, financial education, good governance and effective supervision converge given that consumer protection is a shared responsibility among regulators, consumers, and other stakeholders.



SONNY ANGARA

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

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

1 **SECTION 1. Title.** — This Act shall be known as the "Financial Consumer
2 Protection 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 aligned
7 with global best practices. These mechanisms reinforce their confidence in the
8 financial market and foster the stability of the Philippine financial system. Towards
9 this end, the State shall implement measures to protect the following rights of
10 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.

16 **SEC. 3. Definition of Terms.** — As used in this Act, the following terms
17 shall mean or be understood as follows:

- a. "**Financial Consumer**" – a person or entity who is a purchaser, lessee, recipient or prospective purchaser, lessor or recipient of Financial Products or Services. It shall also refer to any natural person or micro, small or medium-sized enterprise that had or has current or prospective financial transaction with financial entities pertaining to Financial Products or Services.
- b. "**Financial Consumer Complaint**" – an expression of dissatisfaction filed by a Financial Consumers against a Financial Service Provider relative to a financial product or service in which a response or resolution is expected.
- c. "**Financial Products or Services**" – financial products or services which are developed or marketed by a Financial Service Provider which may include, but are not limited to savings, credit, insurance, investments, payments, remittances and other similar products and services. This also includes digital financial services which pertain to the broad range of financial services accessed and delivered through digital channels.
- d. "**Financial Regulators**" – The implementing government agencies of this Act, namely, the *Bangko Sentral ng Pilipinas* (BSP), Securities and Exchange Commission (SEC), Insurance Commission (IC) and the Cooperative Development Authority (CDA).
- e. "**Financial Service Provider**" – a person, natural or juridical entity which provides financial products or services and are being supervised or regulated by any of the Financial Regulators enumerated in this Act. This term shall include Investment Advisers as defined under Section 7 of this Act.
- f. "**Marketing**" – The act of communicating, offering, promoting, advertising or delivering of Financial Products and Services by Financial Service Providers.
- g. "**Micro, Small or Medium-sized Enterprise (MSME)**" – any business activity or enterprise engaged in industry, agri-business and/or services whether single proprietorship, cooperative, partnership or corporation as

1 defined under R.A. No. 9501, as amended or the Magna Carta for Micro,
2 Small or Medium-sized Enterprise . Such definition shall be subject to
3 review and adjustment by the Magna Carta for Micro, Small or Medium-
4 sized Enterprise (MSMED) Council.

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

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

14 **SEC. 6. Powers of the Financial Regulators.** – Financial Regulators shall
15 have the following powers:

16 a. **Rulemaking** – Financial Regulators shall have the authority to
17 formulate their own standard and rules for the application of the
18 provisions of this Act to the specific Financial Products or Services
19 within their jurisdiction guided by internationally accepted standards
20 and practices. Financial Regulators may also determine
21 reasonableness of charges or fees which a Financial Service Provider
22 may demand, collect or receive for any service or product offered to
23 consumers, except interest rates which shall be governed by the
24 Usury Law. Likewise, they may issue their respective rules of
25 procedure concerning administrative actions arising from the
26 implementation of this Act.

27 b. **Surveillance and Examination** – Financial Regulators may
28 conduct off-site surveillance and on-site examination on their
29 respective supervised Financial Service Providers to ascertain that the
30 provisions of this Act are complied with. The examination for
31 Financial Consumer protection compliance may be conducted
32 separately from examination of prudential regulations compliance.

1 The provisions on the conduct of examination and surveillance
2 provided in the respective charters of Financial Regulators, and
3 pertinent special laws shall be made applicable in the examination
4 and surveillance under this Act.

5 The department heads and the examiners of the Financial
6 Regulators shall be authorized to administer oaths to any director,
7 officer, or employee of the supervised Financial Service Providers
8 subject to their examination, and to compel the presentation of all
9 books, documents, papers, or records necessary in their judgment to
10 ascertain the facts relative to the compliance of Financial Service
11 Providers to this Act.

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

16 c. ***Market Monitoring*** – Financial Regulators shall have the
17 authority to require their respective supervised Financial Service
18 Providers and their third party agents/service providers to submit
19 reports or documents, as needed, and to access relevant data about
20 financial products, services and markets from other government
21 agencies in connection with market monitoring.

22 d. ***Enforcement*** – the Financial Regulators shall have the authority
23 to impose enforcement actions on their respective supervised
24 Financial Service Providers for non-compliance with this Act. Such
25 enforcement actions may include, but are not limited to, the
26 following:

- 27 1. Restriction on the ability of the supervised Financial Service
28 Provider to continue to collect fees or charges in cases of
29 excessive fees or charges imposed by the Financial Service
30 Provider, except interest rates which shall be governed by the
31 Usury Law;

2. Disqualification and/or suspension of directors, officers or
3 employees of the supervised Financial Service Provider
4 responsible for violations of the provisions of this Act, its
5 implementing regulations, or orders of the Financial Service
Providers;
6. Imposition of fines, suspension, or penalties for any non-
7 compliance with or breach of this Act, its implementing
8 regulations, or orders of the Financial Service Providers;
9. Issuance of a cease and desist order to the Financial Service
10 Provider without the necessity of a prior hearing if in the
11 Financial Regulator's judgment, the act or practice, unless
12 restrained, amounts to fraud or a violation the provisions of this
13 Act and its IRR or may unjustly cause grave or irreparable injury
14 or prejudice to Financial Consumers.
15 The Financial Service Provider shall be afforded an opportunity
16 to defend its act or practice in a summary hearing before the
17 Financial Regulator or its designated body, upon request made
18 by the Financial Service Provider within five (5) calendar days
19 from its receipt of the order. If no such hearing is requested
20 within said period, the order shall be final. If a hearing is
21 requested by the Financial Service Provider, the proceedings
22 shall be conducted summarily without adhering to the technical
23 rules of evidence, and all issues shall be determined primarily
24 on the basis of records, after which the Financial Regulator may
25 either reconsider or make final its order;
26. Suspension of operation of any supervised Financial Service
27 Provider in relation to a particular Financial Product or Service
28 when in the Financial Regulator's judgment based on findings,
29 the Financial Service Provider is operating in violation of the
30 provisions of this Act and its implementing regulations.

1 e. ***Adjudication*** – Financial Regulators shall have the authority to
2 adjudicate all actions arising from or in connection with financial
3 transactions that are purely civil in nature and the claim or relief
4 prayed for by the Financial Consumer is solely for payment or
5 reimbursement of sum of money not exceeding the amount of One
6 Hundred Thousand Pesos (P100,000.00) or as may be prescribed by
7 the Financial Regulators. The decision of the Financial Regulators in
8 the adjudication shall be final and executory, and may not be
9 restrained or set aside by the court except on petition for certiorari
10 on the ground of lack or excess of jurisdiction of the Financial
11 Regulators. The petition for certiorari may only be filed within ten
12 (10) days from receipt by the aggrieved party of the decision. The
13 adjudicatory power shall be exercised by the Head of the concerned
14 Financial Regulator or a duly authorized officer or body: *Provided,*
15 That in case of BSP, the decision of the authorized officer or body is
16 not appealable to the Monetary Board.

17 Financial Regulators may order the payment or reimbursement of
18 money which is subject of the action filed before them. The Financial
19 Regulators, in the exercise of their adjudicatory powers, shall have
20 the power to issue *subpoena duces tecum* and summon witnesses to
21 appear in its proceedings and in appropriate cases, order the
22 examination, search and seizure of all documents, and books of
23 accounts of any entity or person under investigation as may be
24 necessary for the proper disposition of the cases before them.
25 Further, Financial Regulators shall have the authority to punish for
26 contempt, both direct and indirect, in accordance with the pertinent
27 provisions of and penalties prescribed by the Rules of Court.

28 f. ***Other Powers*** – Financial Regulators may exercise such other
29 powers as may be provided by their enabling laws or charters as well
30 as those which may be implied from, or which are necessary or
31 incidental to the carrying out of, the express powers granted the

Financial Regulators to achieve the objectives and purposes of these laws.

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

5 Investment Adviser shall mean any person who, for compensation, engages in
6 the business of advising others, either directly or through publications or writings, as
7 to the value of investment products or as to the advisability of investing in,
8 purchasing, or selling investment products, or who, for compensation and as part of
9 a regular business, issues or promulgates analyses or reports concerning investment
10 products; but does not include the following:

- a. Trust Department/Unit of Banks;
 - b. Lawyer, accountant, engineer, or teacher whose performance of such services is solely incidental to the practice of his profession;
 - c. Any investment banker or broker dealer whose performance of such services is solely incidental to the conduct of his business as such investment banker or broker dealer and who receives no special compensation therefor;
 - d. The publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation;
 - e. Such other persons as the SEC may designate by rules and regulations or order.

SEC. 8. Duties and responsibilities of Financial Service Providers. –

- a. ***Board and Senior Management Oversight*** – The Board of Directors (BOD) and Senior Management of Financial Service Providers shall oversee the implementation of the Compliance Management System (CMS) of Financial Service Providers that effectively ensures conformity with this Act and shall provide the means by which Financial Service Providers shall identify, measure, monitor and control consumer protection risks inherent in its operations.
 - b. ***Appropriate product design and delivery*** – Financial Service Providers shall continuously evaluate their Financial Products and Services to ensure that they are appropriately targeted to the needs,

1 understanding and capacity of both their markets and their clients. This
2 shall include, among others, the following:

3 **1. *Affordability and suitability assessments*** – Financial Service

4 Providers should have written procedures for determining
5 whether a particular Financial Consumer product or service is
6 suitable and affordable for a client. This shall include
7 determination of whether the amount and terms of the offered
8 financial product or service allow a client, in terms of the
9 individual ability, to meet the obligations with a low probability of
10 a serious hardship and reasonable prospect that the Financial
11 Product or Service will provide value to its client. For the purpose
12 of extending credit, this assessment will include measures to
13 prevent over-indebtedness.

14 **2. *Cooling-off period*** – Financial Service Providers are expected to

15 adopt a clear cooling-off policy, as may be prescribed by law or
16 by rules and regulations issued by the relevant Financial
17 Regulator upon its determination that a cooling-off period is
18 necessary for a particular product subject of regulation by such
19 Financial Regulator. Such policy should, among others, provide a
20 client with a cooling-off period that will allow a client to consider
21 the costs and risks of a Financial Product or Service, free from the
22 pressure of the sales team of the Financial Service Provider. The
23 length of the cooling-off period should be individually determined
24 by Financial Service Providers based on reasonable expectation of
25 the time required for a client to fully evaluate all the terms and
26 risks of the Financial Products or Service and contact concerned
27 parties who may be affected by its terms and conditions, unless a
28 minimum or fixed period is required by the Financial Regulator for
29 compliance by the Financial Service Provider or to be incorporated
30 in the terms of the Financial Product or Service. Short period
31 transaction or contracts may be allowed to have no cooling-off

1 period which shall be provided in the regulation by the Financial
2 Regulators.

3 During the cooling-off period, the Financial Consumer may cancel
4 or return the contract without penalty; however, nothing herein
5 prevents the Financial Service Providers from recovering the
6 processing fees incurred. The Financial Service Providers are
7 prohibited from engaging in practices that unreasonably burden
8 the Financial Consumer in the exercise of the right of cancellation
9 during the cooling-off period. If the financial product is a
10 contract of insurance, the right of return cannot be exercised
11 after the Financial Consumer has made a claim under the contract
12 of insurance.

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

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

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

In their advertising materials, Financial Service Providers shall disclose the contact information of their consumer assistance unit providing consumer assistance and handling Financial Consumer Complaints. Financial Service Providers shall also disclose that they are regulated and the advertising materials must identify the relevant Financial Regulator.

Financial Service Providers are legally responsible for all statements made in the marketing and sales materials that they produce related to their products. Disclosure of information on Financial Products or Services shall be made available to the public by the Financial Service Provider through printed materials, mass media, websites or digital platforms.

- d. **Responsible pricing** – in addition to the requirements of R.A. No. 3765 or The Truth In Lending Act, Financial Service Providers are required to document the reasons for setting the price of each financial product or service. Where the pricing procedures of a Financial Service Provider are inadequate or unreasonably high, the concerned Financial Regulator shall impose appropriate corrective actions.
- e. **Fair and respectful treatment of clients** – Financial Service Providers shall have the right to select their clients: *Provided*, That the selection and treatment of their clients shall not involve discrimination on the basis of a person's race, ethnicity, origin, gender, disability, sexual orientation, religious affiliation or political affiliation: *Provided further*, That Financial Service Providers are not precluded from instituting the necessary risk mitigating measures.
- f. **Privacy and protection of client data** – each Financial Service Provider must respect the privacy and protect the data of their clients. Consistent with the provisions of the Data Privacy Act, the Financial Regulators shall issue regulations governing the disclosure of client data to a third party. Clients have the right to review their client data to ensure that inaccurate or deficient data is corrected or amended.
- g. **Financial consumer protection assistance mechanism** – Each Financial Service Provider must establish a single consumer assistance unit to render free assistance to Financial Consumers on financial

1 transactions concerns. This shall include handling of complaints, inquiries
2 and requests.

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

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

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

16 **SEC. 11. *No waiver of rights.*** – No provision of a contract for a Financial
17 Product or Service shall be lawful or enforceable if such provision waives or
18 otherwise deprives a client of a legal right to sue the Financial Service Provider,
19 receive information, have their complaints addressed and resolved, have their non-
20 public client data protected or cancel the use of the Financial Product or Service
21 without an unreasonable penalty.

22 **SEC. 12. *Non-exemption from compliance.*** – Notwithstanding any prior
23 stipulation in a contract, financial entities shall not be exempted from compliance
24 with the provisions of this Act, or deprive Financial Consumers of their rights under
25 this act.

26 **SEC. 13. *Liability Of A Financial Service Provider on the Acts or***
Omissions of its Authorized Representatives. – The Financial Service Provider
27 shall be responsible for the acts or omissions of its directors, officers, employees or
28 agents, in marketing and transacting with Financial Consumers of its Financial
29 Products and Services.

30 **SEC. 14. *Prescription.*** – All actions or claims accruing under the provisions
31 of this Act and the rules and regulations issued pursuant thereto shall prescribe

1 within five (5) years from the time the Financial Consumer transaction was
2 consummated, or within five (5) years from the discovery of deceit or non-disclosure
3 of material facts. For insurance contracts, the prescriptive period for the
4 commencement of action provided under the Insurance Code shall apply.

5 **SEC. 15. Penalty for Violation of this Act.** – Whenever a Financial
6 Service Provider willfully violates any provision of this Act or any related rules,
7 regulations, orders or instructions, issued by the Financial Regulators, the person or
8 persons responsible for such violation shall be punished by imprisonment of not less
9 than one (1) year but not more than five (5) years, or by a fine of not less than Fifty
10 Thousand Pesos (P50,000.00) but not more than Two Million Pesos (P2,000,000.00),
11 or both, at the discretion of the court. In addition, in case profit is gained or loss is
12 avoided as a result of the violation, a fine of no more than three (3) times the profit
13 gained or loss avoided may also be imposed.

14 **SEC. 16. Administrative Sanctions.** – The provisions on administrative
15 sanctions of the respective charters of the Financial Regulators shall be made
16 applicable to any Financial Service Provider, its directors, officers, employees or
17 agents without prejudice to the enforcement actions provided under Section 6 (D) of
18 this Act and the criminal sanctions provided under Section 15 of this Act, for any
19 willful violation of this Act or any related rules, regulations, orders or instructions of
20 the Financial Regulators: *Provided*, That in addition to the administrative sanctions
21 that may be imposed, the authority of the Financial Service Provider to operate in
22 relation to a particular Financial Products or Services may be suspended or cancelled
23 by the Financial Regulator.

24 **SEC. 17. Separability Clause.** – If any portion or provision of this Act is
25 subsequently declared invalid or unconstitutional, other provisions hereof which are
26 not affected thereby shall remain in full force and effect.

27 **SEC. 18. Repealing Clause.** – Articles 131 to 147 of Title IV of Republic
28 Act No. 7394 are hereby repealed.

29 Moreover, all other laws, acts, presidential decrees, executive orders,
30 presidential proclamations, issuances, rules and regulations, or parts thereof which
31 are contrary to or inconsistent with any of the provisions of this Act are hereby
32 repealed, amended, or modified accordingly.

1 **SEC. 19. *Transitory Provision.*** – The Financial Regulators shall prepare the
2 necessary rules and regulations to implement the provisions of this Act within one
3 (1) year from its effectivity.

4 **SEC. 20. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
5 publication in the Official Gazette or in at least two (2) national newspapers of
6 general circulation.

Approved,