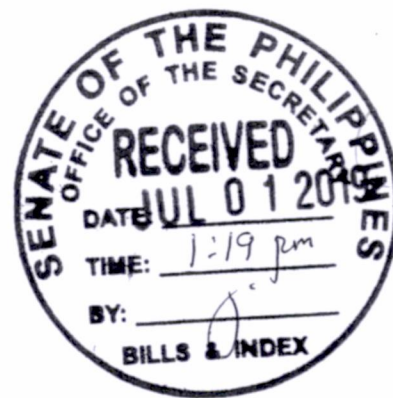


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

S. B.*No. 60



Introduced by Senator Manuel "Lito" M. Lapid

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

EXPLANATORY NOTE

It is the policy of the state to implement appropriate mechanisms that shall protect the interest of financial consumers under the conditions of transparency, fair and sound market conduct, and fair, reasonable and effective handling of financial consumer disputes, which are aligned with global best practices.

This bill seeks to create an enabling environment where consumer rights are recognized and protected and to provide, among others, for the following:

1. Authority to financial regulators, namely, Bangko Sentral ng Pilipinas, Securities and Exchange Commission and Insurance Commission and to some extent the Cooperative Development Authority, to exercise rulemaking, surveillance and inspection, market monitoring and enforcement powers over financial persons;
2. Investment advisers to be supervised and regulated by the Securities and Exchange Commission;
3. Cooling-off period which will allow the financial consumer to cancel or return a contract without penalty subject to the conditions of the cooling-off policy of the financial person who offered the service or product;

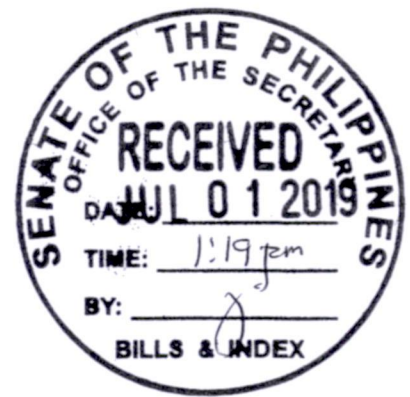
4. Transparency, disclosure and responsible pricing to ensure that financial persons adopt the disclosure principles in dealing with their clients; and
5. Penalty, both administrative and criminal, on responsible persons found to have violated the provisions of this proposed Act.

The proliferation of more complex financial products which can be accessed easily through financial technology exposes financial consumers to risk of being a victim of fraud and abuse, thus, highlights the need for financial consumer protection.

In view of the foregoing, approval of this bill is earnestly requested



MANUEL "LITO" M. LAPID
Senator



SENATE

S. B. No. 60

Introduced by SENATOR MANUEL "LITO" M. LAPID

**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 Sec. 2. *Declaration of Policy.* - It is the policy of the state to ensure that
5 appropriate mechanisms are in place to protect the interest of 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
9 financial market and foster the stability of the Philippine financial system.

10

11 Sec. 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
18 with financial entities pertaining to financial products and services.

19

1 b) "Financial Consumer Complaint" - an expression of dissatisfaction filed by a
2 financial consumer against a financial provider relative to a financial product
3 or service in which a response or resolution is expected.

4
5 c) "Financial Education" - The process by which financial consumers improve
6 their understanding of financial products, concepts and risks, and develop the
7 skills and confidence to become more aware of financial risks and
8 opportunities to make informed choices and to take other effective actions to
9 improve their financial well-being. This goes beyond the financial information
10 and advice given in a contractual relationship between the financial provider
11 and the consumers.

12
13 d) "Financial Provider" - an entity that provides financial products which are
14 being supervised or regulated by any of the implementing government
15 agencies enumerated in this act.

16
17 e) "Financial Literacy" - a combination of financial awareness, knowledge,
18 skills, attitude and behaviors necessary to make sound financial decisions and
19 ultimately achieve financial well-being.

20
21 f) "Financial Provider" - a person, natural or juridical, supervised or regulated
22 by any of the implementing government agencies enumerated in this Act. This
23 term shall include financial advisers as defined under Section 7 of this Act.

24
25 g) "Financial Products or Services" - financial products or services which are
26 developed or marketed by a financial provider which may include, but are not
27 limited to savings, credit, insurance, investments, payments, remittances, pre-
28 need, health care maintenance and other similar products and services.

29
30 h) "Financial Regulators" - The implementing government agencies of this
31 Act, namely, the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange

1 Commission (SEC), Insurance Commission (IC) and the Cooperative
2 Development Authority (CDA).

3
4 i) "Marketing" - The act of communicating, offering, promoting,
5 advertising or delivering of financial products and services by financial
6 entities.

7
8 j) "Micro, Small or Medium-sized Enterprise (MSME)" - any business activity or
9 enterprise engaged- in industry, agri-business and/or services whether single
10 proprietorship, cooperative, partnership or corporation as defined under R.A.
11 No. 950r, as amended of the Magna Carta for Micro, Small or Medium-sized
12 Enterprise. Such definition shall be subject to review and adjustment by the
13 Magna Carta for Micro, Small or Medium-sized Enterprise (MSMED) Council.

14
15 Sec. 4. *Scope and Coverage.* – This Act applies to all financial products and
16 services offered or marketed by any financial provider.

17
18 Sec. 5. *Financial Regulator.* – The BSP, SEC, and IC shall enforce the
19 provisions of this act on all financial entities they supervise or regulate by virtue of
20 their respective charters, special laws and amendments thereto. The CDA shall be
21 considered an implementing government agency of this Act only with respect to
22 cooperatives offering financial services such as, but not limited to, savings and credit
23 except insurance cooperatives which shall be under the jurisdiction of the Insurance
24 Commission for purposes of this Act.

25
26 Sec. 6. *Powers of the Financial Regulators.* – Financial regulators shall have
27 the following powers:

28
29 A. Rule-making – the implementing government agencies shall have the
30 authority to formulate their own standards and rule for the application of
31 the provisions of this Act to the specific financial products within their
32 jurisdiction. Likewise, they may issue their respective rules of procedure

1 concerning administrative actions arising from the implementation of this
2 Act.

3
4 B. Surveillance and Inspection – the implementing government agencies may
5 conduct off-site surveillance and on-site examination on their respective
6 supervised financial entities to ascertain that the provisions of this Act are
7 complied with. The examination for financial consumer protection
8 compliance could be conducted separately from examination of prudential
9 regulations compliance.

10
11 C. Market Monitoring – the implementing government agencies may require
12 reports or documents, as needed, from their respective supervised
13 financial entities and their third party agents/ service providers. The
14 implementing government agencies can also access relevant data about
15 financial products, services and markets from other government agencies
16 in connection with market monitoring.

17
18 D. Enforcement – the implementing government agencies shall have the
19 authority to impose enforcement actions on their respective supervised
20 financial entities for non-compliance with this act. Such enforcement
21 actions may include but are not limited to the following:

22
23 a. Restriction on the ability of the supervised financial provider to
24 continue to collect fees or charges in case of proven excessive fees
25 or charges imposed by the financial provider;

26
27 b. Disqualification of directors, officers, or employees of the supervised
28 financial provider responsible for violations of the provisions of this
29 title and its Implementing Rules and Regulations (IRR);

1 c. Imposition of fines or penalties for any non-compliance with or breach
2 of this Act and its IRR;

3

4 d. Issuance of a cease and desist order without the necessity of a prior
5 hearing if in the implementing government agency's judgement, the
6 act or practice, unless restrained may cause grave or irreparable
7 injury or prejudice to the consumer or may amount to fraud or
8 violation the provisions of this title and its IRR;

9

10 e. Suspension of operation of any supervised financial provider in relation
11 to a particular consumer financial product or service when in the
12 Financial Regulator's judgment based on findings, such person is
13 operating in violation of the provisions of this Act and its IRR.

14

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

19

20 *Sec. 7. Investment Adviser* – Investment Advisers shall be subject to the rules
21 and regulations to be issued by the Securities and Exchange Commission.

22

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

29

30 a. Trust Department/Unit of Banks, Insurance and Pre-need
31 companies;

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

14
15
16 *Sec. 8. Duties and responsibilities of Financial Providers –*
17

- 18 A. Board and Senior Management Oversight – The Board of Directors (BOD) and
19 Senior Management of every financial provider shall oversee the
20 implementation of the Compliance Management System (CMS) of the
21 person that effectively ensures conformity with this Act and shall provide
22 the means by which a financial provider shall identify, measure, monitor
23 and control consumer protection risks inherent its operations.
24
- 25 B. Appropriate Product Design and Delivery – The financial provider shall
26 continuously evaluate their financial products and services to ensure that
27 they are appropriately targeted to the needs, understanding and capacity
28 of both their markets and their clients. This shall include, among others,
29 the following:
30
 - 31 1. Affordability and suitability assessments – The financial provider should have
32 written procedures for determining whether a particular financial consumer

1 product or service is suitable and affordable for a client. This shall include
2 determination of whether the amount and terms of the offered financial
3 product or service allow the client, in terms of the individual ability, to meet
4 the obligations with a low probability of a serious hardship and reasonable
5 prospect that the financial product or service will provide value to its client.
6 For the purpose of extending credit, this assessment will include measures to
7 prevent over-indebtedness.

- 8
- 9 2. Cooling-off period – a financial provider is expected to adopt a clear cooling
10 off policy, as may be prescribed by law or by rules and regulations issued by
11 the relevant financial regulator upon its determination that a cooling-off
12 period is necessary for a particular product subject of regulation by such
13 financial regulator. Such policies should, among others, provide a client with a
14 cooling-off period that will allow a client to consider the costs and risks of a
15 financial product or service, free from the pressure of the sales team of the
16 financial provider. The length of the cooling-off period should be individually
17 determined by a financial provider based on reasonable expectation of the
18 time required for a client to fully evaluate all the terms and risks of the
19 financial product or service and contact others who may be affected by its
20 terms and conditions, unless a minimum or fixed period is required by the
21 financial regulator for compliance by the financial provider or incorporation in
22 its contract. Short period transaction or contracts may be allowed to have no
23 cooling-off period which shall be provided in the regulation by the financial
24 regulators. During the cooling-off period, the financial consumer may cancel
25 or return the contract without penalty; however, nothing herein prevents the
26 financial provider from recovering the processing fees incurred. The financial
27 providers are prohibited from engaging in practices that unreasonably burden
28 the financial consumer in the exercise of the right of cancellation during the
29 cooling-off period. If the financial product is a contract of insurance, the right
30 of return cannot be exercised after the financial consumer has made a claim
31 under the contract of insurance.

1 3. Prepayment of loans and other credit accommodations – a borrower may, at
2 any time prior to the agreed maturity date prepay, in whole or in part,
3 provided that any cost or fees charged to the borrower for such pre-payment
4 shall be disclosed as required under the succeeding provision of this Section
5 on transparency, disclosure and responsible pricing.
6

7 C. Transparency, disclosure and responsible pricing – financial providers must
8 ensure that they adopt disclosure principles in their communications with
9 financial consumers that will include the use of clear and concise language
10 understood by the target clients. This must also include updated and accurate
11 disclosure of information such as, pricing or any cost associated with the
12 product or service that should be made in a consistent manner to facilitate
13 comparison between similar financial products and services across the
14 industry.
15

16 Sufficient product disclosure must be provided before the contracting
17 the product or service to give the client enough basis and time for review.
18 Any change in the terms of conditions of a product or service shall be
19 provided to the client.
20

21 In their advertising, financial providers shall disclose that they are
22 regulated and the advertising materials must identify the relevant Financial
23 Regulator.
24

25 Financial Providers are legally responsible for all statements made in
26 the marketing and sales materials that they produce related to their products.
27

28 Responsible pricing - In addition to the requirements of R.A. No. 3765
29 or The Truth in Lending Act, a financial provider is required to document the
30 reasons for setting the price of each financial product or service. Where the
31 pricing procedures of a financial provider are inadequate or unreasonably

1 high, the concerned implementing government agency shall impose
2 appropriate corrective actions.

3

4D. Fair and respectful treatment of clients - client selection and treatment shall
5 not involve discrimination on the basis of personal characteristics or personal
6 affiliations; provided, that financial entities are not precluded from instituting
7 the necessary risk mitigating measures.

8

9 Personal characteristics refer to race, ethnicity, origin, gender,
10 disability and sexual orientation. Personal affiliation denotes religious
11 affiliation or political affiliation.

12

13 E. Privacy and protection of client data - each financial provider must respect the
14 privacy and protect the data of their clients. Consistent with the provisions of
15 the Data Privacy Act, the financial regulators shall issue regulations for the
16 disclosure of client data to a third party. Clients have the right to review their
17 client data to ensure that inaccurate or deficient data is corrected or
18 amended.

19

20F. Financial consumer protection assistance mechanism – Each financial provider
21 must establish a single consumer assistance handling unit to render free
22 assistance to financial consumers on financial transactions concerns. This shall
23 include handling of complaints, inquiries and requests. Financial consumers
24 who are unsatisfied with the financial provider's handling of their complaints,
25 inquiries and requests, may elevate their concerns to the financial regulator
26 that supervises the financial provider concerned.

27

28 Sec. 9. *Bundling of Products* - When a borrower is obliged by the financial
29 provider to purchase any product, including an insurance policy, as a pre-condition
30 for receiving a loan from the financial provider, the borrower should be free to
31 choose the provider of the product and this information should be known to the
32 borrower.

1
2 Sec. 10. *Training* - Staff of financial providers who deal directly with
3 consumers must receive adequate training, suitable for the complexity of the
4 products or services they sell. Financial intermediaries are qualified as appropriate
5 for the complexity of the financial product or service they sell.
6

7 Sec. 11. *Alternative Dispute Resolution* – The redress mechanism before the
8 financial regulator shall be mediatory in nature. If the financial consumer is
9 unsatisfied with the result of the mediation conducted by the financial regulator, the
10 financial consumer may bring the matter before an accredited external arbitrator of
11 the financial regulator concerned, if any, prior to the filing of the appropriate action
12 in court, tribunal or quasi-judicial body.
13

14 Sec. 12. *No Waiver of Rights* - No provision of a contract for a consumer
15 financial product or service shall be lawful or enforceable if such provision waives or
16 otherwise deprives a client of a legal right to sue the financial service provider,
17 receive information, have their complaints addressed and resolved, have their non-
18 public client data protected or cancel the use of the consumer financial product or
19 service without an unreasonable penalty.
20

21 Sec. 13. *Non-Exemption from Compliance*. – Notwithstanding any prior
22 stipulation in a contract, financial providers shall not be exempted from compliance
23 with the provisions of this Act, or deprive financial consumers under this act.
24

25 Sec. 14. *Liability of a Financial Provider on the Acts or Omissions of its*
26 *Authorized Representatives*. – The financial provider shall be responsible for the acts
27 or omissions of its directors, officers, employees or agents, in marketing and
28 transacting with financial consumers of its financial products and services, provided
29 that the said acts or omissions are not beyond the authority granted by the financial
30 provider. The said directors, officers, employees or agents shall be solely responsible
31 for acts or omission beyond the authority granted by the financial provider.
32

1 Sec. 15. *Prescription.* – All actions or claims accruing under the provisions of
2 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.

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

15
16 A foreign national who violates any provision of this Act shall be deported
17 without further proceedings after service of sentence and/or payment of fine.

18
19 Sec. 17. *Administrative Sanctions.* – The provisions on the administrative
20 sanctions of the respective charters of the Financial Regulators shall be made
21 applicable to any financial provider, its directors, officers, employees, or agents
22 without prejudice to the enforcement actions provided under Section 6 (D) of this
23 Act and the criminal sanctions provided under Section 16 of this Act, for any willful
24 violation of this Act or any related rules, regulations, orders or instructions of the
25 Financial Regulators, provided, that in addition to the administrative sanctions that
26 may be imposed, the authority of the financial provider to operate may be
27 suspended or cancelled by the Financial Regulator which primarily regulates such
28 financial provider.

29
30 Sec. 18. *Repealing Clause.* – All laws, executive orders, rules and regulations
31 or parts thereof which are inconsistent with this Act are hereby repealed or amended

1 accordingly. Articles 131 to 147 of Title IV of Republic Act No. 7394 are hereby
2 repealed.

3

4 Sec. 19. *Transitory Provisions.* – The Financial Regulators shall prepare the
5 necessary rules and regulations to implement the provisions of this Act within one
6 (1) year from its effectivity.

7

8 Sec. 20. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
9 its publication in the Official Gazette or in at least two (2) national newspapers of
10 general circulation.

11

12 *Approved,*

13