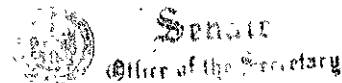


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



13 OCT -9 P3:27

SENATE
S.B. No. 1832

RECEIVED BY. *ja*

Introduced by: Senator Paolo Benigno "Bam" A. Aquino IV

EXPLANATORY NOTE

In all parts of the country, microenterprises comprise the bulk of business enterprises in the country. The Department of Trade and Industry (DTI) estimates that, as of 2011, at least 99.6% of all businesses in the Philippines were classified as micro, small, and medium enterprises (MSMEs), while the remaining 0.4% were large enterprises. Of the total number of MSMEs, at least 91.0% were micro enterprises, with asset sizes not greater than Three Million Pesos (P3 million) and with up to 10 employees.

At their very core, micro enterprises enable poor families to undertake entrepreneurial activities to meet their minimum basic needs, including income generation. However, one major barrier for micro entrepreneurs is their lack of access to credit or capital. One way for them to access such funding is through micro finance.

"Microfinance", as defined in this bill, "refers to the viable and sustainable provision of a broad range of financial services to poor/unbanked/financially underserved/low-income households engaged in livelihood and microenterprise activities. It uses nontraditional and innovative methodologies and approaches such as, but not limited to, the extension of small loans, simplified loan application procedures, group character loans, collateral-free arrangements, cash-flow based lending, alternative loan repayments, minimum requirements for CBU/minimum balance retention, and small denominated savers' instruments—aimed to improve their asset base and expand their access to capital and savings."

However, the microfinance sector has yet to be acknowledged by government as an integral partner in poverty alleviation. Moreover, the unique structure and purpose of microfinance institutions (MFIs) have yet to be recognized as different from those of purely commercial enterprises.

Therefore, we are proposing the **Microfinance Code of the Philippines** to develop the microfinance sector in the country. This measure seeks to define the rights and responsibilities, institute performance management and standards, and provide an accreditation process for MFIs. It also seeks to provide an enabling policy environment for MFIs through appropriate incentives and support. Finally, this measure will promote a social reform strategy that will empower the poor, aid them in managing financial risks, and, in doing so, expand access to micro finance services, such as: microcredit, microsavings, health care, and others. This Act also opens up access to a broad range of financial, business, and other human development services. The ultimate goal of the Microfinance Code of the Philippines is to lift people out of poverty and enable them to live more productive, self-sufficient lives.

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


Senator Paolo Benigno "Bam" A. Aquino IV

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AN ACT CREATING THE MICROFINANCE CODE OF THE PHILIPPINES

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

**CHAPTER 1
GENERAL PROVISIONS**

SECTION 1. Short Title. – This Act shall be known as the "Microfinance Code of the Philippines".

SECTION 2. Declaration of Policies. – It is the declared policy of the State that there shall be more equitable distribution of opportunities, income and wealth, sustained increase in the amount of goods and services produced by the nation for the benefit of the people, and expanding productivity as the key in raising the quality of life for all, especially the underprivileged.

Towards this end, the State recognizes the indispensable role of the private sector in fostering local enterprise development and social entrepreneurship, including the provision of microfinance services to microenterprises.

In recognizing the greater role of the private sector in the provision of financial services, the State shall provide an enabling policy environment that will facilitate the increased participation of the private sector and pursue financially inclusive and pro-poor financial and credit policies, such as microfinance and its allied services.

SECTION 3. Basic Principles. – A microfinance institution shall conduct its operations in accordance with the basic principles of microfinance, which include, but are not limited to the following:

- a. The poor shall be given access to appropriate financial services that are convenient, flexible, and reasonably priced, including, but not limited to credit, savings, and insurance;
- b. Microfinance can and should be undertaken on a sustainable basis, where providers shall be able to recover all of its costs to allow sustainable operation and regular provision of financial services to the poor;

- 1 c. Microfinance institutions must aim to provide both financial and social protection
2 programs to an increasing number of disadvantaged and/or underprivileged people;
- 3 d. Microfinance institutions shall abide by the Client Protection Principles, such as, but
4 not limited to, appropriate product design and delivery, prevention of over-
5 indebtedness, promotion of transparency, practice of responsible pricing, fair and
6 respectful treatment of clients; privacy of client data and mechanisms for complaint
7 resolution;
- 8 e. Financial services, alone, is insufficient to achieve the goal of serving increasing
9 numbers of poor and excluded people sustainably, thereby requiring that the
10 microfinance sector develop financial and social performance standards that will
11 help define and govern the industry toward greater outreach and sustainability.

12 **SECTION 4. Scope of Application.** – This Act shall apply to non-stock, non-profit
13 corporations and/or non-government organizations (NGOs) engaged in and/or associated with
14 the practice of microfinance in the Philippines.

15 **SECTION 5. Definition of Terms.** – The following terms shall mean:

- 16 a. "Compensating Balance" refers to the proportion of the total loan of a microfinance
institution client, which is retained with the microfinance institution as capital build-
up (CBU) or savings. This amount serves as a hold-out deposit on the loan of the
client and can be used by the microfinance institution to off-set the client's
outstanding balance in case of default. In view of this, the client is considered a net
borrower from the microfinance institution rather than a net saver (i.e., as a
borrower of its own savings rather than as a depositor who finances other client's
borrowings/loans).
- 17 b. "Council" refers to the Microfinance Regulatory Council.
- 18 c. "Microfinance" refers to the viable and sustainable provision of a broad range of
19 financial services to poor/unbanked/financially underserved/low-income households
20 engaged in livelihood and microenterprise activities. It uses nontraditional and
21 innovative methodologies and approaches such as, but not limited to, the extension
22 of small loans, simplified loan application procedures, group character loans,
23 collateral-free arrangements, cash-flow based lending, alternative loan repayments,
24 minimum requirements for CBU/minimum balance retention, and small
25 denominated savers' instruments—aimed to improve their asset base and expand
their access to capital and savings.
- 26 d. "Microfinance Loans" refers to small loans granted to the basic sectors, as defined in
27 the Social Reform and Poverty Alleviation Act of 1997 (Republic Act 8425), and other
28 loans granted to the poor and low-income households for their microenterprises and
29 small businesses so as to enable them to raise their income levels and improve their
30 living standards. Microfinance loans are granted on the basis of the borrower's cash
31 flow and are typically unsecured.
- 32 e. "Non-stock, Non-profit Microfinance Institution (MFIs)" refers to a duly registered
33 non-government organization (NGO) with the primary purpose of providing
34 microfinance programs, products, and services, such as, but not limited to,
35 microcredit and microsavings; referred herein as "Microfinance NGO".

- 1 f. "Social Performance" refers to the effective translation of an institution's social
2 mission into practice.

3 **CHAPTER 2**
4 **THE MICROFINANCE REGULATORY COUNCIL**

5 **SECTION 6. *Establishment of the Microfinance Regulatory Council.*** – The Securities and
6 Exchange Commission (SEC) shall have the power to establish and/or register a self-regulatory
7 organization for the microfinance sector to be known as the Microfinance Regulatory Council,
8 herein referred to as the "Council".

9 **SECTION 7.** The SEC may prescribe rules and regulations which are necessary or
10 appropriate in the public interest or for the protection of microfinance institutions to govern
11 self-regulatory organizations and other organizations licensed or regulated pursuant to the
12 authority granted in this Section, including the requirement of cooperation within and among
13 all microfinance institutions to ensure transparency and facilitate exchange of information.

14
15 Likewise, the SEC shall prescribe the requirements for the establishment of the Council, such as
16 industry representation, governance structure, selection and appointment of directors, and
17 such other requirements to ensure free, fair, and healthy competition in the industry.

18 **SECTION 8.** The powers and functions of the Council shall be exercised by a board of
19 directors composed of 15 members. The Council may establish a Secretariat as may be
20 necessary.

21 **SECTION 9. *Functions of the Microfinance Regulatory Council.*** - The Council shall have
22 the following functions:

- 23 a. Provide a national policy and strategy for the practice of microfinance in the
24 Philippines;
- 25 b. Maintain a national registry of microfinance institutions;
- 26 c. Institute and operationalize a system of accreditation for non-stock, non-profit
27 microfinance institutions;
- 28 d. Issue a Certificate of Accreditation to the MFIs;
- 29 e. Collect reasonable accreditation and monitoring fees, which shall be used for
30 operational requirements;
- 31 f. Require regular submission of reports by microfinance institutions;
- 32 g. Monitor the financial and social performance of microfinance institutions to ensure
33 compliance with the provisions of this Act and its implementing rules and
34 regulations;
- 35 h. Suspend or revoke any Certificate of Accreditation upon determination that a
36 microfinance institution no longer meets the criteria for accreditation;
- 37 i. Perform such other functions as may be necessary to accomplish the purposes and
38 objectives of this Act.

39 **CHAPTER 3**

1 **PERFORMANCE MANAGEMENT AND STANDARDS**

2 **SECTION 13. *Financial Performance Management.*** – Non-stock, non-profit microfinance
3 institutions shall develop and implement systems, practices and controls for efficient, effective
4 and sustainable financial operations through prudent resource management, asset-liability
5 management, liquidity management, and financial information management.
6

7 **SECTION 14. *Social Performance Management.*** – Non-stock, non-profit microfinance
8 institutions must have an institutionalized process of translating social mission into practice
9 which includes setting clear social goals, monitoring progress towards these objectives and
10 using information to improve performance and practice. Social performance information must
11 be integrated into the MFI's work, operational routines, and value system to affect decision-
12 making practices at both operational and strategic levels.
13

14 **SECTION 15. *Financial Performance Standards.*** – The Microfinance Regulatory Council
15 shall establish a set of parameters for assessing the financial performance of non-stock, non-
16 profit microfinance institutions, such as, but not limited to, the following: portfolio quality,
17 efficiency, sustainability, and outreach.

18 **SECTION 16. *Social Performance Standards.*** – Non-stock, non-profit microfinance
19 institutions, at the minimum, shall define and monitor its social goals; ensure board,
20 management, and employee commitment to social performance; treat clients responsibly;
21 design products, services, delivery models, and channels that meets clients' needs and
22 preferences; treat employees responsibly; and balance financial and social performance.

23 **CHAPTER 5**

24 **MICROFINANCE PROGRAMS, PRODUCTS, AND OTHER SERVICES**

25 **SECTION 17. *Minimum Core Programs and Services.*** – Non-stock, non-profit
26 microfinance institutions shall provide, any of the following programs, products, or services:

- 27 a. microcredit and financial literacy programs;
28 b. microcredit and capital build-up or microsavings

29 **SECTION 18. *Other Programs and Services.*** – The following are the other programs and
30 services that MFIs may undertake:

- 31 a. Agricultural Microfinance;
32 b. Housing Microfinance;
33 c. Microinsurance;
34 d. Mobile or any innovative channels;
35 e. Money Transfer and other related remittance services;
36 f. Other innovative programs, products and services, which are not contrary to existing
37 law and/or regulations.

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**CHAPTER 6
INCENTIVES**

SECTION 19. Access to Special Credit Window – Duly accredited MFIs shall be given ready access to special credit facilities sponsored by or made available through government financial institutions at preferential rates.

SECTION 20. Technical Assistance – Non-stock, non-profit microfinance institutions are entitled to access any form of technical assistance from the government, donors, and other support organizations—in facilitating the linkage between the poor households/microenterprises and microfinance institutions, community organizations and capacity building of the target clientele; social preparation activities, and those that will lead to the broadening and deepening of microfinance services such as: development of microfinance products, training in microfinance technologies, and upgrading of performance standards, operating systems and procedures.

SECTION 21. Tax Fairness for Duly Accredited Non-stock, Non-profit Microfinance Institutions. – Transactions of non-stock, non-profit microfinance institutions, to the extent of the practice of microfinance between its clients, shall be exempt from value added tax and documentary stamp tax. Provided, That, the amount that would have been paid as taxes and saved by the microfinance institution by virtue of its exemption to the aforementioned taxes shall be used for furtherance of its operations and meeting its social objectives.

SECTION 22. Tax on Donations to Microfinance Institutions. – Donations to non-stock, non-profit microfinance institutions shall be fully deductible from the gross income of the donor, subject to the provisions of Section 34(C) and qualifications set forth in Section 101 of Republic Act No. 8424, as amended, otherwise known as the “National Internal Revenue Code of 1997.”

**CHAPTER 7
TRANSITORY PROVISIONS**

SECTION 23. Compliance Period. – Non-stock, non-profit microfinance institutions shall comply with the provisions set hereto, within three (3) years from the effectivity of this Act.

SECTION 24. Exemption from Liability for Unremitted Taxes. – The Bureau of Internal Revenue, in consultation with the Council, shall issue a circular detailing the standards, guidelines, rules, and regulations of a tax amnesty program for non-stock, non-profit microfinance institutions with tax assessments duly issued, arising from microfinance loans and other related programs and services extended.

**CHAPTER 8
FINAL PROVISIONS**

SECTION 25. Implementing Rules and Regulations. – Within six months after the effectivity of this Act, the Council shall promulgate the rules and regulations for the implementation of this Act.

SECTION 26. Prohibitions. –

- a. No person, juridical or natural, shall engage in or hold itself out as engaged in microfinance, or shall use as part of its name the term "microfinance" or any other title or name, which tends to give the public impression that it is engaged in

1 microfinance activities, unless it is an accredited entity and has secured authority for
2 that purpose in accordance with this Act.

- 3 b. The use of "microfinance" or any other name or title or combination of names and
4 titles or any other deviation from the requirements of this section shall not be made,
5 except upon prior authorization by the Council.

6 **SECTION 27. Penal Provisions. –**

7 A fine of not less than Ten thousand pesos (P10,000.00) and not more than Fifty thousand
8 pesos (P50,000.00) or imprisonment of not less than six months but not more than six years or
9 both, at the discretion of the court, shall be imposed upon:

- 10 a. Any individual or individuals, or in case of an organization, its officers, directors,
11 trustees and managing officers, who shall knowingly and willingly:

12 1) Engage in any activity sought to be regulated under this Act without a validly
13 subsisting authority from the relevant regulatory authority;

14 2) Hold themselves out to be a microfinance institution, either through advertisement
15 in whatever form, whether in its stationery, commercial paper, or other document,
16 or through other representations without authority;

17 3) Make use of a trade or firm name containing the words "microfinance" or "MFI" or
18 any other designation that would give the public the impression that it is engaged in
19 microfinance as defined in this Act without authority;

20 4) Knowingly and willingly make any statement in any application, report, or document
21 required to be filed under this Act, which statement is false or misleading with
22 respect to any material fact;

23 5) Engage in other acts inimical or adverse to the microfinance industry as may be
24 defined by the Council; and

25 6) Violate the provisions of this Act.

- 26 b. Any officer, employee or examiner of the Council directly charged with the
27 implementation of this Act or of other government agencies, who shall commit,
28 connive, aid, or assist in the commission of acts enumerated under Subsection 1 of
29 this Section.

30 **SECTION 28. Repealing Clause. –** All laws, issuances, rules and regulations inconsistent with
31 any provision of this Act shall be deemed amended, modified, or repealed accordingly.

32 **SECTION 29. Separability Clause. –** If, for any reason, a provision or part hereof is declared
33 invalid or unconstitutional, the other provisions not affected thereby shall remain in full force
34 and effect.

35 **SECTION 30. Effectivity. –** This Act shall take effect fifteen (15) days after its publication in
36 any newspaper of general circulation.