


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

RECEIVED BY: 

SENATE

COMMITTEE REPORT NO. 13

Submitted by the Committee on Banks, Financial Institutions and Currencies on
~~28 FEB 2005~~

RE : Senate Bill No. 1900

Recommending its approval in substitution of Senate Bill No. 1843.

SPONSORS : Senators Edgardo J. Angara and Juan Ponce Enrile

MR. PRESIDENT:

The Committee on Banks, Financial Institutions and Currencies to which were referred Senate Bill No. 1843, introduced by Senator Edgardo J. Angara, entitled

"AN ACT ESTABLISHING A CREDIT INFORMATION BUREAU SYSTEM, AND FOR OTHER PURPOSES"

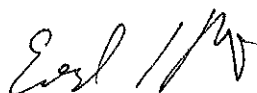
has considered the same and has the honor to report this back to the Senate with the recommendation that the attached Senate Bill No. 1900, prepared by the Committee, entitled

"AN ACT ESTABLISHING A CREDIT INFORMATION SYSTEM, AND FOR OTHER PURPOSES"

be approved in substitution of Senate Bill No. 1843 with the members of the Committee on Banks, Financial Institution and Currencies as authors thereof.

This report includes, aside from the proposed substitute bill, Senate Bill No. _____, a narration of discussions and positions considered by the Committee with the adoption of the proposed Credit Information System Act.

Respectfully submitted:



EDGARDO J. ANGARA

Chairman

Committee on Banks, Financial Institutions
and Currencies


JUAN PONCE ENRILE
Vice Chairman

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HON. FRANKLIN M. DRILON
Senate President
Pasay City

SEP 26 1930

SENATE

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S.B. NO. 1930

Introduced by Senator Edgardo J. Angara and the Members of the
Committee on Banks, Financial Institutions and Currencies

**AN ACT
ESTABLISHING A CREDIT INFORMATION SYSTEM,
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 Credit Information System Act."

2

3 **Section 2. Declaration of Policy.** – The State recognizes the need to establish a
4 comprehensive and centralized credit information system for the collection and
5 dissemination of information relevant to, or arising from, credit and credit-related
6 activities of all entities participating in the financial system. A credit information
7 system will directly address the lack of reliable credit information concerning the
8 credit history and track record of both individual and corporate borrowers including,
9 but not limited to, credit card users.

10 The operations and services of a credit information system can be expected to:
11 greatly improve the overall availability of credit especially to small borrowers, lower
12 the cost of credit to responsible debtors, and reduce the excessive dependence on
13 collateral to secure credit facilities. An efficient credit information system, using
14 state-of-the-art technology, will also enable financial institutions to lower their
15 overall credit risk, contributing to a healthier and more stable financial system.

16

17 **Section 3. Definition of Terms.**- For purposes of this Act:

1 **"Accessing Entity"** refers to any Submitting Entity or any other entity qualified as
2 such by the Monetary Board.

3 **"Borrower"** refers to a natural or juridical person that applies for and avails of a
4 Credit Facility.

5 **"BSP"** refers to the Bangko Sentral ng Pilipinas.

6 **"Bureau"** refers to the Credit Information Bureau.

7 **"Credit Facility"** refers to any loan, credit line, guarantee or any other form of financial
8 accommodation from the Submitting Entity.

9 **"Credit Information"** refers to raw information provided by a Borrower to a
10 Submitting Entity in connection with the application for and availment of a Credit
11 Facility and other information related or relevant thereto in the data files of other
12 sources of information, such as government agencies and utility companies;
13 *Provided That* in the absence of a written waiver duly accomplished by the
14 Borrower, Credit Information shall exclude confidential information on bank
15 deposits and/or client funds under Republic Act 1405 (Law on Secrecy of Bank
16 Deposits), Republic Act 6426 (The Foreign Currency Deposit Act), Republic Act
17 8791 (The General Banking Law of 2000), and their amendatory laws.

18 **"Credit Rating"** refers to a published ranking based on financial analysis of a
19 Borrower's financial history, specifically as it relates to the Borrower's ability to
20 meet debt obligations.

21 **"Credit Report"** refers to a report containing detailed information on a Borrower's
22 credit history, including but not limited to identifying information, credit accounts
23 and loans, bankruptcies and late payments, and recent inquiries.

24 **"Government Lending Institutions"** refers to government financial institutions
25 (GFIs), government-owned and-controlled-corporations (GOCCs) engaged in
26 lending activities, and such other institutions that the Monetary Board may deem
27 appropriate, excluding however the Philippine Deposit Insurance Corporation
28 (PDIC) and the BSP.

29 **"Monetary Board"** refers to the Monetary Board of the BSP.

1 **"Outsource Entity"** refers to any third-party contractor such as but not limited to an
2 academic institution, think-tank or consultative panel or body, other than a Special
3 Accessing Entity, to whom the Bureau may outsource the processing and
4 consolidation of raw Credit Information pertaining to a Borrower and/or the
5 creation of Credit Reports or Credit Ratings and/or financial models for the
6 production of such Credit Reports or Credit Ratings.

7 **"Special Accessing Entity"** refers to a private corporation engaged primarily in the
8 business of providing Credit Ratings and/or Credit Reports.

9 **"Submitting Entity"** refers to an entity which provides Credit Facilities such as, but
10 not limited to, entities regulated by the BSP, investment houses, financing
11 companies, cooperatives, non-governmental micro-financing organizations, credit
12 card companies, insurance companies and Government Lending Institutions.

13

14 **Section 4. Establishment of Credit Information Bureau and Credit**
15 **Information System -**

16 (a) The Bureau shall be established as a corporate entity under Batas Pambansa
17 Blg. 68 (The Corporation Code), in accordance with the requirements thereof. The
18 ownership of the BSP in the Bureau shall not exceed forty-nine percent (49%) and
19 its equity investment therein is hereby authorized notwithstanding the prohibition
20 under Republic Act 7653. Multilateral international financial institutions, and related
21 industry associations, as may be authorized under their respective charters, and
22 such other entities as the Monetary Board may allow, may also subscribe and own
23 shares in the Bureau subject to a 15% individual ceiling, or such other ceiling as the
24 Monetary Board may prescribe; provided that the Monetary Board shall endeavor to
25 broaden the base of the Bureau's ownership.

26 (b) Except for the BSP Governor or his designated representative, the directors
27 of the Bureau shall come from the private sector. The directors and officers of the
28 Bureau, except for the BSP Governor or his designated representative, shall be
29 qualified by the BSP under its "fit and proper" rule for bank directors and officers.

1 (c) The Bureau shall acquire and adopt state-of-the art technology, equipment
2 and facilities in its operations in order to provide quality service to the financial
3 system and its participants and shall endeavor to continually maintain and upgrade
4 its facilities in order to cope with the continuously evolving needs of the credit
5 information system.

6 (d) In furtherance of the policy set forth in Section 2 of this Act, a Credit
7 Information System is hereby established.

8 (i) Each Submitting Entity is hereby authorized to submit Credit Information,
9 on a regular basis, to the Bureau operating under this Act and the Bureau
10 is in turn authorized to release Credit Information, Credit Reports and
11 Credit Ratings to Accessing Entities, Special Accessing Entities and
12 Outsource Entities.

13 (1) Banking institutions and their subsidiaries and affiliates that
14 provide credit are subject to compulsory participation as
15 Submitting Entities under this Act;

16 (2) In order to achieve comprehensive coverage by the System, the
17 Monetary Board may determine other credit providers that are
18 subject to compulsory participation as Submitting Entities under
19 this Act;

20 (3) Other than those referred to in Section 4(d)(i)(1) and Section
21 4(d)(i)(2) of this Act, all other persons qualified to be Submitting
22 Entities may participate under this Act subject to their acceptance
23 by the Bureau in accordance with such standards and rules as the
24 Monetary Board may prescribe.

25 (ii) Each Submitting Entity shall notify its Borrowers of its obligation to
26 submit Credit Information to the Bureau and the release thereof by the
27 Bureau.

28 (iii) Outsource Entities are prohibited from releasing Credit Information
29 received from the Bureau, as well as Credit Reports and Credit Ratings

1 produced on the basis of such Credit Information, other than back to the
2 Bureau.

3 (iv) Accessing Entities shall hold strictly confidential any Credit Information,
4 Credit Report or Credit Ratings it receives from the Bureau.

5 (v) Special Accessing Entities are prohibited from releasing Credit Reports
6 and Credit Ratings derived from the Credit Information received from the
7 Bureau, to non-accessing entities unless written consent or authorization
8 has been obtained from the Borrower.

9 (vi) The Borrower shall have ready access to the Credit Information pertinent
10 to him. In case of erroneous Credit Information, the subject Borrower
11 shall have the right to dispute the inaccuracy and the Bureau shall correct
12 it accordingly. Denial of these rights, without justifiable reason, shall
13 entitle the Borrower to indemnity.

14 (vii) A Submitting Entity, an Accessing Entity, a Special Accessing Entity, an
15 Outsource Entity, the Bureau, and their respective officers and employees
16 shall not be civilly liable for acts done by them under Sections 4(d)(i) to
17 4(d)(v) of this Act, unless there is a clear showing of bad faith, malice or
18 gross negligence.

19
20 **Section 5. Access to Credit Information from Government Offices and**

21 **Agencies.-** The Bureau is hereby authorized to access Credit Information from
22 government offices, agencies and pension funds being administered by the
23 government, and subject to conformity by the Supreme Court, from the judiciary, its
24 courts and offices. This authorization supersedes any and all provisions in existing
25 laws including, but not limited to, the statutory charters of such government offices
26 and agencies, judicial courts and offices, which provide for the confidentiality nature
27 of such information.

28
29 **Section 6. Confidentiality of Credit Information sourced from the Credit**

30 **Information Bureau.-** Accessing Entities, Special Accessing Entities, Outsource

1 Entities and duly authorized non-accessing entities shall hold the Credit Information
2 under strict confidentiality and shall use the same only for the declared purpose. The
3 accreditation of an Accessing Entity, a Special Accessing Entity and/or an Outsource
4 Entity which violate the confidentiality of, or which misuse, the Credit Information
5 accessed from the Bureau, may be suspended or revoked. A dully authorized non-
6 accessing entity which violates this Section shall be barred access to the Credit
7 Information System.

8 The Bureau shall be authorized to release and disclose Credit Information, Credit
9 Reports and Credit Ratings only to: the BSP, the Accessing Entities, the Special
10 Accessing Entities, and the Outsource Entities. Credit Information shall not be released
11 to entities other than those enumerated under this Section except upon lawful order of
12 the court.

13
14 **Section 7. Borrower's Identification System** - The Bureau shall implement a
15 Borrower's identification system for the purpose of consolidating Credit Information.

16
17 **Section 8. Rules and Regulations-** For purposes of creating a healthy balance
18 between the need for reliable Credit Information and safeguarding consumer
19 protection, the Monetary Board shall issue the implementing rules and regulations
20 (IRR), which shall include, but not be limited to, the following matters:

21 (a) restrictions on the use and transfer of Credit Information;

22 (b) rights of the Borrowers to access their respective Credit Information and to
23 dispute the factual accuracy of such Credit Information;

24 (c) sanctions to be imposed by the Bureau on:

25 (i) the Submitting Entities for non-submission of reports and for delayed
26 and/or erroneous reporting; and

27 (ii) Accessing Entities, Special Accessing Entities, Outsource Entities and duly
28 authorized non-accessing entities, for breaches of the confidentiality of,
29 or misuse of, the Credit Information obtained from the Credit Information
30 System.

1 *Provided* That these sanctions shall be in the form of applicable administrative
2 penalties under Section 37 of Republic Act 7653, otherwise known us "The New
3 Central Bank Act"; and

4 (d) suspension or cancellation of the rights of any Accessing Entity, Special
5 Accessing Entity or Outsource Entity to access Credit Information from the Bureau.

6

7 **Section 9. Indemnity in Favor of the Bureau, Its Officers and Employees.**

8 Unless the Bureau or any of its officers and employees is found liable for any willful
9 violation of this Act, bad faith, malice and/or gross negligence, the Submitting
10 Entities, Accessing Entities, Special Accessing Entities, Outsource Entities and duly
11 authorized non-accessing entities shall hold the Bureau, its officers and employees
12 harmless to the fullest extent permitted by law and shall indemnify them for any and
13 all liabilities, losses, claims, demands, damages, deficiencies, costs and expenses of
14 whatsoever kind and nature that may arise in connection with (i) the performance of
15 their functions, or (ii) any and all breaches of their covenants, obligations, duties
16 and responsibilities, representation or warranties under this Act, or in connection
17 with or otherwise relating to any action, suit or proceeding that may be brought
18 against the Bureau in connection with Credit Information which was obtained and/or
19 disseminated under the Credit Information System.

20

21 **Section 10. Penalties.** – Any person who violates any of the provisions of this Code,
22 or the rules and regulations promulgated by the Monetary Board under authority
23 thereof shall, upon conviction, suffer a fine of not less than Fifty thousand pesos
24 (P50,000) nor more than One Million Pesos (P1,000,000.00) or imprisonment of
25 not less than one (1) years nor more than five (5) years, or both, at the discretion of
26 the court.

27

28 **Section 11. Separability Clause.-** Should any provision of this Act or the application
29 thereof to any person or circumstance be held invalid, the other provisions or
30 sections of this Act shall not be affected thereby.

1

2 **Section 12. Effectivity Clause.- This** Act shall take effect fifteen (15) days
3 following its publication in the Official Gazette or in two (2) national newspapers of
4 general circulation.

5

6 Approved.

COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES

SUMMARY OF PROCEEDINGS

I. BACKGROUND

The absence of a centralized credit information system is a deterrent to the development of our financial system. It makes borrowing costly and inaccessible to small borrowers, and puts the financial institutions to excessive and unnecessary risk.

The establishment of a centralized credit information system will improve the availability of credit especially to small yet responsible borrowers, as their good track record in paying their obligations will be made known to the financial institutions. Currently, the absence of reliable credit information makes financial institutions hesitant in granting credit to small borrowers, leaving the latter at the mercy of loan sharks.

Good and efficient credit information will lower the cost of financing. Since the cost of gathering credit information will be lower, the amount to be passed on to borrowers will likewise be minimized. Thus, banks will no longer charge high interests to known responsible borrowers as the credit risk will be lower.

Excessive dependence on physical collateral to secure credit facilities will be minimized. At present, due to lack of complete and credible credit information in assessing the creditworthiness of prospective borrowers, the system relies a lot on collateral to be able to extend credit. This further hampers access to financing on the part of small borrowers.

From the regulatory perspective, a centralized credit information system will contribute to a healthier and more stable financial system because the lending institutions would be able to have access to accurate and reliable credit information which will enable them to make sound credit decisions. Moreover, this will encourage responsible borrowing attitude as debtors will know that a negative credit record will be perpetuated.

To emphasize the importance of the establishment of a centralized credit information system, it may be useful to note that the WorldBank, in its reports, cited that the existence of a good credit information system reduces the difference of information between the borrowers and lenders, thereby lowering the credit risk and improving portfolio quality. Also, it will allow lenders to more accurately evaluate risks, thereby increases the availability of credit.

The aforementioned benefits of a centralized credit information system prompted the Committee on Banks, Financial Institutions and Currencies to immediately act on the Senate Bill No 1843, entitled "AN ACT ESTABLISHING A CREDIT INFORMATION BUREAU SYSTEM, AND FOR OTHER PURPOSES" introduced by Senator Edgardo J. Angara.

II. COMMITTEE ACTION

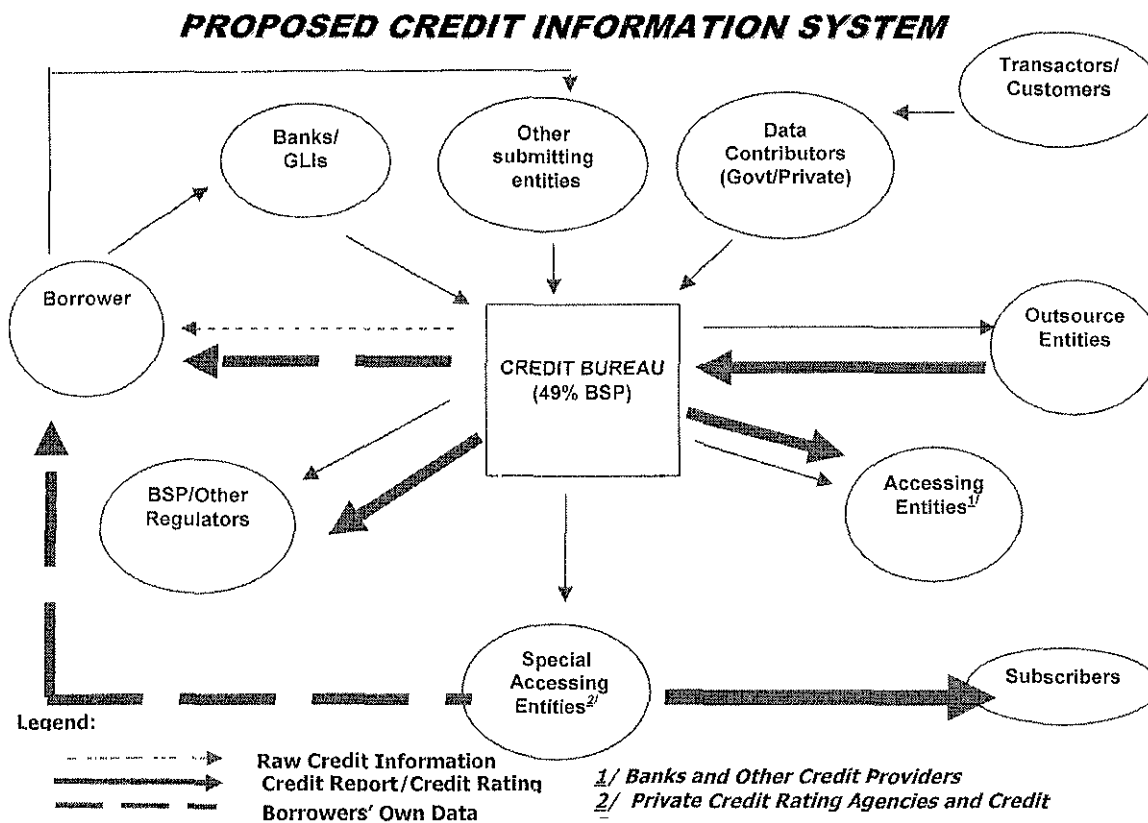
- A. The Committee on Banks, Financial Institutions and Currencies (the "Committee") conducted two (2) public hearings on the proposed bill on November 9 and 26, 2004.

- B. The discussions in the hearings, as well as the comments and suggestions in the position papers submitted to the Committee, were taken into consideration in the drafting of the Substitute Bill.

III. FINDINGS

A. On the structure of the Credit Information System

The Credit Information System will have the following structure:



At the center of the Credit Information System is the Credit Information Bureau (the "Bureau"). It will be an entity to be organized under the Corporation Code of the Philippines of which the Bangko Sentral ng Pilipinas (the "BSP") will be a major shareholder. There may be other investors such as industry associations and international organizations.

There are two sources in the proposed Credit Information System – the borrowers and other transactors/customers. The information will be coursed through three types of entities – (1) the banks and government lending institutions, (2) other entities that provide credit such as cooperatives, micro-financed institutions and other similar institutions (Other submitting entities); and (3) Other sources of useful credit information such as utility companies.

The information would be collected through the Bureau, and the Bureau could process this information and distribute it through the "accessing entities", who are likewise the primary providers of credit information (i.e. banks). Credit information may likewise be provided to special accessing entities, which include the private credit bureaus and private credit rating agencies. These entities can source information from

the Bureau and may use the information for creating credit reports and ratings and may add whatever value to the report as required by their customers.

The Credit Information System will cover all borrowers. Thus, it will cover both natural and juridical persons. A borrower identification system will be established to facilitate the consolidation of credit information on a borrower. It will gather both positive and negative information.

The borrowers would have the right to know the credit information about them and shall be able to dispute inaccurate information. There are also safeguards to be imposed against breach of confidentiality and misuse of borrower information.

The Monetary Board shall have the oversight power over the operation of the Credit Information System and shall promulgate the implementing rules and regulations (IRR)

B. On protection against inaccurate and disparaging information

Discussion

In a centralized credit information system, inaccurate and disparaging credit information imputed upon a person will practically destroy him financially. There should be safeguards embedded in the system to protect the borrowers.¹ Although a borrower has a right to rectify wrong credit information, the damage may have been done already before he can have the chance to correct the inaccuracy.

In the original scheme contemplated by the bill, the basic safeguard is the right of a borrower to know the information about him so that he will be able to protect himself. Moreover, the Monetary Board, through the IRR, will prescribe administrative sanctions on accessing entities and other parties who breached the confidentiality of, or misuse, the data. The sanctions contemplated could be in the nature of fines and/or denial of access to the system.²

Committee Consensus

The rights of the Borrower to access Credit Information about him and to have inaccurate information corrected accordingly will be clearly provided in the law. Unreasonable denial of these rights will entitle the Borrower to indemnity.

In order to avoid undue delegation of legislative powers, the nature and the maximum amount of the administrative sanctions should be incorporated in the law itself, and not only in the IRR. Penal sanctions should likewise be imposed upon erring parties.

¹ Senator Edgardo J. Angara, Chairman.

² Assistant Governor Nestor Espenilla, BSP.

In the implementation of the law, it is suggested that the borrowers be educated to monitor their credit information and to aptly dispute or question inaccuracies therein.

C. On government ownership

Discussion

The proposed bill provides that the Bureau will be majority-owned by the government, through the BSP. Does this mean that all of the employees coming from the private sector shall become government employees as well? If so, this may be a problem since the Board will be composed mostly of persons from the private sector, who might be hesitant to accept the nomination in view of the fact that they will then be subjected to severe restrictions being imposed upon public officials.³

The BSP clarified that although the Bureau will be majority-owned by the BSP, it will be a purely private corporation, thus its directors and employees will not be considered Civil Service employees.⁴ The purpose of making the Bureau a private corporation majority owned by the BSP is to strike a balance between the credibility and integrity that the BSP ownership in the Bureau would add and the necessity of giving the Bureau sufficient flexibility to conduct its operation in an efficient manner.

The SEC expressed doubts on whether a majority-owned subsidiary of a government institution can be classified as a private entity.⁵ It suggested that instead of an implicit authority for the BSP to establish a subsidiary, it should be only categorically authorized to invest in the proposed entity.⁶

Committee Consensus

The Bureau should not be majority-owned by the BSP, However, BSP shall maintain a substantial part of the Bureau's ownership. The law shall provide that BSP may own up to 49% of the Bureau in order to erase doubts of it being a private corporation.

D. On the nature of the law

Discussions

The way the bill has been drafted is a bit unclear as to what kind of institution it is trying to create. Although the Bureau will be incorporated under the Corporation Code, it likewise has already provided for the ownership structure of the Bureau. It is therefore confusing whether the bill calls for the establishment of a system or is a charter of the Bureau.

Committee consensus

³ Former Prime Minister Virata, President of the Bankers Association of the Philippines.

⁴ Assistant Governor Juan de Zuñiga, Bangko Sentral ng Pilipinas.

⁵ Chairperson Fe Barin, Securities and Exchange Commission.

⁶ SEC position paper dated 22 November 2004.

The proposed law should not be a charter of the Bureau. It should only enable the incorporation of a single Bureau. What the law should establish is a centralized credit information system and the Bureau is but one component of the system.

- E. On the BSP supervision over the operations and activities of accessing entities

Discussion

The Bill provides that the operations and activities of accessing entities. This might broaden the supervisory powers of the BSP since the term "accessing entity" includes entities other than the institutions currently being supervised by the BSP.⁷

The purpose of allowing the BSP certain supervision over the accessing entities is to ensure quality and accuracy of the information.⁸

Committee Consensus

The law should not extend BSP's supervisory power to other accessing entities. Instead, the Bureau may impose sanctions on erring entities. The Bureau may likewise suspend or cancel an entity's right of access to the Credit Information System on certain grounds. The Monetary Board shall set forth in the IRR the guidelines for the Bureau's exercise of its authority.

As the Bureau's major shareholder, the BSP can exercise influence within the board and ensure that the quality and accuracy of the information are being maintained.

- F. On the effect on the Bank Secrecy Law

Discussions

A question was raised whether the proposed law will be an exception to the Bank Secrecy Law.⁹ The BSP explained that the law will not permit the bureau unlimited access to deposit accounts. The information that will be gathered on deposits will be purely voluntary on the part of the borrowers who disclose their information to the lending institutions.

Committee Consensus

The non-inclusion from the coverage of "credit information" of confidential information on bank deposits and/or client funds under the Bank Secrecy Law, Foreign Currency Deposit Act and the General Banking Act should be explicitly provided in the law to avoid confusion.

- G. On the participation requirement

⁷ Commissioner Joselia Poblador, Securities and Exchange Commission.

⁸ Assistant Governor Nestor Espenilla, BSP.

⁹ Atty Francis Lim, President of the Philippine Stock Exchange.

Discussion

For banks, which are the major sources of credit information, it is envisioned that their participation in the system will be mandatory. The experience of private credit bureaus would show that where participation is merely voluntary, the system would not work. Some banks, for business reasons, would not want to volunteer information on their valued clients. Thus, it is necessary for banks to be mandatory providers of information on all borrowers.¹⁰

Committee Consensus

Banks should not be singled out as there are other rich sources of credit information. Thus, subsidiaries and affiliates of banks should likewise be required to provide information. Moreover, the Monetary Board shall have the authority to designate other institutions to be mandatory providers of information.

Other financial institutions will be required only on a reciprocity basis – that is, if they contribute information, they will also be able to benefit from the information pool. Thus, once an institution joins the system, it will be required, as a matter of duty, to supply information.

H. On the confidentiality of credit information

Discussion

There was a proposal to allow the general public to access credit information, subject to the rules of confidentiality and other conditions. This information would be useful when conducting due diligence in negotiating mergers and acquisitions of companies.¹¹

The BSP reiterated that access is limited only to certain entities – accessing entities, outsource entities and special accessing entities. However, the special accessing entities can actually provide information to third parties, with the consent of the party concerned.

Committee Consensus

Credit information should not be made readily available to the general public. However, if the subject of the credit information authorizes access, a special accessing entity may provide such information to other parties.

¹⁰ Assistant Governor Nestor Espenilla, BSP.

¹¹ Atty. Manuel Yngson, Jr. Founding Chairman and President of Corporate Rehabilitation and Insolvency Practitioners Association of the Philippines (CRIPAP)