

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

7 NOV 19 2007

SENATE  
COMMITTEE REPORT NO. 17

RECEIVED BY: 

Submitted by the Committee on Banks, Financial Institutions and Currencies on  
NOV 19 2007

RE : Senate No. 1881, prepared by the Committee

Recommending its approval in substitution of Senate Bill No. 62

Sponsor: Sen. Angara

MR. PRESIDENT:

The Committee on Banks, Financial Institutions and Currencies to which SBN 62 was referred, introduced by Sen. Angara, entitled:

**"AN ACT ESTABLISHING THE CREDIT INFORMATION SYSTEM AND FOR OTHER PURPOSES"**

has considered the same and has the honor to report this back to the Senate with the recommendation that the attached Senate Bill No. 1881, prepared by the Committee entitled,

**"AN ACT ESTABLISHING THE CREDIT INFORMATION SYSTEM AND FOR OTHER PURPOSES"**

be approved in substitution of Senate Bill No. 62 with the members of the Committee on Banks, Financial Institutions and Currencies as authors thereof.

This Committee report was approved last Congress on third reading by the Senate and was discussed under a bicameral conference meeting but failed to be enacted due to technical reasons. For all intent and purpose, attached for reference is the proposed *Credit Information System Act* as well as a narrative of the discussions and positions considered by the Committee in drafting this Committee report.

Respectfully submitted:

  
**EDGARDO J. ANGARA**  
Chairman

Committee on Banks, Financial Institutions  
and Currencies

  
**JUAN PONCE ENRILE**  
Vice Chairman

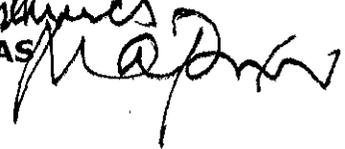
MEMBERS:

  
**ALAN PETER "COMPAÑERO CAYETANO"**

**RICHARD "DICK" GORDON**

  
**RAMON "BONG" REVILLA**

  
**MIRIAM DEFENSOR SANTIAGO**

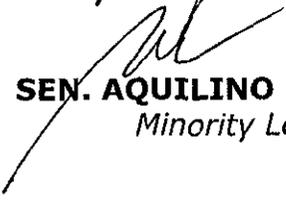
**PANFILO LACSON**  
*with honorable members*  
**MAR ROXAS**  


  
**LOREN LEGARDA**

EX OFFICIO MEMBERS

  
**SEN. JINGGOY EJERCITO ESTRADA,**  
*President Pro Tempore*

  
**SEN. FRANCIS N. PANGILINAN**  
*Majority Leader*

*may amend:*  
  
**SEN. AQUILINO Q. PIMENTEL,**  
*Minority Leader*

7 NOV 19 11:14

SENATE BILL NO. 1881 RECEIVED BY: 

---

Prepared by the Committee on Banks, Financial Institutions and Currencies in  
substitution of Senate Bill No. 62

---

**AN ACT  
ESTABLISHING THE CREDIT INFORMATION SYSTEM,  
AND FOR OTHER PURPOSES**

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

1       **SECTION 1.** *Title.*- This Act shall be known as the "Credit Information  
2 System Act."

3  
4       **SECTION 2.** *Declaration of Policy.* - The State recognizes the need to  
5 establish a comprehensive and centralized credit information system for the  
6 collection and dissemination of fair and accurate information relevant to, or  
7 arising from, credit and credit-related activities of all entities participating in the  
8 financial system. A credit information system will directly address the need for  
9 reliable credit information concerning the credit standing and track record of  
10 borrowers.

11       The operations and services of a credit information system can be  
12 expected to: greatly improve the overall availability of credit especially to micro,  
13 small and medium-scale enterprises; provide mechanisms to make credit more

1 cost-effective; and reduce the excessive dependence on collateral to secure  
2 credit facilities.

3 The State shall endeavor to have credit information provided at the least  
4 cost to all participants and shall ensure the protection of consumer rights and the  
5 existence of fair competition in the industry at all times.

6 An efficient credit information system will also enable financial institutions  
7 to reduce their over-all credit risk, contributing to a healthier and more stable  
8 financial system.

9

10 **SECTION 3. *Definition of Terms.*** – For purposes of this Act

11 “*Accessing Entity*” refers to any submitting entity or any other entity  
12 authorized by the Corporation to access basic credit data from the Corporation.

13 “*Basic Credit Data*” refers to positive and negative credit information  
14 provided by a borrower to a submitting entity in connection with the application  
15 for and availment of a credit facility. Any information on the borrower’s  
16 creditworthiness in the possession of the submitting entity and other factual and  
17 objective information related or relevant thereto in the submitting entity’s data  
18 files or that of other sources of information: *Provided*, That in the absence of a  
19 written waiver duly accomplished by the borrower, basic credit data shall exclude  
20 confidential information on bank deposits and/or clients funds under Republic Act  
21 No. 1405 (Law on Secrecy of Bank Deposits), Republic Act No. 6426 (The  
22 Foreign Currency Deposit Act), Republic Act No. 8791 (The General Banking  
23 Law of 2000) and their amendatory laws.

1           “*Borrower*” – refers to a natural or juridical person, including any local  
2 government unit (LGU), its subsidiaries and affiliates, that applies for and/or  
3 avails of a Credit Facility.

4           “*BSP*” shall refer to the Bangko Sentral ng Pilipinas, created under  
5 Republic Act No. 7653 and approved on June 14, 1993.

6           “*Corporation*” refers to the Credit Information Corporation established  
7 under Section 5 of this Act.

8           “*Credit Facility*” refers to any loan, credit line, guarantee or any other form  
9 of financial accommodation from a submitting entity: *Provided, That*, for purposes  
10 of this Act, deposits in banks shall not be considered a credit facility extended by  
11 the depositor in favor of the bank.

12           “*Credit Rating*” refers to an opinion regarding the creditworthiness of a  
13 borrower or of an issuer of debt security, using an established and defined  
14 ranking system.

15           “*Credit Report*” refers to a summary of consolidated and evaluated  
16 information on creditworthiness, credit standing, credit capacity, character and  
17 general reputation of a borrower.

18           “*Government Lending Institutions*” refers to government financial  
19 institutions (GFIs), government -owned-and-controlled corporations (GOCCs)  
20 engaged in lending activities and, such other institutions that the Monetary Board  
21 may deem appropriate, excluding however the Philippine Deposit Insurance  
22 Corporation (PDIC) and the BSP.

23           “*Monetary Board*” refers to the Monetary Board of the BSP.

1           “*Negative Credit Information*” refers to information/data concerning the  
2 poor credit performance of borrowers, such as but not limited to defaults on  
3 loans, adverse court judgments relating to debts and reports on bankruptcy.

4           “*Non-Accessing Entity*” refers to an entity other than a Submitting Entity,  
5 Special Accessing Entity or Borrower that is authorized to access credit  
6 information from a Special Accessing Entity.

7           “*Outsource Entity*” refers to any accredited third-party provider to whom  
8 the Corporation may outsource the processing and consolidation of basic credit  
9 data pertaining to a borrower or issuer of debt or convertible securities under  
10 such qualifications, criteria and strict confidentiality guidelines that the  
11 Corporation shall prescribe and duly publish.

12           “*Positive Credit Information*” refers to information/data concerning the  
13 credit performance of a borrower, such as but not limited to information on  
14 repayments.

15           “*Special Accessing Entity*” refers to a duly accredited private corporation  
16 engaged primarily in the business of providing credit reports, ratings and other  
17 similar credit information products and services.

18           “*Submitting Entity*” refers to an entity which provides credit facilities such  
19 as, but not limited to, banks, quasi-banks, trust entities, investment houses,  
20 financing companies, cooperatives, non-governmental, micro-financing  
21 organizations, credit card companies, insurance companies and Government  
22 lending institutions.

23

1           **SECTION 4. *Establishment of the Credit Information System*** – In  
2 furtherance of the policy set forth in Section 2 of this Act, a credit information  
3 system is hereby established.

4           (a) Banks, quasi-banks, their subsidiaries and affiliates, credit card  
5 companies and other entities that provide credit facilities, are required to submit  
6 basic credit data and updates thereon on a regular basis to the Corporation.

7           (b) The Corporation may include other credit providers to be subject to  
8 compulsory participation: *Provided*, That all other entities qualified to be  
9 submitting entities may participate subject to their acceptance by the  
10 Corporation: *Provided, further*, That, in all cases, participation under the system  
11 shall be in accordance with such standards and rules that the Monetary Board  
12 may prescribe.

13           (c) Participating submitting entities are required to regularly submit to the  
14 Corporation any negative and positive credit information that tends to update  
15 and/or correct the credit status of borrowers. The Corporation shall fix the time  
16 interval for such submission; provided that such interval shall not be less than  
17 fifteen (15) working days but not more than thirty (30) working days.

18           (d) The Corporation should regularly collect basic credit data of borrowers  
19 at least on a quarterly basis to correct/update the basic credit data of said  
20 borrowers.

21           (e) The Corporation may also access credit and other relevant information  
22 from government offices, judicial and administrative tribunals, prosecutorial

1 agencies and other related offices, as well as pension plans administered by the  
2 government.

3 (f) Each submitting entity shall notify its borrowers of the former's  
4 obligation to submit basic credit data to the Corporation and the disclosure  
5 thereof by the Corporation, subject to the provisions of this Act and the  
6 implementing rules and regulations.

7 (g) The Corporation is in turn authorized to release consolidated basic  
8 credit data on the borrower, subject to the provisions of Section 6 of this Act.

9 (h) The negative information on a borrower as contained in the credit  
10 history files of borrowers should stay in the database of the Corporation for not  
11 more than five years from and after the date when the negative credit information  
12 was rectified through payment or liquidation of the debt, or through settlement of  
13 debts through compromise agreements or court decisions that exculpate the  
14 borrower from liability.

15 (i) Special Accessing Entities must be accredited by the Corporation in  
16 accordance with such standards and rules as the Monetary Board may prescribe

17 (j) Special accessing entities shall be entitled access to the Corporation's  
18 pool of consolidated credit information, subject to the provisions of Sections 6  
19 and 7 of this Act and related implementing rules and regulations.

20 (k) Special Accessing Entities are prohibited from releasing basic credit  
21 data received from the Corporation or credit reports and credit ratings derived  
22 from the basic credit data received from the Corporation, to non-accessing  
23 entities unless written consent or authorization has been obtained from the

1 Borrower: *Provided*, however, That in case the borrower is a local government  
2 unit (LGU) or its subsidiary or affiliate, the special accessing entity may release  
3 credit information on the LGU, its subsidiary or affiliate upon request of the  
4 payment of reasonable fees by a constituent of the concerned LGU.

5 (l) Outsource entities, which may process and consolidate basic credit  
6 data, are absolutely prohibited from releasing such data received from the  
7 Corporation other than to the Corporation.

8 (m) Accessing Entities shall hold strictly confidential any credit information  
9 they receive from the Corporation.

10 (n) The borrower has the right to know the causes of refusal of the  
11 application for credit facilities from a financial institution that uses basic credit  
12 data as basis or ground for such refusal.

13 (o) The borrower, for a reasonable fee, shall have, as a matter of right,  
14 ready and immediate access to the credit information pertinent to the borrower.  
15 In case of erroneous, incomplete or misleading credit information, the subject  
16 borrower shall have the right to dispute the erroneous, incomplete, outdated or  
17 misleading credit information before the Corporation. The Corporation shall  
18 investigate and verify the disputed information within five working days from  
19 receipt of the complaint. If its accuracy cannot be verified and cannot be proven,  
20 the disputed information shall be deleted. The borrower and the accessing  
21 entities and special accessing entities who have received such information shall  
22 be informed of the corresponding correction or removal within five working days.  
23 The Corporation should use a simplified dispute resolution process to fast track

1 the settlement/resolution of disputed credit information. Denial of these  
2 , borrowers' rights, without justifiable reason, shall entitle the borrower to  
3 indemnity.

4

5 **SECTION 5. *Establishment of the Central Credit Information Corporation-***

6 (a) The Corporation shall be established as a stock corporation under  
7 Batas Pambansa Bldg. 68 (The Corporation Code). The primary purpose of the  
8 Corporation shall be to receive and consolidate basic credit data, to act as a  
9 central registry or central repository of credit information, and to provide access  
10 to reliable, standardized information on credit history and financial condition of  
11 the borrowers.

12 (b) The ownership of the BSP in the Corporation shall not exceed forty  
13 percent (40%) and its equity investment therein is hereby authorized  
14 notwithstanding the prohibition under Republic Act No. 7653. Industry  
15 associations of banks, quasi-banks, other credit-related associations,  
16 associations of consumers and other entities as the Monetary Board may allow,  
17 may also subscribe and own shares in the Corporation, subject to a ten percent  
18 (10%) individual ceiling or such other ceiling as the Monetary Board may  
19 prescribe; provided that all the aforementioned qualified stockholders shall be  
20 offered equal equity participation in the Corporation.

21 (c) The BSP may purchase capital notes that may be issued by the  
22 Corporation as a supplement to capital notwithstanding the prohibition under

1 Republic Act No. 7653, provided that the BSP owns at least 34% of the  
2 Corporation.

3 (d) The Monetary Board shall prescribe additional requirements for the  
4 establishment of the Corporation, such as industry representation, capital  
5 structure, number of independent directors, and the process for nominating  
6 directors, and such other requirements to ensure consumer protection and free,  
7 fair and healthy competition in the industry.

8  
9 (e) The BSP Governor shall be the chairman of the board. Whenever  
10 the Governor is unable to attend a meeting of the board, he shall designate a  
11 member of the Monetary Board to act as his alternate.

12 (f) The directors and principal officers of the Corporation, except for  
13 the BSP Governor or his designated representative, shall be qualified by the BSP  
14 under its "fit and proper" rule for bank directors and officers.

15 (g) Operations. The Corporation shall acquire and upgrade  
16 technology, equipment and facilities in its operations to ensure its continuing  
17 competence and capability to provide updated negative and positive credit  
18 information; to enable the Corporation to relay credit information electronically as  
19 well as in writing to those authorized to have access to the credit information  
20 system; and to insure accuracy of collected, stored and disseminated credit  
21 information. The Corporation shall implement a borrower's identification system  
22 for the purpose of consolidating credit information

23

1           **SECTION 6. Confidentiality of Credit Information.** – The Corporation, the  
2 accessing entities, the special accessing entities and duly authorized non-  
3 accessing entities shall hold the credit information under strict confidentiality and  
4 shall use the same only for the declared purpose. Outsource entities, which may  
5 process and consolidate basic credit data, are absolutely prohibited from  
6 releasing such data received from the Corporation other than to the Corporation.

7           The accreditation of an accessing entity, a special accessing entity and/or  
8 an outsource entity which violates the confidentiality of, or which misuse, the  
9 credit information accessed from the Corporation, may be suspended or revoked.  
10 Any entity which violates this section may be barred access to the credit  
11 information system and penalized pursuant to Section 12 of this Act.

12           The Corporation shall be authorized to release and disclose consolidated  
13 Basic Credit Data only to the BSP, the Accessing Entities, the Special Accessing  
14 Entities, the Outsource Entities and Borrowers. Basic Credit Data released to  
15 Accessing Entities shall be limited to those pertaining to existing Borrowers or  
16 Borrowers with pending credit applications. Credit information shall not be  
17 released to entities other than those enumerated under this Section except upon  
18 order of the court.

19  
20           **SECTION 7. Educational Campaign.** – A continuing nationwide  
21 educational campaign shall be developed and undertaken by the Corporation to  
22 promote the benefits of a credit information system to the economy; to create  
23 awareness on the rights of consumers/borrowers to access their credit reports

1 collected, stored and disseminated by the Corporation; to disseminate the rights  
2 of the borrowers to dispute any incorrect/inaccurate credit information in the  
3 database file of the Corporation; to familiarize consumers of the procedure in  
4 collecting, storing and disseminating credit information of borrowers by the  
5 Corporation; and to brief consumers of other related information.

6

7 **SECTION 8. *Rules and Regulations.*** – For purposes of creating a healthy  
8 balance between the need for reliable credit information and safeguarding  
9 consumer protection, ensuring free and healthy competition in the industry, the  
10 Monetary Board, in coordination with existing industry stakeholders, shall issue  
11 the implementing rules and regulations (IRRs), which shall be submitted to the  
12 congressional oversight committee which shall review, revise and approve the  
13 same:

14 (a) Restrictions on the use and transfer of credit information;

15 (b) Rights of the borrowers to access their respective credit information  
16 and to dispute the factual accuracy of such credit information;

17 (c) Requirements and standards for the establishment of the  
18 Corporation including, but not limited to, ownership, industry representation,  
19 independent directors and process of nomination of directors;

20 (d) Accreditation standards for submitting and special accessing  
21 entities;

22 (e) Sanctions to be imposed by the Corporation on:

1 (i) The submitting entities for non-submission of reports and for  
2 delayed and/or erroneous reporting;

3 (ii) Accessing entities, special accessing entities, outsource entities  
4 and duly authorized non-accessing entities, for breaches of the confidentiality of,  
5 misuse of, the credit information obtained from the credit information system; and

6 (iii) Violations of other applicable rules and regulations: *Provided*,  
7 That these sanctions shall be in the form of applicable administrative penalties  
8 under Section 37 of Republic Act No. 7653; and

9 (f) Suspension or cancellation of the rights of any Accessing entity or  
10 Special Accessing Entity to access Credit Information from the Corporation  
11 *Provided*, That the Monetary Board may issue subsequent regulations consistent  
12 with the IRR as approved by the Congressional Oversight Committee.

13 In addition, the Monetary Board may regulate access to the credit  
14 information system as well as the fees that shall be collected by the Corporation  
15 from the Accessing and Special Accessing Entities, taking into consideration the  
16 policy of lowering the cost of credit, promoting fair competition, and the need of  
17 the Corporation to employ state-of-the-art technology.

18  
19 **SECTION 9. Congressional Oversight Committee.** – There is hereby  
20 created a congressional oversight committee, composed of five Members from  
21 the Senate and five Members from the House of Representatives. The Members  
22 from the Senate shall be appointed by the Senate President with at least two  
23 Senators representing the minority. The Members from the House of

1 Representatives shall be appointed by the Speaker with at least two Members  
2 representing the minority.

3 After the Oversight Committee will have approved the implementing rules  
4 and regulations, it shall thereafter become *functus officio*, and therefore cease to  
5 exist; provided that the Congress may revive the Congressional Oversight  
6 Committee in case of a need for any major revision/s in the implementing rules  
7 and regulations.

8

9 **SECTION 10.** *Indemnity in Favor of the Corporation, its Officers and*  
10 *Employees.* – Unless the Corporation or any of its officers and employees is  
11 found liable for any willful violation of this Act, bad faith, malice and/or gross  
12 negligence, the Submitting Entities, Accessing Entities, Special Accessing  
13 Entities, Outsource Entities and duly authorized non-accessing entities shall hold  
14 the Corporation, its officers and employees harmless to the fullest extent  
15 permitted by law and shall indemnify them for any and all liabilities, losses,  
16 claims, demands, damages, deficiencies, costs and expenses of whatsoever kind  
17 and nature that may arise in connection with:

18 (i) the performance of their functions, or

19 (ii) any and all breaches of their covenants, obligations, duties and  
20 responsibilities, representation or warranties under this Act, or in connection with  
21 Credit Information which was obtained and/or disseminated under the Credit  
22 Information System

23

1           **SECTION 11. *Exemption from Liability.*** - A Submitting Entity, an  
2 Accessing Entity, a Special Accessing Entity, an Outsource Entity, the  
3 Corporation and their respective officers and employees shall not be criminally  
4 liable nor civilly liable for acts done by them under Section 4 of this Act, unless  
5 there is a clear showing of bad faith, malice or gross negligence as determined  
6 by the court. Neither shall they be administratively liable for the same acts,  
7 unless there is a clear showing of bad faith, malice or gross negligence as  
8 determined by the Monetary Board.

9  
10           **SECTION 12. *Penalties.*** – Any person who willfully violates any of  
11 the provisions of this Act or the rules and regulations promulgated by the  
12 Monetary Board under authority thereof shall, upon conviction, suffer a fine of not  
13 , less than Fifty thousand pesos (P50,000.00) nor more than One million pesos  
14 (P1,000,000.00) or imprisonment of not less than one year nor more than five  
15 years, or both, at the discretion of the court.

16  
17           **SECTION 13. *Inviolable Nature of the Secrecy of Bank Deposits***  
18 *and/or Client Funds.* – Pursuant to Republic Act No. 1405 (Law on Secrecy of  
19 Bank Deposits), Republic Act No. 6426 (The Foreign Currency Deposit Act),  
20 Republic Act No. 8791 (The General Banking Law of 2000), Republic Act No.  
21 9160 (Anti-Money Laundering Law) and their amendatory laws, nothing in this  
22 Act shall impair the secrecy of bank deposits and/or client funds

23

1           **SECTION. 14.**       *Annual Report.* – The Monetary Board, shall submit  
2 an annual report to Congress on the status of the implementation of this Act.

3

4           **SECTION 15.** *Separability Clause.* – Should any provision of this Act or  
5 the application thereof to any person or circumstance be held invalid, the other  
6 provisions or sections of this Act shall not be affected thereby.

7

8           **SECTION 16.**       *Repealing Clause.* – This Act repeals Presidential  
9 Decree No. 1941 in its entirety. All laws, decrees, executive orders, rules and  
10 regulations or parts thereof which are inconsistent with this Act are hereby  
11 repealed, amended or modified accordingly.

12

13           **SECTION. 17.**       *Effectivity Clause.* – This Act shall take effect fifteen  
14 (15) days following its publication in the *Official Gazette* or in two national  
15 newspapers of general circulation

16

17 Approved,

# COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES

## SUMMARY OF PROCEEDINGS

### I. BACKGROUND

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

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

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

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

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

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

The aforementioned benefits of a centralized credit information system prompted the Committee on Banks, Financial Institutions and Currencies to immediately act on the financial measure entitled "AN ACT ESTABLISHING A CREDIT INFORMATION SYSTEM, AND FOR OTHER PURPOSES"

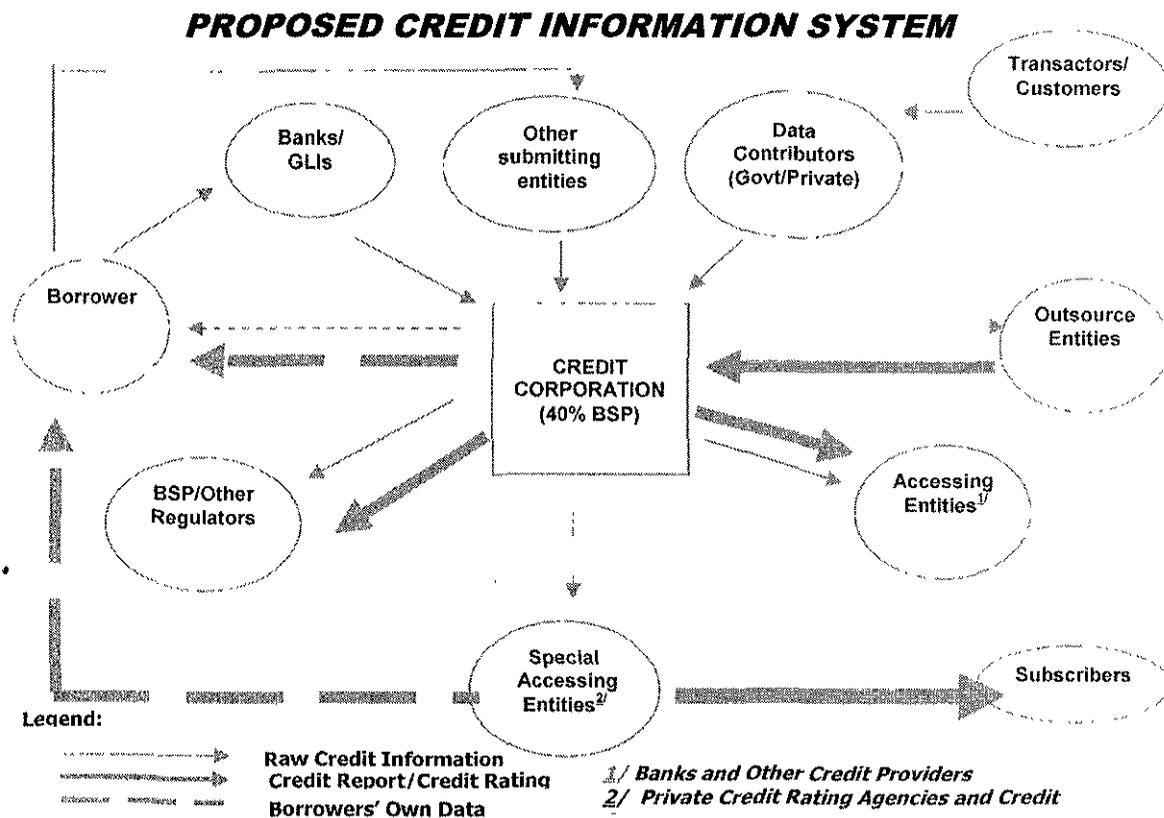
## II. COMMITTEE ACTION

- A. The Committee on Banks, Financial Institutions and Currencies (the "Committee") conducted two (2) public hearings on the proposed bill on November 9 and 26, 2004 in the 13<sup>th</sup> Congress and one (1) hearing during the 14<sup>th</sup> Congress, October 2, 2007.
- B. The discussions in the hearings, as well as the comments and suggestions in the position papers submitted to the Committee in the 13<sup>th</sup> Congress, were made an integral part of and were taken into consideration, in the drafting of the Substitute Bill.

## III. FINDINGS

- A. On the structure of the Credit Information System

The Credit Information System will have the following structure:



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

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

The information would be collected through the Corporation, and the Corporation could process this information and distribute it through the "accessing entities", who are likewise the primary providers of credit information (i.e. banks). Credit information may likewise be provided to special accessing entities, which include the private credit bureaus and private credit rating agencies. These entities can source information from the Corporation and may use the information for creating credit reports and ratings and may add whatever value to the report as required by their customers.

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

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

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

#### B. On protection against inaccurate and disparaging information

##### Discussion

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

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

##### Committee Consensus

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

---

<sup>1</sup> Senator Edgardo J. Angara, Chairman.

<sup>2</sup> Assistant Governor Nestor Espenilla, BSP.

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

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

### C. On government ownership

#### Discussion

The proposed bill provides that the Corporation will be owned by the government, through the BSP, to the extent of 40%. This will avert the possibility that the Corporation will be construed as a government-owned and controlled corporation ("GOCC").

However, some resource persons proposed the creation of the Corporation as a GOCC in order to ensure the funding thereof. Does this mean that all of the employees coming from the private sector shall become government employees as well? If so, this may be a problem since the Board will be composed mostly of persons from the private sector, who might be hesitant to accept the nomination in view of the fact that they will then be subjected to severe restrictions being imposed upon public officials.<sup>3</sup>

The BSP clarified that the Corporation should be a purely private corporation. Thus its directors and employees will not be considered Civil Service employees.<sup>4</sup> The purpose of making the Corporation a private corporation is to strike a balance between the credibility and integrity that the BSP ownership in the Corporation would add and the necessity of giving the sufficient flexibility to conduct its operation in an efficient manner.

The SEC suggested that instead of an implicit authority for the BSP to establish a subsidiary, it should be only categorically authorized to invest in the proposed entity.<sup>5</sup>

#### Committee Consensus

The Corporation will not be majority-owned by the BSP, However, BSP shall maintain a substantial part of the Corporation's ownership. The law shall provide that BSP may own up to 40% of the Corporation in order to erase doubts of it being a private corporation.

---

<sup>3</sup> Former Prime Minister Virata, President of the Bankers Association of the Philippines.

<sup>4</sup> Assistant Governor Juan de Zuñiga, Bangko Sentral ng Pilipinas.

<sup>5</sup> SEC position paper dated 22 November 2004.

## On the nature of the law

The question raised is: Although the Corporation will be incorporated under the Corporation Code, it likewise has already provided for the ownership structure of the Corporation. It is therefore unclear whether the bill calls for the establishment of a system or is a charter of the Corporation.

### Committee consensus

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

## D. On the BSP supervision over the operations and activities of accessing entities

### Discussion

The Bill provides that the operations and activities of accessing entities, broadens the supervisory powers of the BSP since the term "accessing entity" include entities other than the institutions currently being supervised by the BSP.<sup>6</sup>

The purpose of allowing the BSP certain supervision over the accessing entities is to ensure quality and accuracy of the information.<sup>7</sup>

### Committee Consensus

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

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

## E. On the effect on the Bank Secrecy Law

### Discussions

A question was raised whether the proposed law will be an exception to the Bank Secrecy Law.<sup>8</sup> The BSP explained that the law will not permit the Corporation unlimited access to deposit accounts. The information that will be gathered on deposits will be purely voluntary on the part of the borrowers who disclose their information to the lending institutions.

---

<sup>6</sup> Commissioner Joselia Poblador, Securities and Exchange Commission.

<sup>7</sup> Assistant Governor Nestor Espenilla, BSP.

<sup>8</sup> Atty Francis Lim, President of the Philippine Stock Exchange.

Committee Consensus

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

F. On the participation requirement

For banks, which are the major sources of credit information, it is envisioned that their participation in the system will be mandatory. The experience of private credit bureaus would show that where participation is merely voluntary, the system would not work. Some banks, for business reasons, would not want to volunteer information on their valued clients. Thus, it is necessary for banks to be mandatory providers of information on all borrowers.<sup>9</sup>

Committee Consensus

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

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

G. On the confidentiality of credit information

Discussion

There was a proposal to allow the general public to access credit information, subject to the rules of confidentiality and other conditions. This information would be useful when conducting due diligence in negotiating mergers and acquisitions of companies.<sup>10</sup>

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

Committee Consensus

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

---

<sup>9</sup> Assistant Governor Nestor Espenilla, BSP.

<sup>10</sup> Atty. Manuel Yngson, Jr. Founding Chairman and President of Corporate Rehabilitation and Insolvency Practitioners Association of the Philippines (CRIPAP)