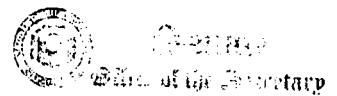


**SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )**



'18 MAY 29 P3:36

**SENATE**

Senate Bill No. 1829

RECEIVED

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Introduced by **Senator FRANCIS G. ESCUDERO**

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

**EXPLANATORY NOTE**

The advent of the global financial crisis brought to fore the importance of the effective consumer protection in the financial services as consumers were ultimately exposed to the risks brought about by the failure of financial institutions. In addition, the evolution of the financial landscape where there is an increasing number of complex financial products and services coupled with the rapid technological change highlight the need for financial consumer protection.

As more complex financial products are offered and easily accessed through financial technology, financial consumers face the risk of being the victim of fraud and abuse. Time and again, we hear stories of consumers putting their life-long savings in investment scams or suffering from or facing collection cases due to over indebtedness. These are just some of the travails experienced by financial consumers.

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

In the international arena, the G20<sup>1</sup>, in February 2011, called on the Organization for Economic Cooperation and Development (OECD), the Financial Stability Board (FSB) and other relevant international organization 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.

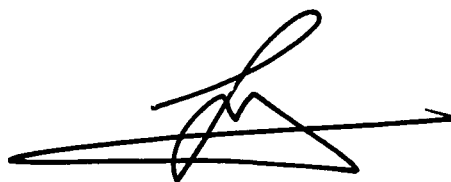
It is in this light that this bill is being introduced in order to have in place a comprehensive financial consumer protection regime wherein financial inclusion, financial education, good governance and effective supervision all come into play given

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

that consumer protection is a shared responsibility among the regulators, consumers, and other stakeholders.

I submit.

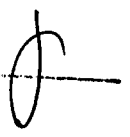
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**AN ACT  
PROVIDING FOR THE PROTECTION OF FINANCIAL  
CONSUMERS AND FOR OTHER PURPOSES**

*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 Consumer  
2 Protection Act".  
3

4        **Section 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 financial consumers  
6 under the conditions of transparency, fair and sound market conduct, and fair,  
7 reasonable and effective handling of financial consumer disputes, which are aligned  
8 with global best practices. These mechanisms reinforce their confidence in the financial  
9 market and foster the stability of the Philippine financial system.  
10

11        **Section 3. Definition of terms** - As used in this Act, the following terms shall  
12 mean:  
13

14        a) **"Consumer"** - a person who is a purchaser, lessee, recipient or prospective  
15 purchaser, lessor or recipient of consumer products and services. A **"Financial  
16 Consumer"** on the other hand, is a natural person or micro, small or medium-  
17 sized enterprise that had or has current or prospective financial transaction with  
18 financial entities pertaining to financial products and services.  
19

20        b) **"Financial Consumer Complaint"** - an expression of dissatisfaction filed by  
21 a financial consumer against a financial person relative to a financial product or  
22 service in which a response or resolution is expected.  
23

24        c) **"Financial Education"** - The process by which financial consumers improve  
25 their understanding of financial products, concepts and risks, and develop the  
26 skills and confidence to become more aware of financial risks and opportunities  
27 to make informed choices and to take other effective actions to improve their  
28 financial well-being. This goes beyond the financial information and advice given  
29 in a contractual relationship between the financial person and the consumers.  
30

31        d) **"Financial Provider"** - an entity that provides financial products which are  
32 being supervised or regulated by any of the implementing government agencies  
33 enumerated in this act.  
34

1 e) **"Financial Literacy"** - a combination of financial awareness, knowledge,  
2 skills, attitude and behaviors necessary to make sound financial decisions and  
3 ultimately achieve financial well-being.  
4

5 f) **"Financial Person"** - a person, natural or juridical, supervised or regulated  
6 by any of the implementing government agencies enumerated in this Act. This  
7 term shall include financial advisers as defined under Section 7 of this Act.  
8

9 g) **"Financial Products or Services"** - financial products or services which are  
10 developed or marketed by a financial person which may include, but are not  
11 limited to savings, credit, insurance, investments, payments, remittances and  
12 other similar products and services.  
13

14 h) **"Financial Regulators"** - The implementing government agencies of this  
15 Act, namely, the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange  
16 Commission (SEC), Insurance Commission (IC) and the Cooperative  
17 Development Authority (CDA).  
18

19 i) **"Marketing"** - The act of communicating, offering, promoting,  
20 advertising or delivering of financial products and services by financial entities.  
21

22 j) **"Micro, Small or Medium-sized Enterprise (MSME)"** - any business  
23 activity or enterprise engaged- in industry, agri-business and/or services whether  
24 single proprietorship, cooperative, partnership or corporation as defined under  
25 R.A. No. 9509, as amended of the Magna Carta for Micro, Small or Medium-sized  
26 Enterprise . Such definition shall be subject to review and adjustment by the  
27 Magna Carta for Micro, Small or Medium-sized Enterprise (MSMED) Council.  
28

29 **Section 4. Scope and Coverage** – This Act applies to all financial products  
30 and services offered or marketed by any financial person.  
31

32 **Section 5. Financial Regulators** – The BSP, SEC, and IC shall enforce the  
33 provisions of this act on all financial entities they supervise or regulate by virtue of their  
34 respective charters, special laws and amendments thereto. The CDA shall be considered  
35 an implementing government agency of this Act only with respect to cooperatives  
36 offering financial services such as but not limited to savings and credit except insurance  
37 cooperatives which shall be under the jurisdiction of the Insurance Commission for  
38 purposes of this Act.  
39

40 **Section 6. Powers of the Financial Regulators.** – Financial regulators shall  
41 have the following powers:  
42

43 A. **Rulemaking** – the implementing government agencies shall have the  
44 authority to formulate their own standards and rule for the application of the  
45 provisions of this Act to the specific financial products within their jurisdiction.  
46 Likewise, they may issue their respective rules of procedure concerning  
47 administrative actions arising from the implementation of this Act.  
48

49 B. **Surveillance and inspection** – the implementing government agencies  
50 may conduct off-site surveillance and on-site examination on their respective  
51 supervised financial entities to ascertain that the provisions of this Act are  
52 complied with. The examination for financial consumer protection compliance  
53 could be conducted separately from examination of prudential regulations  
54 compliance.

1  
2 **C. Market Monitoring** – the implementing government agencies may require  
3 reports or documents, as needed, from their respective supervised financial  
4 entities and their third party agents/ service providers. The implementing  
5 government agencies can also access relevant data about financial products,  
6 services and markets from other government agencies in connection with  
7 market monitoring.  
8

9 **D. Enforcement** – the implementing government agencies shall have the  
10 authority to impose enforcement actions on their respective supervised  
11 financial entities for non-compliance with this act. Such enforcement actions  
12 may include but are not limited to the following:  
13

14  
15 **a.** Restriction on the ability of the supervised financial person to continue  
16 to collect fees or charges in case of excessive fees or charges imposed  
17 by the financial person;  
18

19 **b.** Disqualification of directors, officers, or employees of the supervised  
20 financial person responsible for violations of the provisions of this title  
21 and its Implementing Rules and Regulations (IRR);  
22

23 **c.** Imposition of fines or penalties for any non-compliance with or breach  
24 of this Act and its IRR;  
25

26 **d.** Issuance of a cease and desist order without the necessity of a prior  
27 hearing if in the implementing government agency's judgment the act  
28 or practice, unless restrained may cause grave or irreparable injury or  
29 prejudice to the consumer or may amount to fraud or violation the  
30 provisions of this title and its IRR;  
31

32 **e.** Suspension of operation of any supervised financial person in relation  
33 to a particular consumer financial product or service when in the  
34 Financial Regulator's judgment based on findings, such person is  
35 operating in violation of the provisions of this Act and its IRR.  
36

37 The Financial Regulators may exercise such other powers as may be provided by  
38 law as well as those which may be implied from, or which are necessary or incidental to  
39 the carrying out of, the express powers granted the Financial Regulators to achieve the  
40 objectives and purposes of these laws.  
41

42 **Section 7. Investment Adviser** – Investment Advisers shall be subject to the  
43 rules and regulations to be issued by the Securities and Exchange Commission.  
44

45 Investment Adviser shall mean any person who, for compensation, engages in  
46 the business of advising others, either directly or through publications or writings, as to  
47 the value of investment products or as to the advisability of investing in, purchasing, or  
48 selling investment products, or who, for compensation and as part of a regular  
49 business, issues or promulgates analyses or reports concerning investment products;  
50 but does not include the following:  
51

52 **a.** Trust Department/Unit of Banks;

- 1 b. Lawyer, accountant, engineer, or teacher whose performance of  
2 such services is solely incidental to the practice of this profession;  
3 c. Any investment banker or broker dealer whose performance of  
4 such services is solely incidental to the conduct of his business as  
5 such investment banker or broker dealer and who receives no  
6 special compensation therefor;  
7 d. The publisher of any bona fide newspaper, news magazine or  
8 business or financial publication of general and regular circulation;  
9 e. Such other persons as the Security Exchange Commission may  
10 designate by rules and regulations or order.  
11

12 **Section 8. Duties and responsibilities of Financial Persons –**  
13

14 A. *Board and Senior Management Oversight* – The Board of Directors (BOD) and  
15 Senior Management of every financial person shall oversee the  
16 implementation of the Compliance Management System (CMS) of the person  
17 that effectively ensures conformity with this Act and shall provide the means  
18 by which a financial person shall identify, measure, monitor and control  
19 consumer protection risks inherent its operations.  
20

21 B. *Appropriate product design and delivery* – The financial person shall  
22 continuously evaluate their financial products and services to ensure that they  
23 are appropriately targeted to the needs, understanding and capacity of both  
24 their markets and their clients. This shall include, among others, the  
25 following:  
26

27 a. *Affordability and suitability assessments* – The financial person should  
28 have written procedures for determining whether a particular financial  
29 consumer product or service is suitable and affordable for a client. This  
30 shall include determination of whether the amount and terms of the  
31 offered financial product or service allow the client, in terms of the  
32 individual ability, to meet the obligations with a low probability of a  
33 serious hardship and reasonable prospect that the financial product or  
34 service will provide value to its client. For the purpose of extending  
35 credit, this assessment will include measures to prevent over-  
36 indebtedness.  
37

38 b. *Cooling-off period* – a financial person is expected to adopt a clear  
39 cooling-off policy, as may be prescribed by law or by rules and  
40 regulations issued by the relevant financial regulator upon its  
41 determination that a cooling-off period is necessary for a particular  
42 product subject of regulation by such financial regulator. Such policies  
43 should, among others, provide a client with a cooling-off period that  
44 will allow a client to consider the costs and risks of a financial product  
45 or service, free from the pressure of the sales team of the financial  
46 person. The length of the cooling-off period should be individually  
47 determined by a financial person based on reasonable expectation of  
48 the time require for a client to fully evaluate all the terms and risks of  
49 the financial product or service and contact others<sup>1</sup> who may be  
50 affected by its terms and conditions, unless a minimum or fixed period  
51 is required by the financial regulator for compliance by the financial  
52 provider or incorporation in its contract. Short period transaction or

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<sup>1</sup> Family members or business partners

1 contracts may be allowed to have no cooling-off period which shall be  
2 provided in the regulation by the financial regulators. During the  
3 cooling-off period, the financial consumer may cancel or return the  
4 contract without penalty; however, nothing herein prevents the  
5 financial provider from recovering the processing fees incurred. The  
6 financial providers are prohibited from engaging in practices that  
7 unreasonably burden the financial consumer in the exercise of the  
8 right of cancellation during the cooling-off period. If the financial  
9 product is a contract of insurance, the right of return cannot be  
10 exercised after the financial consumer has made a claim under the  
11 contract of insurance.

12  
13 *c. Prepayment of loans and other credit accommodations* – a borrower  
14 may, at any time prior to the agreed maturity date prepay, in whole or  
15 in part, provided that any cost or fees charged to the borrower for  
16 such pre-payment shall be disclosed as required under the succeeding  
17 provision of this Section on transparency, disclosure and responsible  
18 pricing.

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

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

33  
34 In their advertising, Financial Providers shall disclose that they are regulated  
35 and the advertising materials must identify the relevant Financial Regulator.

36  
37 Financial Providers are legally responsible for all statements made in the  
38 marketing and sales materials that they produce related to their products.

39  
40 *Responsible pricing* - in addition to the requirements of R.A. No. 3765 or The  
41 Truth in Lending Act, a financial person is required to document the reasons  
42 for setting the price of each financial product or service. Where the pricing  
43 procedures of a financial person are inadequate or unreasonably high, the  
44 concerned implementing government agency shall impose appropriate  
45 corrective actions.

46  
47 *D. Fair and respectful treatment of clients* - client selection and treatment shall  
48 not involve discrimination on the basis of personal characteristics or personal  
49 affiliations; *provided*, that financial entities are not precluded from instituting  
50 the necessary risk mitigating measures.

51  
52 Personal characteristics refer to race, ethnicity, origin, gender, disability and  
53 sexual orientation. Personal affiliation denotes religious affiliation or political  
54 affiliation.

1  
2 E. *Privacy and protection of client data* - each financial person must respect the  
3 privacy and protect the data of their clients. Consistent with the provisions of  
4 the Data Privacy Act, the financial regulators shall issue regulations for the  
5 disclosure of client data to a third party.  
6

7 Clients have the right to review their client data to ensure that inaccurate or  
8 deficient data is corrected or amended.  
9

10 F. *Financial consumer protection assistance mechanism* – Each financial person  
11 must establish a single consumer assistance handling unit to render free  
12 assistance to financial consumers on financial transactions concerns. This  
13 shall include handling of complaints, inquiries and requests.  
14

15 Financial consumers who are unsatisfied with the financial person's handling  
16 of their complaints, inquiries and requests, may elevate their concerns to the  
17 financial regulator that supervises the financial person concerned.  
18

19 ***Section 9. Bundling of Products*** - When a borrower is obliged by the financial  
20 provider to purchase any product, including an insurance policy, as a pre-condition for  
21 receiving a loan from the financial provider, the borrower should be free to choose the  
22 provider of the product and this information should be known to the borrower.  
23

24 ***Section 10. Training*** - Staff of financial providers who deal directly with  
25 consumers must receive adequate training, suitable for the complexity of the products  
26 or services they sell. Financial intermediaries are qualified as appropriate for the  
27 complexity of the financial product or service they sell.  
28

29 ***Section 11. Alternative dispute resolution*** – The redress mechanism before  
30 the financial regulator shall be mediatory in nature. If the financial consumer is  
31 unsatisfied with the result of the mediation conducted by the financial regulator, the  
32 financial consumer may bring the matter before an accredited external arbitrator of the  
33 financial regulator concerned, if any, prior to the filing of the appropriate action in court  
34 or tribunal.  
35

36 ***Section 12. No waiver of rights*** - No provision of a contract for a consumer  
37 financial product or service shall be lawful or enforceable if such provision waives or  
38 otherwise deprives a client of a legal right to sue the financial service provider, receive  
39 information, have their complaints addressed and resolved, have their non-public client  
40 data protected or cancel the use of the consumer financial product or service without  
41 an unreasonable penalty.  
42

43 ***Section 13. Non-exemption from compliance*** – Notwithstanding any prior  
44 stipulation in a contract, financial entities shall not be exempted from compliance with  
45 the provisions of this Act, or deprive financial consumers under this act.  
46

47 ***Section 14. Liability of a financial person on the acts or omissions of its***  
48 ***authorized representatives*** – The financial person shall be responsible for the acts  
49 or omissions of its directors, officers, employees or agents, in marketing and transacting  
50 with financial consumers of its financial products and services, provided that the said  
51 acts or omissions are not beyond the authority granted by the financial person. The said  
52 directors, officers, employees or agents shall be solely responsible for acts or omission  
53 beyond the authority granted by the financial person.  
54



1           **Section 15. Prescription** – All actions or claims accruing under the provisions  
2 of this title and the rules and regulations pursuant thereto shall prescribe within five (5)  
3 years from the time the financial consumer transaction was consummated, or within  
4 five (5) years from the discovery of the deceit or non-disclosure of material facts. For  
5 insurance contracts, the prescriptive period for the commencement of action provided  
6 under the insurance code shall apply.  
7

8           **Section 16. Penalty for Violation of this Act** – Whenever a financial person  
9 willfully violates any provision of this Act or any related rules, regulations, orders or  
10 instructions, issued by the Financial Regulators, the person or persons responsible for  
11 such violation shall be punished by imprisonment by not less than one (1) year but not  
12 more than five (5) years, or by a fine of not less than fifty thousand (P50,000.00) pesos  
13 but not more than five hundred thousand pesos (P500,000.00), or both, at the  
14 discretion of the court. In addition, said violator shall be subject to disgorgement of the  
15 amount obtained from the financial consumers/investors plus interest.  
16

17           A foreign national who violates any provision of this Act shall be deported  
18 without further proceedings after service of sentence and/or payment of fine.  
19

20           **Section 17. Administrative Sanctions** – The provisions on the administrative  
21 sanctions of the respective charters of the Financial Regulators shall be made applicable  
22 to any financial person, or financial person, its directors, officers, employees, or agents  
23 without prejudice to the enforcement actions provided under Section 6 (D) of this Act  
24 and the criminal sanctions provided under Section 16 of this Act, for any willful violation  
25 of this Act or any related rules, regulations, orders or instructions of the Financial  
26 Regulators, *provided*, that in addition to the administrative sanctions that may be  
27 imposed, the authority of the financial person to operate may be suspended or  
28 cancelled by the Financial Regulator which primarily regulates such financial person.  
29

30           **Section 18. Repealing clause** – All laws, executive orders, rules and  
31 regulations or parts thereof which are inconsistent with this Act are hereby repealed or  
32 amended accordingly. Articles 131 to 147 of Title IV of Republic Act No. 7394 are  
33 hereby repealed.  
34

35           **Section 19. Transitory Provisions** – The Financial Regulators shall prepare  
36 the necessary rules and regulations to implement the provisions of this Act within one  
37 (1) year from its effectivity.  
38

39           **Section 20. Effectivity clause** – This Act shall take effect fifteen (15) days  
40 after its publication in the Official Gazette or in at least two (2) national newspapers of  
41 general circulation.  
42

43           *Approved,*  
44  
45  
46  
47  
48