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Senate
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20 FEB 12 P2:14

SENATE

S. No. 1335

RECEIVED BY:

Introduced by SENATOR RAMON BONG REVILLA, JR.

**AN ACT
PROVIDING FOR THE FINANCIAL CONSUMER PROTECTION ACT**

Consumer confidence and trust in the financial system promotes stability, growth, efficiency and innovation. However, with the rapid development of complex financial products coupled with the use of advanced technologies, consumer fraud, abuse and misconduct have increased. Time and again, we hear stories of consumers unknowingly 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 Securities and Exchange Commission, rulemaking, surveillance and inspection, market monitoring, enforcement and adjudication powers relative to consumer protection.

In the international arena, the G20, in February 2011, called on the Organization for Economic Cooperation and Development (ECD), the Financial Stability Board and other relevant international organizations to develop common principles on consumer protection in the field of financial services. Foremost of these principles is that financial consumer protection should be an integral part of the legal, regulatory and supervisory framework.

It is in this light that 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

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

In view of the foregoing, the passage of this bill into law is earnestly sought.



RAMON BONG REVILLA, JR.



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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 of 2020*”.

3 Sec. 2. *Declaration of Policy.* – It is the policy of the State to ensure that
4 appropriate mechanisms are in place to protect the interest of financial consumers
5 under the conditions of transparency, fair and sound market conduct, and fair,
6 reasonable and effective handling of financial consumer disputes, which are aligned
7 with global best practices. These mechanisms reinforce their confidence in the
8 financial market and foster the stability of Philippine financial system. Towards this
9 end, the State shall implement measures to protect the following rights of financial
10 consumers:

- 11 a. Right to equitable and fair treatment;
12 b. Right to disclosure and transparency of Financial Products and Services;
13 c. Right to protection of consumer assets against fraud and misuse;
14 d. Right to data privacy and protection;
15 e. Right to complaints handling and redress

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

- 18 a) “Financial Consumer” – a person or entity who is a purchaser, lessee,
19 recipient or prospective purchaser, lessor or recipient of financial products
20 or services. It shall also refer to any natural person or micro, small or

- 1 medium-sized enterprise that had or has current or prospective financial
2 transaction with financial entities pertaining to financial products or services.
- 3 b) "Financial Consumer Complaint" – an expression of dissatisfaction filed by a
4 financial consumers against a financial service provider relative to a financial
5 product or service in which a response or resolution is expected.
- 6 c) "Financial Products or Services" – financial products or services which are
7 developed or marketed by a financial service provider which may include,
8 but are not limited to savings, credit, insurance, investments, payments,
9 remittances and other similar products and services. This also includes
10 digital financial services which pertain to the broad range of financial serves
11 accessed and delivered through digital channels.
- 12 d) "Financial Regulators" – the implementing government agencies of this Act,
13 namely, the *Bangko Sentral ng Pilipinas* (BSP), Securities and Exchange
14 Commission (SEC), Insurance Commission (IC) and the Cooperative
15 Development Authority (CDA).
- 16 e) "Financial Service Provider" – a person, natural or juridical who provides
17 financial products or services and are being supervised or regulated by any
18 of financial regulators enumerated in this Act. This term shall include
19 investment advisers as defined under Section 7 of this Act.
- 20 f) "Marketing" – the act of communicating, offering, promoting, advertising or
21 delivering of financial products and services by financial service providers.
- 22 g) "Micro, Small or Medium-sized Enterprise (MSME)" – any business activity
23 or enterprise engaged in industry, agri-business and/or services whether
24 single proprietorship, cooperative, partnership or corporation as defined
25 under R.A. No. 9501, as amended or the Magna Carta for Micro, Small or
26 Medium-sized Enterprise. Such definition shall be subject to review and
27 adjustment by the Magna Carta for Micro, Small or Medium-sized Enterprise
28 (MSMED) Council.

29 Sec. 4. *Scope and Coverage.* – This Act applies to all financial products and
30 services offered or marketed by any financial service provider.

31 Sec. 5. *Financial Regulators.* – The BSP, SEC and IC shall enforce the provisions
32 of this Act on all financial service providers they supervise or regulate by virtue of their

1 respective charters, special laws and amendments thereto. The CDA shall be
2 considered an implementing government agency of this Act only with respect to
3 cooperatives offering financial services such as but not limited to savings and credit
4 except insurance cooperatives which shall be under the jurisdiction of the IC for
5 purposes of this Act.

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

8 A. Rulemaking. – Financial regulators shall have the authority to formulate
9 their own standard and rules for the application of the provisions of this Act
10 to the specific financial products or services within their jurisdiction guided
11 by internationally accepted standards and practices. Financial regulators
12 may also determine reasonableness of charges or fees which a financial
13 service provider may demand, collect or receive for any service or product
14 offered to consumers, except interest rates which shall be governed by the
15 Usury Law. Likewise, they may issue their respective rules of procedure
16 concerning administrative actions arising from the implementation of this
17 Act.

18 B. Surveillance and Examination. – Financial regulators may conduct off-site
19 surveillance and on-site examination on their respective supervised financial
20 service providers to ascertain that the provisions of this Act are complied
21 with. The examination for financial consumer protection compliance may be
22 conducted separately from examination of prudential regulations
23 compliance. The provisions on the conduct of examination and surveillance
24 provided in the respective charters of financial regulators, and pertinent
25 special laws shall be made applicable in the examination and surveillance
26 under this Act.

27 The department heads and the examiners of the financial regulators shall
28 be authorized to administer oaths to any director, officer, or employee of
29 the supervised financial service providers subject to their examination, and
30 to compel the presentation of all books, documents, papers, or records
31 necessary in their judgment to ascertain the facts relative to the compliance
32 of financial service providers to this Act.

1 The supervised financial service provider shall afford to its respective
2 financial regulator full opportunity to examine its records, and review its
3 systems and procedures at any time during business hours when requested
4 to do so by the financial regulator.

5 C. Market Monitoring. – Financial regulators shall have the authority to require
6 their respective supervised Financial Service Providers and their third party
7 agents/service providers to submit reports or documents, as needed, and
8 to access relevant data about financial products, services and markets from
9 other government agencies in connection with market monitoring.

10 D. Enforcement. – The Financial regulators shall have the authority to impose
11 enforcement actions on their respective supervised Financial Service
12 Providers for non-compliance with this Act. Such enforcement actions may
13 include, but are not limited to, the following:

- 14 1. Restriction on the ability of the supervised Financial Service Provider to
15 continue to collect fees or charges in cases of excessive fees or charges
16 imposed by the Financial Service Provider, except interest rates which
17 shall be governed by the Usury Law;
- 18 2. Disqualification and/or suspension of directors, officers or employees of
19 the supervised Financial Service Provider responsible for violations of the
20 provisions of this Act, its implementing regulations, or orders of the
21 Financial Service Providers;
- 22 3. Imposition of fines, suspension, or penalties for any non-compliance with
23 or breach of this Act, its implementing regulations or orders of the
24 Financial Service Providers;
- 25 4. Issuance of a cease and desist order to the Financial Service Provider
26 without the necessity of a prior hearing if in the Financial Regulator's
27 judgement, the act or practice, unless restrained, amounts to fraud or a
28 violation of the provisions of this Act and its implementing regulations or
29 may unjustly cause grave or irreparable injury or prejudice to Financial
30 Consumers.

31 The Financial Service Provider shall be afforded an opportunity to defend
32 its act or practice in a summary hearing before the Financial Regulator

1 or its designated body, upon request made by the Financial Service
2 Provider within five (5) calendar days from its receipt of the order. If no
3 such hearing is requested within said period, the order shall be final. If
4 a hearing is requested by the Financial Service Provider, the proceedings
5 shall be conducted summarily without adhering to the technical rules of
6 evidence, and all issues shall be determined primarily on the basis of
7 records, after which the Financial Regulator may either reconsider or
8 make final its order;

9 5. Suspension of operation of any supervised Financial Service Provider in
10 relation to a particular Financial Product or Service when in the Financial
11 Regulator's judgment based on findings, the Financial Service Provider
12 is operating in violation of the provisions of this Act and its implementing
13 regulations.

14 E. Adjudication. – Financial Regulators shall have the authority to adjudicate
15 all actions arising from or in connection with financial transactions that are
16 purely civil in nature and the claim or relief prayed for by the Financial
17 Consumer is solely for payment or reimbursement of sum of money not
18 exceeding the amount of P100,000.00 or as may be prescribed by the
19 Financial Regulators. The Decision of the Financial Regulators in the
20 adjudication shall be final and executory, and may not be restrained or set
21 aside by the court except on petition for certiorari on the ground of lack or
22 excess of jurisdiction of the Financial Regulators. The petition for certiorari
23 may only be filed within ten (10) days from receipt by the aggrieved party
24 of the decision. The adjudicatory power shall be exercised by the Head of
25 the concerned Financial Regulator or a duly authorized officer or body,
26 provided, that in case of BSP, the decision of the authorized officer or body
27 is not appealable to the Monetary Board.

28 Financial Regulators may order the payment or reimbursement of money
29 which is subject of the action filed before them. The Financial Regulators,
30 in the exercise of their adjudicatory powers, shall have the power to issue
31 a subpoena *duces tecum* and summon witnesses to appear in its
32 proceedings and in appropriate cases, order the examination, search and

1 seizure of all documents, and books of accounts of any entity or person
2 under investigation as may be necessary for the proper disposition of the
3 cases before them. Further, Financial Regulators shall have the authority to
4 punish for contempt, both direct and indirect, in accordance with the
5 pertinent provisions of and penalties prescribed by the Rules of Court.

6 F. Other Powers. – Financial Regulators may exercise such other powers as
7 may be provided by their enabling laws or charters as well as those which
8 may be implied from, or which are necessary or incidental to the carrying
9 out of, the express powers granted the Financial Regulators to achieve the
10 objectives and purposes of these laws.

11 Sec. 7. *Investment Adviser.* – Investment Advisers shall be subject to the rules
12 and regulations to be issued by the SEC.

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

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

29 Sec. 8. *Duties and Responsibilities of Financial Service Providers.* –

30 A. Board and Senior Management Oversight – The Board of Directors (BOD)
31 and Senior Management of Financial Service Providers shall oversee the
32 implementation of the Compliance Management System (CMS) of Financial

1 Service Providers that effectively ensure conformity with this Act and shall
2 provide the means by which Financial Service Providers shall identify,
3 measure, monitor and control consumer protection risks inherent in its
4 operations.

5 B. Appropriate Product Design and Delivery. – Financial Service Providers shall
6 continuously evaluate their Financial Products and Services to ensure that
7 they are appropriately targeted to the needs, understanding and capacity
8 of both their markets and their clients. This shall include, among others, the
9 following:

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

20 2. Cooling-off period. – Financial Service Providers are expected to adopt a
21 clear cooling-off policy, as may be prescribed by law or by rules and
22 regulations issued by the relevant Financial Regulator upon its
23 determination that a cooling-off period is necessary for a particular
24 product subject of regulation by such Financial Regulator. Such policy
25 should, among others, provide a client with a cooling-off period that will
26 allow a client to consider the costs and risks of a Financial Product or
27 Service, free from the pressure of the sales team of the Financial Service
28 Provider. The length of the cooling-off period should be individually
29 determined by Financial Service Providers based on reasonable
30 expectation of the time required for a client to fully evaluate all the terms
31 and risks of the Financial Products or Service and contact concerned
32 parties who may be affected by its terms and conditions, unless a

1 minimum or fixed period is required by the Financial Regulator for
2 compliance by the Financial Service Provider or to be incorporated in the
3 terms of the Financial Product or Service. Short period transaction or
4 contracts may be allowed to have no cooling-off period which shall be
5 provided in the regulation by the Financial Regulators.

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

- 15 3. Prepayment of Loans and other Credit Accommodations. – a borrower
16 may, at any time prior to the agreed maturity date prepay, in whole or
17 in part, provided that any cost or fees charged to the borrower for such
18 pre-payment shall be disclosed as required under the succeeding
19 provision of this Section on transparency, disclosure and responsible
20 pricing.

- 21 C. Transparency, Disclosure and Responsible Pricing. – Financial Service
22 Providers must ensure that they adopt disclosure principles in their
23 communications with Financial Consumers that will include the use of clear
24 and concise language understood by the target of information such as,
25 pricing or any cost associated with the product or service that should be
26 made in a consistent manner to facilitate comparison between similar
27 Financial Products and Services across the industry.

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

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

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

11 Responsible Pricing. – in addition to the requirements of R.A. No. 3765 or
12 the Truth in Lending Act, Financial Service Providers are require to
13 document the reasons for setting the price of each financial product or
14 service. Where the pricing procedures of a Financial Service Provider are
15 inadequate or unreasonably high, the concerned Financial Regulator shall
16 impose appropriate corrective actions.

17 D. Fair and Respectful Treatment of Clients. – Financial Service Providers shall
18 have the right to select their clients, provided, that the selection and
19 treatment of their clients shall not involve discrimination on the basis of a
20 person's race, ethnicity, origin, gender, disability, sexual orientation,
21 religious affiliation or political affiliation, provided further, that Financial
22 Service Providers are not precluded from instituting the necessary risk
23 mitigating measures.

24 E. Privacy and Protection of Client Data. – each Financial Service Provider must
25 respect the privacy and protect the data of their clients. Consistent with the
26 provisions of the Data Privacy Act, the Financial Regulators shall issue
27 regulations governing the disclosure of client data to a third party.

28 Clients have the right to review their client data to ensure that inaccurate
29 or deficient data is corrected or amended.

30 F. Financial Consumer Protection Assistance Mechanism. – Each Financial
31 Service Provider must establish a single consumer assistance unit to render

1 free assistance to Financial Consumers on financial transaction concerns.
2 This shall include handling of complaints, inquiries and requests.

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

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

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

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

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

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

29 Sec. 14. *Prescription.* – All actions or claims accruing under the provisions of
30 this Act and the rules and regulations issued pursuant thereto shall prescribe within
31 five (5) years from the time the Financial Consumer transaction was consummated,
32 or within five (5) years from the discovery of deceit or non-disclosure of material facts.

1 For insurance contracts, the prescriptive period for the commencement of action
2 provided under the Insurance Code shall apply.

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

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

21 Sec. 17. *Repealing Clause.* – All laws, executive orders, rules and regulations
22 or parts thereof which are inconsistent with this Act are hereby repealed or amended
23 accordingly. Articles 131 to 147 of Title IV of Republic Act 7394 are hereby repealed.

24 Sec. 18. *Transitory Provision.* – The Financial Regulators shall prepare the
25 necessary rules and regulations to implement the provisions of this Act within one (1)
26 year from its effectivity.

27 Sec. 19. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
28 publication in the Official Gazette or in at least two (2) national newspapers of general
29 circulation.

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32 *Approved,*