

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 4819

Introduced by The Honorable JUAN C. PONCE ENRILE, JR.

EXPLANATORY NOTE

This measure seeks to reform the credit card industry and promote consumer protection and financial reform that, among others: will place a cap on the interest rates charged on deferred payments made on credit card purchases to one percent per month, strengthen the provisions of the Electronic Commerce Act to protect merchants against arbitrary charge backs, and to promote accountability, responsibility and disclosure in the credit card industry.

The credit card industry consists of some 15 major credit card companies that process over Php100 Billion worth of credit card transactions on an annual basis. They facilitate the transactions made by over 4 Million credit card holders and 30,000 or more retail and service establishments nationwide.

According to the records of the Bangko Sentral, credit card receivables as of the 3rd Quarter of 2010 amounted to some Php134 Billion. Even if the 12% loss ratio is deducted from this amount, and the average 3.5% interest rate is applied to the remainder, credit card companies still rake in a minimum of Php458 Million a month in interest income alone – without the other fees, charges and penalties.

The credit card business therefore is not a losing proposition. The industry cannot only live off the usurious rates that they charge the unwary cardholders, but also make a hefty profit from it.

Without Bangko Sentral intervention, the same rules will prevail for good and bad credit card users - with the prime users covering the default of the sub-prime users. Without intervention, compounded interests and penalty rates can skyrocket to 42% per annum due to deferred or late payments - even if the proximate cause was the failure of credit card companies to deliver the billing statement on time or failure of other banks to post payment on time. Without intervention, chargebacks based on fraudulent credit card purchases will be par for the course.

The Supreme Court has spoken on the matter on three (3) separate cases: In 2004, Imperial versus Jaucian (G.R. No. 149004); in 2008, Chua versus Timan (G.R. No. 17045) and in 2009, Macalinao versus BPI (G.R. No. 175490). In these rulings,

the highest court of the land has consistently said: "interest rates of 3% per month or higher are excessive, iniquitous, unconscionable and exorbitant."

The measure caps interest rates to 12% per annum leaving to the banks how the spread of the 12% over 12 months will be made. Such a provision is in recognition of the market forces that dictate interest movements. The cap is at the per annum level and not monthly.

Hence, this reform measure is filed to ensure that a law covers what certain stakeholder's claim as mere "rulings" of the Supreme Court and no implementing order or circular has been made by the Bangko Sentral ng Pilipinas.

Passage of this measure is earnestly requested.

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'P' intertwined, with a horizontal line crossing through the middle.

JUAN C. PONCE ENRILE, JR.

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AN ACT
PROVIDING FOR REFORMS IN LENDING AND ACCESS DEVICES,
PROMOTING ACCOUNTABILITY, RESPONSIBILITY AND DISCLOSURE
IN AVAILMENT AND USE AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known and cited as the “*Credit Access and Protection Reform Act of 2011.*”

SEC. 2. *Statement of Policy* – It is hereby declared the policy of the State to promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all. Consequently, a healthy flow of credit in the economy is vital but for too long credit card contracts and practices have been unfairly and deceptively complicated leading consumers to pay more than they reasonably expect. Hence, consumers have to be protected by improving disclosures and ending unfair practices through reforms that are based on transparency, accountability and mutual responsibility.

SEC. 3. *Definition of Terms.* – For purposes of this Act, the following terms shall mean:

A. ‘Outstanding Balance’ means the amount owed on a credit card account under an open end consumer credit plan as of the end of the 14th day after the date on which the creditor provides notice of an increase in the annual percentage rate, fee, or finance charge in accordance with this Act.

B. ‘Fixed’, when appearing in conjunction with a reference to the annual percentage rate or interest rate applicable with respect to such account, may only be used to refer to an annual percentage rate or interest rate that will not change or vary for any reason over the period specified clearly and conspicuously in the terms of the account.

C. ‘College affinity card’ means a credit card issued by a credit card issuer under an open end consumer credit plan in conjunction with an agreement between the issuer and an institution of higher education, or an alumni organization or

foundation affiliated with or related to such institution, under which such cards are issued to college students who have an affinity with such institution, organization and the creditor has agreed to 1. donate a portion of the proceeds of the credit card to the institution, organization, or foundation (including a lump sum or 1-time payment of money for access); 2. offer discounted terms to the consumer; or 3. the credit card bears the name, emblem, mascot, or logo of such institution, organization, or foundation, or other words, pictures, or symbols readily identified with such institution, organization, or foundation.

D. 'College student credit card account' means a credit card account under an open-end consumer credit plan established or maintained for or on behalf of any college student.

E. 'College student' means an individual who is a full-time or a part-time student attending an institution of higher education.

F. 'Institution of higher education' has the same meaning as found in the Republic Act No. 7772 or The Higher Education Act of 1994.

G. 'Dormancy fee and inactivity charge or fee' means a fee, charge, or penalty for non-use or inactivity of a gift certificate, store gift card, or general-use prepaid card.

H. 'General-use prepaid card' means a card or other payment code or device issued by any person that is 1. redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines; 2. issued in a requested amount, whether or not that amount may, at the option of the issuer, be increased in value or reloaded if requested by the holder; 3. purchased or loaded on a prepaid basis; and 4. honored, upon presentation, by merchants for goods or services, or at automated teller machines

I. 'Gift certificate' means an electronic promise that is 1. redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo; 2. issued in a specified amount that may not be increased or reloaded; 3. purchased on a prepaid basis in exchange for payment; and 4. honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

J. 'Store gift card' means electronic promise, plastic card, or other payment code or device that is 1. redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo; 2. issued in a specified amount, whether or not that amount may be increased in value or reloaded at the request of the holder; 3. purchased on a prepaid basis in exchange for payment; and 4. honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

The terms 'general-use prepaid card', 'gift certificate', and 'store gift card' as defined under this Section shall not include an electronic promise, plastic card, or payment code or device that is 1. used solely for telephone services; 2. reloadable and not marketed or labeled as a gift card or gift certificate; 3. a loyalty, award, or promotional gift card; 4. not marketed to the general public; 5. issued in paper form only (including for tickets and events); or 6. redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable at the event or venue after admission; or in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue

K. 'Service fee' means a periodic fee, charge, or penalty for holding or use of a gift certificate, store gift card, or general-use prepaid card. With respect to a

general-use prepaid card, the term 'service fee' does not include a one-time initial issuance fee.

TITLE I TRANSPARENCY AND ACCOUNTABILITY IN CREDIT CARD USE

SEC. 4. *Interest Cap Per Annum.* – Under no instance shall interest rates charged to credit cardholders be more than 12% per annum.

SEC. 5. *Protection of Credit Cardholders.* – When such circumstances occur, credit cardholders shall be protected:

A. In case of any credit card account under an open-end consumer credit plan, a creditor shall provide a written notice of an increase in an annual percentage rate not later than 45 days prior to the effective date of the increase.

B. In the case of any credit card account under an open end consumer credit plan, a creditor shall provide a written notice of any significant change, as determined by the Bangko Sentral ng Pilipinas, hereinafter referred to as BSP, in the terms of the cardholder agreement between the creditor and the obligor, not later than 45 days prior to the effective date of the change.

C. Each notice required by paragraph A or B of this Section shall be made in a clear and conspicuous manner, and shall contain a brief statement of the right of the obligor to cancel the account pursuant to rules established by the BSP before the effective date of the subject rate increase or other change.

D. Closure or cancellation of an account by the obligor shall not constitute a default under an existing cardholder agreement, and shall not trigger an obligation to immediately repay the obligation in full or through a method that is less beneficial to the obligor than one of the methods described in Section 6 of this Act, or the imposition of any other penalty or fee under existing laws.

SEC. 6. *Limits On Interest Rate, Fee, And Finance Charge Increases Applicable To Outstanding Balances.* – In the case of any credit card account under an open end consumer credit plan, no creditor may increase any annual percentage rate, fee, or finance charge applicable to any outstanding balance, except as permitted under Section 7 of this Act.

SEC. 7. *Exceptions.* – The prohibition under Section 6 of this Act shall not apply to:

A. An increase in an annual percentage rate upon the expiration of a specified period of time: *Provided, That*

1) prior to commencement of that period, the creditor disclosed to the consumer, in a clear and conspicuous manner, the length of the period and the annual percentage rate that would apply after expiration of the period;

2) the increased annual percentage rate does not exceed the rate disclosed pursuant to subparagraph (1); and

3) the increased annual percentage rate is not applied to transactions that occurred prior to commencement of the period;

B. An increase in a variable annual percentage rate in accordance with a credit card agreement that provides for changes in the rate according to operation of an index that is not under the control of the creditor and is available to the general public;

C. An increase due to the completion of a workout or temporary hardship arrangement by the obligor or the failure of the obligor to comply with the terms of a workout or temporary hardship arrangement, *Provided That*, the annual percentage rate, fee, or finance charge applicable to a category of transactions following any such increase does not exceed the rate, fee, or finance charge that applied to that category of transactions prior to commencement of the arrangement; and the creditor has provided the obligor, prior to the commencement of such arrangement, with clear and conspicuous disclosure of the terms of the arrangement (including any increases due to such completion or failure); or

D. An increase due solely to the fact that a minimum payment by the obligor has not been received by the creditor within 60 days after the due date for such payment, *Provided further*, That the creditor shall include, together with the notice of such increase required under this Act, a clear and conspicuous written statement of the reason for the increase and that the increase will terminate not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time from the obligor during that period; and terminate such increase not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time during that period.

SEC. 8. *Repayment of Outstanding Balance.* - The creditor shall not change the terms governing the repayment of any outstanding balance, except that the creditor may provide the obligor with one of the methods described in Section 6 in repaying any outstanding balance, or a method that is no less beneficial to the obligor than one of those methods.

SEC. 9. *Methods of Repaying Outstanding Balance.* - The methods described in this Act on repaying outstanding balance are: A. an amortization period of not less than 5 years, beginning on the effective date of the increase set forth in the notice required under this Act; or B. a required minimum periodic payment that includes a percentage of the outstanding balance that is equal to not more than twice the percentage required before the effective date of the increase set forth in the notice required under this Act.

SEC. 10. *Interest Rate Reduction On Open End Consumer Credit Plans.* - If a creditor increases the annual percentage rate applicable to a credit card account under an open end consumer credit plan, based on factors including the credit risk of the obligor, market conditions, or other factors, the creditor shall consider changes in such factors in subsequently determining whether to reduce the annual percentage rate for such obligor.

With respect to any credit card account under an open end consumer credit plan, the creditor shall a) maintain reasonable methodologies for assessing the factors described herein; b) not less frequently than once every 6 months, review accounts as to which the annual percentage rate has been increased a year after the passage of this Act, to assess whether such factors have changed, including whether any risk has declined; c) reduce the annual percentage rate previously increased when a reduction is indicated by the review; and d) in the event of an increase in the annual percentage rate, provide in the written notice required under this Act, a statement of the reasons for the increase.

This Section shall not be construed to require a reduction in any specific amount. The BSP shall issue final rules not later than 9 months after the date of

enactment of this Act to implement the requirements of and evaluate compliance with this Section shall become effective 12 months after that date of enactment.

SEC. 11. *Additional Limits on Interest Rate Increases.* - A. Except in the case of an increase described in paragraph A, B, C or D of Section 7 of this Act, no increase in any annual percentage rate, fee, or finance charge on any credit card account under an open end consumer credit plan shall be effective before the end of the 1-year period beginning on the date on which the account is opened.

b) **Promotional Rate Minimum Term.** - No increase in any annual percentage rate applicable to a credit card account under an open end consumer credit plan that is a promotional rate, as defined by the BSP shall be effective before the end of the 6-month period beginning on the date on which the promotional rate takes effect, subject to such reasonable exceptions as the BSP may establish, by rule.

SEC. 12. *Limits on Fees and Interest Charges.* - Except as provided in Section 13 of this Act, a creditor may not impose any finance charge on a credit card account under an open end consumer credit plan as a result of the loss of any time period provided by the creditor within which the obligor may repay any portion of the credit extended without incurring a finance charge, with respect to: 1) any balances for days in billing cycles that precede the most recent billing cycle; or 2) any balances or portions thereof in the current billing cycle that were repaid within such time period.

SEC. 13. *Exceptions.* - Section 12 of this Act does not apply to a) any adjustment to a finance charge as a result of the resolution of a dispute; or b) any adjustment to a finance charge as a result of the return of a payment for insufficient funds.

SEC. 14. *Opt-in Required for Over-the-Limit Transactions if Fees Are Imposed.*-- a) In the case of any credit card account under an open end consumer credit plan under which an over-the-limit fee may be imposed by the creditor for any extension of credit in excess of the amount of credit authorized to be extended under such account, no such fee shall be charged, unless the consumer has expressly elected to permit the creditor, with respect to such account, to complete transactions involving the extension of credit under such account in excess of the amount of credit authorized.

b) No election by a consumer under the aforementioned paragraph shall take effect unless the consumer, before making such election, received a notice from the creditor of any over-the-limit fee in the form and manner, and at the time, determined by the BSP. If the consumer makes the election referred to in this Section, paragraph a, the creditor shall provide notice to the consumer of the right to revoke the election, in the form prescribed by the BSP, in any periodic statement that includes notice of the imposition of an over-the-limit fee during the period covered by the statement.

c) A consumer may make or revoke the election referred to in paragraph a orally, electronically, or in writing, pursuant to regulations prescribed by the BSP. The BSP shall prescribe regulations to ensure that the same options are available for both making and revoking such election.

d) A consumer may make the election referred to in this Section, paragraph a, at any time, and such election shall be effective until the election is revoked in the manner prescribed under paragraph c.

e) The BSP shall prescribe regulations (1) governing disclosures under this

subsection; and (2) that prevent unfair or deceptive acts or practices in connection with the manipulation of credit limits designed to increase over-the-limit fees or other penalty fees.

f) Nothing in this Section shall be construed as to prohibit a creditor from completing an over-the-limit transaction, provided that a consumer who has not made a valid election under paragraph a) hereof is not charged an over-the-limit fee for such transaction.

g) With respect to a credit card account under an open end consumer credit plan, an over-the-limit fee may be imposed only once during a billing cycle if the credit limit on the account is exceeded, and an over-the-limit fee, with respect to such excess credit, may be imposed only once in each of the 2 subsequent billing cycles, unless the consumer has obtained an additional extension of credit in excess of such credit limit during any such subsequent cycle or the consumer reduces the outstanding balance below the credit limit as of the end of such billing cycle.

h) With respect to a credit card account under an open end consumer credit plan, the creditor may not impose a separate fee to allow the obligor to repay an extension of credit or finance charge, whether such repayment is made by mail, electronic transfer, telephone authorization, or other means, unless such payment involves an expedited service by a service representative of the creditor.

SEC. 15. Reasonable Penalty Fees on Open End Consumer Credit Plans. -

a) The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation.

b) The BSP, in consultation the Philippine Deposit Insurance Corporation, the Bankers Association of the Philippines, Association of Rural and Thrift Banks, the Credit Card Association of the Philippines and consumer groups duly registered with the Securities and Exchange Commission, shall issue final rules not later than 9 months after the date of enactment of this Section, to establish standards for assessing whether the amount of any penalty fee or charge described under subsection (a) is reasonable and proportional to the omission or violation to which the fee or charge relates.

c) In issuing rules required by this Section, the BSP shall consider (1) the cost incurred by the creditor from such omission or violation; (2) the deterrence of such omission or violation by the cardholder; (3) the conduct of the cardholder; and (4) such other factors as the BSP may deem necessary or appropriate.

d) In issuing rules required by this subsection, the BSP may establish different standards for different types of fees and charges, as appropriate.

e) The BSP, in consultation the Philippine Deposit Insurance Corporation, the Bankers Association of the Philippines, Association of Rural and Thrift Banks, the Credit Card Association of the Philippines and consumer groups duly registered with the Securities and Exchange Commission, may issue rules to provide an amount for any penalty fee or charge described under subsection (a) that is presumed to be reasonable and proportional to the omission or violation to which the fee or charge relates."

SEC. 16. Application of Card Payments. - Upon receipt of a payment from a cardholder, the card issuer shall apply amounts in excess of the minimum payment

amount first to the card balance bearing the highest rate of interest, and then to each successive balance bearing the next highest rate of interest, until the payment is exhausted.

A creditor shall allocate the entire amount paid by the consumer in excess of the minimum payment amount to a balance on which interest is deferred during the last 2 billing cycles immediately preceding the expiration of the period during which interest is deferred.

If a card issuer makes a material change in the mailing address, office, or procedures for handling cardholder payments, and such change causes a material delay in the crediting of a cardholder payment made during the 60-day period following the date on which such change took effect, the card issuer may not impose any late fee or finance charge for a late payment on the credit card account to which such payment was credited."

SEC. 17. *Standards Applicable to Initial Issuance of Subprime or "Free Harvester" cards.* - If the terms of a credit card account under an open end consumer credit plan require the payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) by the consumer in the first year during which the account is opened in aggregate amount in excess of 25 percent of the total amount of credit authorized under the account when the account is opened, no payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) may be made from the credit made available under the terms of the account.

SEC. 18. *Rules regarding Periodic Statements.* - The payment due date for a credit card account under an open end consumer credit plan shall be the same day each month.

If the payment due date for a credit card account under an open end consumer credit plan is a day on which the creditor does not receive or accept payments by mail (including weekends and holidays), the creditor may not treat a payment received on the next business day as late for any purpose.

SEC. 19. *Timing of Payments.* - The timing and grace period of payments shall be as follows:

(a) **Time To Make Payments.**--A creditor may not treat a payment on an open end consumer credit plan as late for any purpose, unless the creditor has adopted reasonable procedures designed to ensure that each periodic statement including the information required in this Act is mailed or delivered to the consumer not later than 21 days before the payment due date.

(b) **Grace Period.**--If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part, unless a statement which includes the amount upon which the finance charge for the period is based was mailed or delivered to the consumer not later than 21 days before the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge."

SEC. 20. *Consideration of Ability to Repay.* - A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or

increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account

TITLE II ENHANCED CONSUMER DISCLOSURES

SEC. 21. *Payoff Timing Disclosures.* – The following disclosures on payoff timing shall be clearly provided in credit card statements:

A. A written statement in the following form: "Minimum Payment Warning: Making only the minimum payment will increase the amount of interest you pay and the time it takes to repay your balance" or such similar statement as is established by the BSP pursuant to consumer testing shall be included in billing statements of all credit cards.

B. Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including--

1. The number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

2. The total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made;

3. The monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months, if no further advances are made, and the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays the balance over 36 months; and

4. A toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

C. 1. Subject to B (2), the creditor shall apply the interest rate or rates in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

2. If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.

D. All of the information described in subparagraph (B) shall:

1. Be disclosed in the form and manner which the BSP shall prescribe, by regulation, and in a manner that avoids duplication; and

2. Be placed in a conspicuous and prominent location on the billing statement.

E. In the regulations prescribed under subparagraph (D), the BSP shall require that the disclosure of such information shall be in the form of a table that--

1. Contains clear and concise headings for each item of such information; and

2. Provides a clear and concise form stating each item of information required to be disclosed under each such heading.

F. In prescribing the form of the table under subparagraph (E), the BSP shall require that (i) all of the information in the table, and not just a reference to the table, be placed on the billing statement, as required by this paragraph; and (ii) the items required to be included in the table shall be listed in the order in which such items are set forth in subparagraph (B).

G. In prescribing the form of the table under subparagraph (D), the BSP shall employ terminology, which is different than the terminology, which is employed in subparagraph (B), if such terminology is more easily understood and conveys substantially the same meaning.

SEC. 22. *Creditor Toll-free Number.* – Not later than 6 months after the date of enactment of this Act, the BSP shall issue guidelines, by rule, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about accessing credit counseling and debt management services, as required under this Act.

SEC. 23. *Requirements relating to Late Payment Deadlines and Penalties.* -

A. Late payment deadline required to be disclosed. In the case of a credit card account under an open end consumer credit plan under which a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, the periodic statement required under subsection B with respect to the account shall include, in a conspicuous location on the billing statement, the date on which the payment is due or, if different, the date on which a late payment fee will be charged, together with the amount of the fee or charge to be imposed if payment is made after that date.

B. Disclosure of increase in interest rates for late payments. If 1 or more late payments under an open end consumer credit plan may result in an increase in the annual percentage rate applicable to the account, the statement required under subsection with respect to the account shall include conspicuous notice of such fact, together with the applicable penalty annual percentage rate, in close proximity to the disclosure required under subparagraph A of the date on which payment is due under the terms of the account.

C. Payments at local branches. If the creditor, in the case of a credit card account referred to in subparagraph A, is a financial institution which maintains branches or offices at which payments on any such account are accepted from the obligor in person, the date on which the obligor makes a payment on the account at such branch or office shall be considered to be the date on which the payment is made for purposes of determining whether a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment."

SEC. 24. *Internet Posting of Credit Card Agreements.* - Each creditor shall establish and maintain an Internet site on which the creditor shall post the written agreement between the creditor and the consumer for each credit card account under an open-end consumer credit plan.

Each creditor shall provide to the BSP, in electronic format, the consumer credit card agreements that it publishes on its Internet site.

BSP shall establish and maintain on its publicly available Internet site a central repository of the consumer credit card agreements received from creditors pursuant to this subsection, and such agreements shall be easily accessible and retrievable by the public: *Provided That*, this Section shall not apply to individually negotiated changes

to contractual terms, such as individually modified workouts or renegotiations of amounts owed by a consumer under an open end consumer credit plan.

The BSP, in consultation with the other banking agencies may promulgate regulations to implement this subsection, including specifying the format for posting the agreements on the Internet sites of creditors and establishing exceptions to paragraphs (1) and (2), in any case in which the administrative burden outweighs the benefit of increased transparency, such as where a credit card plan has a de minimis number of consumer account holders.

SEC. 25. *Prevention of Deceptive Marketing of Credit Reports.* – A. Any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under the law. In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement broadcast by television or radio, the disclosure required under paragraph (1) shall consist only of the following: “This is not the free credit report provided for by law.”

B. Not later than 9 months after the date of enactment of this Act, the Department of Trade and Industry shall issue a final rule to carry out this Section. The rule required by this subsection--

1. Shall include specific wording to be used in advertisements in accordance with this section; and

2. For advertisements on the Internet, shall include whether the disclosure required under this Act shall appear on the advertisement or the website on which the free credit report is made available.

C. If an advertisement subject to this Act is made public after the 9-month deadline specified in paragraph (1), but before the rule required by paragraph (1) is finalized, such advertisement shall include the disclosure: “Free credit reports are available under the law at specific website created by the BSP.”

TITLE III PROTECTION OF YOUNG CONSUMERS

SEC. 26. *Extensions of Credit to Underage Consumers.* – A) No credit card may be issued to, or open end consumer credit plan established by or on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

(B) Application requirements. An application to open a credit card account by a consumer who has not attained the age of 21 as of the date of submission of the application shall require (i) the signature of a cosigner, including the parent, legal guardian, spouse, or any other individual who has attained the age of 21 having a means to repay debts incurred by the consumer in connection with the accounts indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or (ii) submission by the consumer of financial information, including through an application, indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.

(C) The BSP shall promulgate regulations providing standards that, if met, would satisfy the requirements of subparagraph (B)(ii).

SEC. 27. *Protection of Young Consumers from Pre-Screened Credit Offers.*

If the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer-reporting agency to such furnishing.

SEC. 28. *Parental Approval Required To Increase Credit Lines for Accounts for Which Parent Is Jointly Liable.* - No increase may be made in the amount of credit authorized to be extended under a credit card account for which a parent, legal guardian, or spouse of the consumer, or any other individual has assumed joint liability for debts incurred by the consumer in connection with the account before the consumer attains the age of 21, unless that parent, guardian, or spouse approves in writing, and assumes joint liability for, such increase.

SEC. 29. *Privacy Protections for College Students.* - An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card. No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made A) on the campus of an institution of higher education; B) near the campus of an institution of higher education, as determined by rule of the BSP; or C) at an event sponsored by or related to an institution of higher education.

SEC. 30. *Sense of the Congress.* - It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

“(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

“(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.”.

SEC. 31. *Reports by Creditors.* - A. Each creditor shall submit an annual report to the BSP containing the terms and conditions of all business, marketing, and promotional agreements and college affinity card agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.

B. The information required to be reported under subparagraph (A) includes:

(i) any memorandum of understanding between or among a creditor, an institution of higher education, an alumni association, or foundation that directly or indirectly relates to any aspect of any agreement referred to in such subparagraph or controls or directs any obligations or distribution of benefits between or among any such entities;

(ii) the amount of any payments from the creditor to the institution,

organization, or foundation during the period covered by the report, and the precise terms of any agreement under which such amounts are determined; and

(iii) the number of credit card accounts covered by any such agreement that were opened during the period covered by the report, and the total number of credit card accounts covered by the agreement that were outstanding at the end of such period.

C. The information required to be reported under subparagraph (A) shall be aggregated with respect to each institution of higher education or alumni organization or foundation affiliated with or related to such institution.

D. The initial report required under subparagraph (A) shall be submitted to the BSP before the end of the 9-month period beginning on the date of enactment of this subsection.

SEC. 32. *Mandatory Reports to Congress.* - The BSP shall submit to the Congress, and make available to the public, an annual report that lists the information concerning credit card agreements submitted to the BSP under paragraph (2) by each institution of higher education, alumni organization, or foundation.

The Commission on Audit, hereinafter referred to as COA shall, from time to time, review the reports submitted by creditors under this Act and the marketing practices of creditors to determine the impact that college affinity card agreements and college student card agreements have on credit card debt.

Upon completion of any study under this Section, the COA shall periodically submit a report to the Congress on the findings and conclusions of the study, together with such recommendations for administrative or legislative action as the COA determines to be appropriate.

TITLE IV GIFT CARDS

SEC. 33. *Prohibition on Imposition of Fees or Charges.* - Except as provided under paragraphs (2) through (4), it shall be unlawful for any person to impose a dormancy fee, an inactivity charge or fee, or a service fee with respect to a gift certificate, store gift card, or general-use prepaid card: *Provided That*, a dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card, if: (A) there has been no activity with respect to the certificate or card in the 12-month period ending on the date on which the charge or fee is imposed;

(B) the disclosure requirements of paragraph (3) have been met;

(C) not more than one fee may be charged in any given month; and

(D) any additional requirements that the BSP may establish through rulemaking under subsection (d) have been met.

SEC. 34. *Disclosure Requirements Met.* - The disclosure requirements of this Section are met if:

A. The gift certificate, store gift card, or general-use prepaid card clearly and conspicuously states--

1. That a dormancy fee, inactivity charge or fee, or service fee may be charged;

2. The amount of such fee or charge;
 3. How often such fee or charge may be assessed; and
 4. That such fee or charge may be assessed for inactivity; and
- B. The issuer or vendor of such certificate or card informs the purchaser of such charge or fee before such certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.
- C. The prohibition under paragraph A shall not apply to any gift certificate:
1. That is distributed pursuant to an award, loyalty, or promotional program, as defined by the BSP; and
 2. With respect to which, there is no money or other value exchanged.

SEC.35. *Prohibition on Sale of Gift Cards With Expiration Dates.*- It shall be unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date; except when a gift certificate, store gift card, or general-use prepaid card may contain an expiration date if a) The expiration date is not earlier than 5 years after the date on which the gift certificate was issued, or the date on which card funds were last loaded to a store gift card or general-use prepaid card; and b) The terms of expiration are clearly and conspicuously stated.

The BSP shall prescribe regulations to carry out this section, in addition to any other rules or regulations required by this title, including such additional requirements as appropriate relating to the amount of dormancy fees, inactivity charges or fees, or service fees that may be assessed and the amount of remaining value of a gift certificate, store gift card, or general-use prepaid card below which such charges or fees may be assessed.

TITLE V MISCELLANEOUS PROVISIONS

SEC. 36. *Study and Report on Interchange Fees.* – The COA shall conduct a study on use of credit by consumers, interchange fees, and their effects on consumers and merchants. In conducting the study required by this Section, COA shall review:

- A. The extent to which interchange fees are required to be disclosed to consumers and merchants, whether merchants are restricted from disclosing interchange or merchant discount fees, and how such fees are overseen by the BSP.
 - B. The ways in which the interchange system affects the ability of merchants of varying size to negotiate pricing with card associations and banks;
 - C. The costs and factors incorporated into interchange fees, such as advertising, bonus miles, and rewards, how such costs and factors vary among cards;
 - D. The consequences of the undisclosed nature of interchange fees on merchants and consumers with regard to prices charged for goods and services;
 - E. How merchant discount fees compare to the credit losses and other costs that merchants incur to operate their own credit networks or store cards;
 - F. The extent to which the rules of payment card networks and their policies regarding interchange fees are accessible to merchants;
 - G. Other jurisdictions where the central bank has regulated interchange fees and the impact on retail prices to consumers in such jurisdictions;
 - H. Whether and to what extent merchants are permitted to discount for cash;
- and

I. The extent to which interchange fees allow smaller financial institutions and credit unions to offer payment cards and compete against larger financial institutions.

SEC. 37. *Report Required.*--Not later than 180 days after the date of enactment of this Act, BSP and COA shall submit a report to the Committee on Banks, Financial Institutions and Currencies of the Senate and the Committee on Banks and Financial Intermediaries of the House of Representatives containing a detailed summary of the findings and conclusions of the study required by Section 35, together with such recommendations for legislative or administrative actions as may be appropriate.

SEC. 38. *BSP Review of Consumer Credit Plans and Regulations.* -- Not later than 2 years after the effective date of this Act and every 2 years thereafter, the BSP shall conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market, including: a) the terms of credit card agreements and the practices of credit card issuers; b) the effectiveness of disclosure of terms, fees, and other expenses of credit card plans; c) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans; and d) whether or not, and to what extent, the implementation of this Act and the amendments made by this Act has affected: (1) cost and availability of credit, particularly with respect to non-prime borrowers; (2) the safety and soundness of credit card issuers; (3) the use of risk-based pricing; or (4) credit card product innovation.

SEC. 39. *Mandatory Open Consultation with the Public.* - In connection with conducting the review required by subsection (a), the BSP shall solicit comment from consumers, credit card issuers, and other interested parties, such as through hearings or written comments.

The BSP shall publish a notice in the Official Gazette that a) summarizes the review, the comments received from the public solicitation, and other evidence gathered by the BSP, such as through consumer testing or other research; and b) either:

- (i) proposes new or revised regulations or interpretations to update or revise disclosures and protections for consumer credit cards, as appropriate; or
- (ii) states the reason for the determination of the BSP that new or revised regulations are not necessary.

SEC. 40. *Revision of review period following material revision of regulations.*--In the event that the BSP materially revises regulations on consumer credit card plans, a review need not be conducted until 2 years after the effective date of the revised regulations, which thereafter shall be treated as the new date for the biennial review required under Section 38.

SEC. 41. *BSP Report to the Congress.*--The BSP shall report to Congress not less frequently than every 2 years, except as provided in subsection (c)(2), on the status of its most recent review, its efforts to address any issues identified from the review, and any recommendations for legislation.

SEC. 42. *Report to Congress on Reductions of Consumer Credit Card Limits Based on certain information as to Experience and Transactions of the Consumer.*

Before the end of the 1-year period beginning on the date of enactment of this Act, the BSP, in consultation with concerned stakeholders, shall submit a report to the Committee on Banks and Financial Intermediaries of the House of Representatives and the Committee on Banking, Financial Institutions and Currencies of the Senate on the extent to which, during the 3-year period ending on such date of enactment, creditors have reduced credit limits or raised interest rates applicable to credit card accounts under open end consumer credit plans based on:

A. The geographic location where a credit transaction with the consumer took place, or the identity of the merchant involved in the transaction;

B. The credit transactions of the consumer, including the type of credit transaction, the type of items purchased in such transaction, the price of items purchased in such transaction, any change in the type or price of items purchased in such transactions, and other data pertaining to the use of such credit card account by the consumer; and

C. The identity of the mortgage creditor, which extended or holds the mortgage loan secured by the primary residence of the consumer.

The report required under subsection A shall also include: (1) the number of creditors that have engaged in the practices described in subsection (a); (2) the extent to which the practices described in subsection (a) have an adverse impact on minority or low-income consumers (3) any other relevant information regarding such practices; at (4) recommendations to the Congress on any regulatory or statutory changes that may be needed to restrict or prevent such practices.

SEC. 43. *BSP Review of Small Business Credit Plan and Recommendations.* - Not later than 9 months after the date of enactment of this Act, the BSP shall conduct a review of the use of credit cards by businesses with not more than 50 employees (in this section referred to as "small businesses") and the credit card market for small businesses, including:

A. The terms of credit card agreements for small businesses and the practices of credit card issuers relating to small businesses;

B. The adequacy of disclosures of terms, fees, and other expenses of credit card plans for small businesses;

C. The adequacy of protections against unfair or deceptive acts or practices relating to credit card plans for small businesses;

D. The cost and availability of credit for small businesses, particularly with respect to non-prime borrowers;

E. The use of risk-based pricing for small businesses;

F. Credit card product innovation relating to small businesses; and

G. The extent to which small business owners use personal credit cards to fund their business operations.

SEC. 44. *Financial and Economic Literacy Education Program.* - Not later than 9 months after the date of enactment of this Act, the Secretary of Education, Secretary of Trade and Industry, Secretary of Finance and the BSP, together with the Credit Information Corporation created under Republic Act No. 9510, hereinafter referred to as CIC, shall coordinate:

A. to evaluate and compile a comprehensive summary of all existing financial and economic literacy education programs, as of the time of the report; and

B. to prepare and submit a report to Congress on the findings of the evaluations.

SEC. 46. *Contents of the Report to Congress.* - The report required by Section 43 of this Act shall address, at a minimum: A. Such recommendations of the Office of the President on Financial Literacy; B. existing financial and economic literacy education programs for grades kindergarten through high school, and annual funding to support these programs; C. existing postsecondary financial and economic literacy education programs and annual funding to support these programs; D. the current financial and economic literacy education needs of OFWs, adults, and in particular, low- and moderate-income adults; E. ways to incorporate and disseminate best practices and high quality curricula in financial and economic literacy education; and F. specific recommendations on sources of revenue to support financial and economic literacy education activities with a specific analysis of the potential use of credit card transaction fees.

SEC. 47. *Improving and Expanding Financial and Economic Literacy Education.* - Strategic Plan. - The Secretary of Education, Secretary of Finance and the Bureau of Treasury shall coordinate with the BSP and the CIC to develop a strategic plan to improve and expand financial and economic literacy education.

The contents of the plan shall include, among others, findings from the report and evaluations of existing financial and economic literacy education programs and include proposals to improve, expand, and support financial and economic literacy education based on the findings of the report and evaluations.

The plan developed under Section shall be presented to Congress not later than 6 months after the date on which the report under Section 43 A is submitted to Congress.

SEC. 48. *Implementing Rules and Regulations* – The Secretary of Agriculture, in collaboration with the Secretary of Trade and Industry shall promulgate such rules and regulations as may be necessary to implement the provision of this Act within sixty (60) days after approval of this Act.

SEC. 49. *Repealing Clause* – All laws, decrees or executive issuances and any rules and regulations or any part thereof that may be inconsistent with any of the provisions of this Act are hereby deemed repealed, amended or modifies accordingly.

SEC. 50. *Effectivity* – This Act shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation.

Approved,