

Republic of the Philippines

House of Representatives
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 277



**Introduced by Honorable Cresente C. Paez and Honorable
Anthony M. Bravo**

EXPLANATORY NOTE

With the proclamation of His Excellency President Benigno S. Aquino III, microfinance and microenterpreneurship will be one of the key elements of his poverty reduction and inclusive economic development strategy. The dawning of microfinance institutions contributes to sustainable economic and social development of disadvantaged people in society through a productive microfinance.

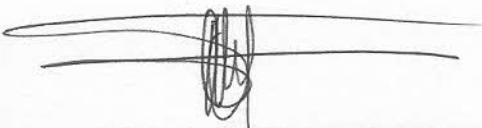
This bill aims to strengthen the microfinance sector in order to extend financial products and social services to more people, under better conditions. With this in mind, this bill has several lines of work underway, including but not limited to the adoption of the G20 Principles for Innovative Financial Inclusion and Consultative Group to Assist the Poor (CGAP); the establishment of an Accrediting Authority/Entity which functions as a Self-Regulatory Organization and the tax exemption to any government taxes and fees imposed under the Internal Revenue Laws and other tax laws.

In a recent study conducted by the Microfinance Council of the Philippines from fifty (50) participating microfinance institutions wherein 4% are banks, 50% are NGOs and 46% are rural banks, the overall financial performance is quite impressive. The return on equity of NGOs indicates a margin of 4.8% and 3.5% from rural banks, operational self-sufficiency is 106.7% for NGOs and 114.3% for rural banks, and financial self-sufficiency is 102.6% for NGOs and 107.7% for rural banks.

Ripen by experience and molded by the challenges that every microfinance sector encountered, the codification of laws governing all entities engaged in microfinance is a monumental leap towards change on the strategic paradigm for the Philippine economy. This in turn will help guarantee our nation's progress, order and over-all stability.

With these, the passage of this bill is earnestly sought.


HON. CRESENTE C. PAEZ


HON. ANTHONY M. BRAVO

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AN ACT TO ORDAIN A MICROFINANCE CODE OF THE PHILIPPINES

CHAPTER 1

GENERAL CONCEPTS AND PRINCIPLES

Section 1. Title. — This Act shall be known as the "*Microfinance Code of the Philippines*."

Section 2. Declaration of Policy. — It is the declared policy of the State, as articulated in the 1997 National Strategy on Microfinance, to adopt and promote microfinance as a strategy for empowerment and poverty alleviation built on the following policy principles:

- a) Microfinance, as an empowering tool, is envisioned to play a lead role in promoting and sustaining entrepreneurship as one of the key elements for poverty reduction and inclusive economic development.
- b) Role of the private sector — The State recognizes the greater role of the private sector microfinance institutions (MFIs) in the provision of financial services; and therefore, the State shall provide an enabling policy environment that will facilitate the increased participation of the private sector in microfinance; and pursue market-oriented financial and credit policies, such as market-oriented interest rates on loan and deposits.
- c) The State recognizes that success in microfinance is driven by a *double-bottom line*, that is, strong financial and social performance, and that these twin objectives are mutually reinforcing in the long run.

The State shall encourage and promote the activities of microfinance institutions and place their operations on a sound, stable, and efficient basis to the end that they may be able to better provide financial and non-financial programs and services in a fair manner to their clients and to curtail or prevent acts or practices of microfinance institutions which are prejudicial to their clients' interest. In view of this, the State shall lay down the minimum requirements and the standards under which microfinance institutions may organize and operate; and guarantee the protection of clients of microfinance institutions against misfeasance and malfeasance related to the conduct of microfinance operations.

Toward this end, the Government shall provide the enabling environment, through appropriate policy and institutional framework for the efficient functioning of markets, to enable microfinance institutions to develop a viable, sustainable and financially inclusive microfinance sector in pursuit of a people-centered gender-responsive self-reliant

economy where the private sector plays the major role.

Further, the State adopts, as part of its policy on microfinance, the *G20 Principles for Innovative Financial Inclusion*:

- (1) *Leadership*: Cultivate a broad-based government commitment to financial inclusion to help alleviate poverty.
- (2) *Diversity*: Implement policy approaches that promote competition and provide market-based incentives for delivery of sustainable financial access and usage of a broad range of affordable services (savings, credit, payments and transfers, insurance) as well as a diversity of service providers.
- (3) *Innovation*: Promote technological and institutional innovation as a means to expand financial system access and usage, including by addressing infrastructure weaknesses.
- (4) *Protection*: Encourage a comprehensive approach to consumer protection that recognizes the roles of government, providers and consumers.
- (5) *Empowerment*: Develop financial literacy and financial capability.
- (6) *Cooperation*: Create an institutional environment with clear lines of accountability and co-ordination within government; and also encourage partnerships and direct consultation across government, business and other stakeholders.
- (7) *Knowledge*: Utilize improved data to make evidence based policy, measure progress, and consider an incremental "test and learn" approach acceptable to both regulator and service provider.
- (8) *Proportionality*: Build a policy and regulatory framework that is proportionate with the risks and benefits involved in such innovative products and services and is based on an understanding of the gaps and barriers in existing regulation.
- (9) *Framework*: Consider the following in the regulatory framework, reflecting international standards, national circumstances and support for a competitive landscape: an appropriate, flexible, risk-based Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) regime; conditions for the use of agents as a customer interface; a clear regulatory regime for electronically stored value; and market-based incentives to achieve the long-term goal of broad interoperability and interconnection.

Section 3. Scope of Application. - This Code shall apply to the following entities engaged in and/or associated with microfinance in the Philippines:

- a) Retail microfinance institutions, such as NGOs, banks, cooperatives, savings and loans associations, and other private lending companies, that provide direct micro-financial services to microfinance clients;
- b) Wholesalers, whether Government Financial Institutions, commercial banks, and other private financing entities, which lend out loanable funds to retail microfinance institutions;

- c) Networks or associations of microfinance institutions and other support organizations, which do not directly engage in retail microfinance operations;
- d) Microfinance investment entities such as microfinance investment vehicles (both public and private), holding companies, and nonspecialized microfinance investment funds.

Section 4. General Concepts. - Microfinance is the viable and sustainable provision of a broad range of financial services to poor/unbanked/financially underserved/low-income households engaged in livelihood and microenterprise activities. It uses nontraditional and innovative methodologies and approaches such as, but not limited to, the extension of small loans, simplified loan application procedures, group character loans, collateral-free arrangements, cash-flow based lending, alternative loan repayments, minimum requirements for savings, and small denominated savers' instruments—aimed to improve their asset base and expand their access to savings.

Section 5. The State adopts the following basic principles of microfinance, as promoted by the Consultative Group to Assist the Poor (CGAP):

- a) The poor needs access to appropriate financial services that are convenient, flexible, and reasonably priced, including, but not limited to credit, savings, and insurance.
- b) The poor has the capacity to repay loans, generate savings, and participate actively in the development of their communities.
- c) Microfinance is an effective tool for poverty alleviation and empowerment as it provides opportunities to poor households and enables them to increase incomes, build assets and reduce their vulnerability to external shocks.
- d) Microfinance can and should be undertaken on a sustainable basis, that is, microfinance providers should be able to cover all of its costs that would allow continued operation of the microfinance institution and regular provision of financial services to the poor.
- e) Microfinance institutions must aim to provide both financial and social protection programs to an increasing number of disadvantaged people.
- f) Microfinance institutions should abide by the Client Protection Principles as part of their responsibilities.
- g) Financial performance alone is insufficient to achieve the goal of serving increasing numbers of poor and excluded people sustainably.
- h) The microfinance sector must develop financial and social performance standards that will help define and govern the microfinance industry toward greater reach and sustainability.

Section 6. Definition of Terms. - The following terms shall mean: (Tentative listing; review after completing the Code)

(1) **COOP-PESOS**

(2) **Compensating balance** – this refers to the proportion of the total loan of an MFI client, which is retained with the MFI as capital build-up or savings. This

amount serves as a hold-out deposit on the loan of the client and can be used by the MFI to off-set the client's outstanding balance in case of default. In view of this, the client is considered a net borrower from the MFI rather than a net saver (*i.e.*, as a borrower of his own savings rather than as a depositor who finance other client's borrowings/loans).

- (3) ***Deposit-taking Institutions*** – these are financial institutions engaged in the mobilization of savings either from its own members or from the general public.
- (4) ***Financing Companies***
- (5) ***Lending Companies***
- (6) ***Microfinance Institutions (MFIs)*** – these are institutions engaged in the delivery of microfinancial services (such as microcredit and microsavings), including, but not limited, to rural banks and cooperative banks, thrift banks, credit cooperatives, microfinance NGOs, and savings and loans associations.
- (7) ***Microfinancing Loans*** are small loans granted to the basic sectors, as defined in the Social Reform and Poverty Alleviation Act of 1997 (Republic Act 8425), and other loans granted to the poor and low-income households for their microenterprises and small businesses so as to enable them to raise their income levels and improve their living standards. These loans are granted on the basis of the borrowers' cash flow and are typically unsecured. The maximum principal amount of microfinance loans shall not exceed the amount specified in existing and/or subsequent circulars or orders issued by the relevant regulator/s.
- (8) ***Microfinance Investment Intermediaries***
- (9) ***PESO Performance Standards***
- (10) ***Regulators*** – shall refer to the Bangko Sentral ng Pilipinas, the Cooperative Development Authority and the Securities and Exchange Commission.
- (11) ***Social Performance*** – is the effective translation of an institution's social mission into practice
- (12) ***Social Performance Management***
- (13) ***Transparent Pricing***
- (14) ***Wholesale Microfinance Lending***
- (15) ***Retail Microfinance Lending***
- (16) ***Retained earnings***
- (17) ***Portfolio at Risk***

Words, terms and expressions not otherwise defined under this Code but which have already been defined in the General Banking Act of 2000 and other related laws and/or BSP Circulars related to microfinance shall have the same meaning as used in those laws and circulars and/or shall be construed in their usual and commonly understood trade, business, commercial or investment meaning.

CHAPTER 2

ORGANIZATION, REGISTRATION AND ACCREDITATION OF MICROFINANCE INSTITUTIONS

Section 7. *Purpose of a Microfinance Institution.* A microfinance institution exists primarily to engage in sound, sustainable and viable microfinance programs and services that are client-focused, designed to enhance the clients' well-being, and delivered in a manner that is ethical, dignified, transparent, equitable and cost-effective.

Section 8. *Organization of Microfinance Institutions.* A microfinance institution may be organized as any of the following:

- (1) a bank, in accordance with the provisions of the General Banking Act of 2000 and other special laws on the establishment of banks;
- (2) a cooperative, in accordance with the provisions of the Cooperative Code of

the Philippines;

- (3) a non-stock non-profit corporation (non-governmental organization), in accordance with the provisions of the Corporation Code of the Philippines;
- (4) a savings and loans association, in accordance with R.A. 3779;
- (5) a lending company, in accordance with the Lending Company Regulation Act of 2007;
- (6) a financing company, in accordance with the Financing Company Act of 1998.

Section 9. *Minimum Capital Requirements.* – Microfinance institutions shall maintain the minimum capital requirements set out in the respective laws that govern their registration.

Section 10. *Microfinance Institutions Powers and Capacities.* - Microfinance institutions shall have the power and capacities as may be provided in their respective laws governing their creation and as may be supplemented by the provisions of this Code.

Section 11. *Accreditation.* Microfinance institutions shall seek accreditation from the Accrediting Authority/Entity established in this Code. The Accrediting Entity shall establish and operationalize a system of accreditation to determine the qualifications of microfinance institutions, requirements for accreditation and other related matters.

Section 12. *Accrediting Authority/Entity* – There shall be an accrediting entity, which functions as a Self-Regulatory Organization, that is subject to the oversight of the Securities and Exchange Commission.

Section 13. *Role of the Accrediting Entity.* The self-regulatory Accrediting Entity established under this Code shall have the following functions and responsibilities:

- a) Institute and operationalize a system of accreditation for microfinance institutions;
- b) Issue a Certificate of Accreditation to the MFI upon determination that it meets the criteria for accreditation; *Provided, That*, the Certificate of Accreditation shall be valid for such period as may be prescribed under the implementing rules and regulations of this Code.
- c) Monitor the financial and social performance of microfinance institutions to ensure compliance with the provisions of this Code and its implementing rules and regulations;
- d) Suspend or revoke any Certificate of Accreditation upon determination that a microfinance institution no longer meets the criteria for accreditation;
- e) Require regular submission of reports by microfinance institutions;
- f) Collect reasonable accreditation and monitoring fees from the microfinance institution, which shall be used for the Accrediting Entity's operational requirements;
- g) Maintain a national registry of microfinance institutions;
- h) Accredite microfinance institution rating agencies;
- i) Submit an annual report to the SEC; and

- j) Perform such other functions as may be necessary to accomplish the purposes and objectives of this Code.

CHAPTER 3

ADMINISTRATION AND GOVERNANCE

Section 14. *Management of Institutions.* Unless otherwise provided in the bylaws, the direction and management of the affairs of a microfinance institution shall be vested in a board of directors which shall be composed of not less than five (5) nor more than fifteen (15) members. The board of directors shall be responsible for the strategic planning, direction-setting and policy formulation activities of the microfinance institution. At the minimum, a microfinance institution must have the following committees: Strategic Planning, Human Resources, Risk Management, Evaluation and Monitoring, and Audit.

Section 15. *Minimum Financial Performance and Management Standards.* Microfinance institutions shall adhere to sound banking practices and prudential standards required by the Bangko Sentral ng Pilipinas for banks, or to the set of standards promulgated by the Cooperative Development Authority for credit unions/credit cooperatives, or to the performance standards promoted by the National Credit Council for NGOs engaged in microfinance.

Section 16. *Management Information System.* A microfinance institution shall maintain a transparent and comprehensive management information system that shall also track at least the following parameters:

- (i) Poverty outreach or the poverty level of incoming clients
- (ii) Poverty alleviation or the change in client poverty status
- (iii) Gender outreach
- (iv) Rural outreach
- (v) Employment creation
- (vi) Other social goals (e.g., outreach to youth; outreach to indigenous people; inclusion of persons with disabilities)

Section 17. *Publication and Disclosure of Audited Accounts at the end of every Financial Year.* Every microfinance institution shall, within one hundred twenty (120) calendar days after the close of its fiscal year furnish the relevant regulator and SRO a copy of its financial statement showing, in such form and detail as the relevant regulator shall require, the amount and character of the assets and liabilities of the institution at the end of the preceding fiscal year. The relevant regulator may, in addition to the foregoing, require the disclosure of such other information as it shall deem necessary.

Section 18. *Submission of Reports.* – In addition to reports and information required by the relevant regulators, all microfinance institutions shall submit a set of uniform and transparent information to the self-regulatory organization and to the relevant regulator.

Section 19. *Chart of Accounts.* – A standard chart of accounts for microfinance institutions shall be formulated that shall be guided by existing Philippine Financial Reporting Standards.

Section 20. *Dissolution.* – Any microfinance institution may be dissolved in accordance with the law governing the establishment and dissolution of the same.

CHAPTER 4

REGULATION OF MFIs

Section 21. *Regulation of Microfinance Institutions Organized as Banks.* – Microfinance institutions organized as banks shall be subject to the regulatory authority

of the *Bangko Sentral ng Pilipinas*, which shall issue the necessary rules and regulations for the safe and prudent operation of these banks.

Section 22. *Regulation of Microfinance Institutions Organized as Cooperatives.* – Micro-finance institutions organized as cooperatives shall be subject to the regulatory authority of the Cooperative Development Authority; *Provided, however,* that cooperative banks shall be subject to the regulatory authority of the *Bangko Sentral ng Pilipinas*; *Provided further,* that the regulatory authority of the Cooperative Development Authority shall be subject to the operation of a self-regulatory organization for microfinance institutions as provided in Section 24 of this Code.

For this purpose, the Cooperative Development Authority shall establish a regulatory and supervisory unit for credit cooperatives responsible for the regulation of credit cooperatives and other types of cooperatives with credit services. This unit will coordinate closely with the *Bangko Sentral ng Pilipinas* for the issuance of effective rules and regulations.

The *Bangko Sentral ng Pilipinas* shall provide the necessary technical assistance to the regulatory unit for credit cooperatives within the Cooperative Development Authority responsible for issuing appropriate rules and regulations for credit cooperatives and other cooperatives with credit services. These regulations should be consistent with existing regulations for banks with appropriate adjustments to consider the different structure of the credit cooperatives compared with banks.

Section 23. *Regulation of Microfinance Institutions Organized as Non-stock Non-Profit Corporations.* – Microfinance institutions organized as non-stock non-profit corporations (microfinance NGOs) shall be subject to the regulatory authority of the Securities and Exchange Commission; *Provided further,* that the regulatory authority of the Securities and Exchange Commission shall be subject to the operation of a self-regulatory organization for microfinance institutions as provided in Section 25 of this Code; *Provided finally,* that microfinance NGOs collecting compensating balance from its members shall not be treated as Deposit-taking Institutions and shall not be subject to prudential regulation and supervision of any government regulatory authority if that the total savings collected from their clients do not exceed the total loan portfolio of the microfinance NGO at any point in time.

CHAPTER 5

SELF-REGULATORY ORGANIZATION FOR MICROFINANCE INSTITUTIONS ORGANIZED AS COOPERATIVES AND NON-STOCK NON- PROFIT CORPORATIONS

Section 24. *Establishment of a Self-Regulatory Organization.* – The Securities and Exchange Commission, in consultation with the *Bangko Sentral ng Pilipinas* (BSP), Department of Finance (DOF), Cooperative Development Authority (CDA), Department of Social Welfare and Development (DSWD), National Anti-Poverty Commission (NAPC) and representatives of the sector, shall have the power to register a self-regulatory organization for microfinance cooperatives and NGOs, or otherwise grant licenses, and to regulate, supervise, examine, suspend or otherwise discontinue, as a condition for the operation of microfinance cooperatives and NGOs. The Securities and Exchange Commission may prescribe rules and regulations which are necessary or appropriate in the public interest or for the protection of microfinance cooperative and NGO members to govern self-regulatory organizations and other organizations licensed or regulated pursuant to the authority granted in this Section 24, including the requirement of cooperation within and among all microfinance cooperatives and NGOs to ensure transparency and facilitate exchange of information.

Section 25. An association of microfinance cooperatives and NGOs may be registered as a self-regulatory organization by filing with the Securities and Exchange Commission an application for registration in such form as the Securities and Exchange Commission, by rule, may prescribe containing the rules of the organization and such other information and documents as the Securities and Exchange Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of members of microfinance cooperatives and NGOs.

Section 26. An association of microfinance cooperatives and NGOs shall not be registered as a self-regulatory organization unless the Securities and Exchange Commission determines that:

- (1) The association is so organized and has the capacity to be able to carry out the purposes of this Code and to comply with, and to enforce compliance by its members and persons associated with its members, with the provisions of this Code, the rules and regulations thereunder, and the rules of the organization.
- (2) The rules of the organization, notwithstanding anything in the Corporation Code to the contrary, provide that:
 - (i) Any duly organized microfinance cooperative or NGO may become a member of the organization;
 - (ii) There exist a fair representation of its members to serve on the Board of Trustees of the organization and in the administration of its affairs;
 - (iii) The Board of Trustees of the organization includes in its composition:
 - (a) The president of the organization;
 - (b) Persons who represent the interests of microfinance cooperatives and NGOs;
 - (c) and that the president and other management of the organization not be a member or associated with any microfinance institution member of the organization;
 - (iv) For the equitable allocation of reasonable dues, fees, and other charges among members;
 - (v) For the prevention of fraudulent and manipulative acts and practices, the promotion of just and equitable principles of microfinance operations, and, in general, the protection of its members and the public interest;
 - (vi) That its members and persons associated with its members shall be appropriately disciplined for violation of any provision of this Code, the rules or regulations thereunder, or the rules of the organization;
 - (vii) That a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any institution seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the organization of any person with respect to access to services offered by the organization or a member thereof.

Section 27. Every self-regulatory organization shall comply with the provisions of this Code, the rules and regulations thereunder, and its own rules, and enforce compliance therewith, notwithstanding any provision of the Corporation Code to the contrary, by its members, persons associated with its members or its participants.

Section 28. Powers of the SRO. The self-regulatory organization shall have the power to discipline a member, including the suspension or expulsion of such member, if such member has engaged in acts or practices inconsistent with just and equitable principles of fair dealing or in willful violation of any provision of the Code, any other law administered by the Securities and Exchange Commission, the rules or regulations thereunder, or the rules of the self-regulatory organization.

Section 29. A self-regulatory organization may summarily: (i) Suspend a member; or (ii) Suspend a member who the self-regulatory organization finds to be in such financial

or operating difficulty that the member cannot be permitted to continue to do business as a member with safety to microfinance clients, creditors, other members, or the self-regulatory organization: *Provided*, That the self-regulatory organization immediately notifies the Securities and Exchange Commission of the action taken. Any person aggrieved by a summary action pursuant to this paragraph shall be promptly afforded an opportunity for a hearing by the association in accordance with the provisions of paragraph (a) of this subsection. The Securities and Exchange Commission, by order, may stay a summary action on its own motion or upon application by any person aggrieved thereby, if the Commission determines summarily or after due notice and hearing (which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that a stay is consistent with the public interest and the protection of investors.

Section 30. *Certificate of Good Standing.* The SRO shall issue a Certificate of Good Standing to its active members for accreditation and other purposes.

CHAPTER 6

RESPONSIBILITIES

Section 31. *Financial Performance Management.* Microfinance institutions shall develop and implement systems, practices and controls for efficient, effective and sustainable financial operations through prudent resource management, asset-liability management, liquidity management, and financial information management, among other things.

Section 32. *Social Performance Management.* Microfinance institutions must have an institutionalized process of translating social mission into practice which includes setting clear social goals, monitoring progress towards these objectives and using information to improve performance and practice. Social performance information must be integrated into the MFI's work, operational routines, and value system to affect decision-making practices at both operational and strategic levels.

The microfinance institution must assess its social impact and ethical performance vis-à-vis its stated mission, vision, goals and universally accepted social performance standards. In view of this, the microfinance institution must design systems to achieve its social goals and develop a process whereby it can account for its social performance and evaluate its impact in the community and be accountable for its decisions and actions to its clients, donors, funders, and other partners.

Section 33. *Implementing the Client Protection Principles.* Microfinance institutions shall uphold and promote the universally accepted Client Protection Principles, as promoted by the Smart Campaign. To wit:

- a) *Appropriate product design and delivery.* Microfinance providers must take adequate care to design products and delivery channels in such a way that do not cause harm to clients. Products and delivery channels must be designed with client characteristics taken into account.
- b) *Prevention of over-indebtedness.* Microfinance providers must take adequate care in all phases of their credit process to determine that clients have the capacity to repay without becoming over-indebted. In addition, providers must implement and monitor internal systems that support prevention of over-indebtedness and foster efforts to improve market level credit risk management, such as credit information sharing.
- c) *Promotion of Transparency.* Microfinance providers must communicate clear, sufficient and timely information in a manner and language clients can understand so that clients can make informed decisions, especially with

respect to transparent information on pricing, terms and conditions of products, and other related services.

- d) *Practice of responsible pricing.* Pricing and terms and conditions must be set in a way that is affordable to clients while allowing for financial institutions to be sustainable. If applicable, providers must provide positive real returns on deposits and/or savings.
- e) *Fair and respectful treatment of clients.* Microfinance institutions and their agents must treat their clients fairly and respectfully and that they must not discriminate. Providers must ensure that there are adequate safeguards to detect and correct corruption as well as aggressive or abusive treatment by their staff and agents, particularly during the loan sales and debt collection processes.
- f) *Privacy of client data.* The privacy of individual client data must be respected in accordance with applicable laws, rules, and regulations. Such data will only be used for the purposes specified at the time the information is collected or as permitted by law, unless otherwise agreed with the client.
- g) *Mechanisms for complaint resolution.* Microfinance institutions must establish responsive mechanisms for complaints and problem resolution for their clients and use these mechanisms both to resolve individual problems and to improve their products and services.

Section 34. Execution of Loan Agreement. – For each loan made by a microfinance institution, a written note or document expressing a rate of interest must be executed by the borrower.

In addition, each microfinance institution shall faithfully comply with the disclosure requirements under the Truth in Lending Act and other related BSP, SEC or CDA circulars regarding loan transaction transparency. For this purpose, all microfinance institutions are encouraged to use a disclosure form in a language or vernacular familiar to the borrower.

CHAPTER 7

MICROFINANCE PROGRAMS, PRODUCTS, AND SERVICES

Section 35. Minimum Core Programs and Services. Microfinance institutions shall provide, at the minimum, microcredit or microlending; and financial literacy programs; or microsavings.

Section 36. Other Programs and Services. Other programs and services that MFIs may undertake include, but are not limited to, the following:

- a) *Agricultural Microfinance*, as defined or as being regulated by the relevant regulatory body;
- b) *Housing Microfinance*, as defined or as being regulated by the relevant regulatory body;
- c) *Microinsurance*, as defined or as being regulated by the relevant regulatory body;
- d) *Mobile or any innovative channels, or the use of information and communication technology (ICT) in microfinance operations*, such as mobile phone banking, Automated Teller Machines, etc.; or as defined or as being regulated by the relevant regulatory body;
- e) *Money Transfer and other related remittance services*, as defined or as being regulated by the relevant regulatory body.
- f) *Other innovative programs, products and services, which are not contradictory to existing circulars and/or regulations.*

CHAPTER 8

PERFORMANCE STANDARDS

Section 37. *Financial Performance Standards.* – The following financial performance standards, as promoted by the National Credit Council, or as may be determined by the SRO, are recognized as the minimum set of parameters for assessing the financial performance of microfinance institutions:

- (i) Portfolio quality
- (ii) Efficiency Indicators
- (iii) Sustainability Indicators
- (iv) Outreach Indicators for microfinance

Section 38. *Social Performance Standards.* Microfinance institutions shall abide by the Universal Standards for Social Performance Management, as promoted by the international Social Performance Task Force (SPTF), in order to examine and set standards for social performance and reporting for their own institution and to self-regulate, using the social performance benchmarks as guidelines. Microfinance institutions shall ensure quality services to clients that are appropriate to their needs and delivered efficiently in a convenient and timely manner; maintain high standards of professionalism based on honesty, equality and dedication to serve the poor; and ensure that the clients are protected against fraud and misrepresentation, deception or unethical practices. In providing microfinance services including lending and collection of dues, microfinance providers shall ensure fair practices, which balance respect for client's dignity and an understanding of a client's vulnerable situation. To wit, a microfinance institution shall maintain the following minimum social performance standards:

- a) The institution has a defined social mission, clear social objectives, and target clients.
- b) The institution has systems in place to monitor the achievement of its social goals.
- c) Members of the Board of Directors are committed to the institution's social goals.
- d) Members of the Board monitor the institution's social performance through a formal mechanism.
- e) Social performance information is integrated into regular management reports and strategic planning.
- f) Each employee understands his/her specific role in achieving the institution's social objectives.
- g) Employees should place high value on good customer service, reaching the institution's target clients, with strong client retention and accurate collection of social data.
- h) The financial institution protects clients by following the minimum standards for client protection certification.
- i) The institution bases product and service offerings on the needs and constraints of target clients.
- j) The institution regularly calculates its client retention rate and surveys exiting clients.
- k) The institution regularly collects feedback on client satisfaction and uses it to understand clients' experiences with products, services, and staff.
- l) The institution's human resource policies are transparent and protect employees.
- m) The institution pursues operational efficiency that keeps costs as low as possible and allows for increased outreach, but without sacrificing quality of service, rigorous lending methodology, and responsible staff compensation.
- n) The institution grows at a rate that is sustainable and does not put clients at risk.
- o) The institution earns a balanced return that allows sustainability without exploiting clients.

CHAPTER 9

RIGHTS AND PRIVILEGES OF MICROFINANCE INSTITUTIONS

Section 39. *Rights.* - Subject to regulatory action by the relevant regulators to implement this provision and to ensure sound, stable and efficient operations, microfinance institutions shall have the following powers, in addition to those granted by this Code and by other laws:

1. Engage in direct lending to microfinance borrowers up to PhP150,000, at any one time, or such other amount as the relevant regulator may deem appropriate.
2. Microfinance institutions organized as non-stock non-profit corporations may accept compulsory savings and/or voluntary savings, or capital build-up only from its members for purposes of fulfilling the Compensating Balance required in relation to the same member's loan. For the avoidance of doubt, acceptance of member savings to this purpose shall not cause the institution to be deemed engaged in deposit-taking operations.
3. Charge reasonable interest and collect such necessary fees and charges incidental to its microfinance operations.
4. Borrow money or incur such obligations for the purpose of relending to microfinance borrowers, subject to existing laws; Provided that a microfinance institution may not be deemed as engaged in quasi-banking activities if the proceeds of such borrowings are used for relending to microfinance borrowers.
5. Accept donations or grants or contributions in accordance with existing laws and regulations.
6. Invest its funds in any sound, nonspeculative enterprises and instruments, subject to such rules and regulations of the relevant regulator.
7. Engage in such other microfinance-related activities, subject to such rules and regulations of the relevant regulator.

Nothing in this section shall be construed as precluding a microfinance institution from performing such services or exercising such powers as may be granted by the *Bangko Sentral ng Pilipinas*, Cooperative Development Authority or the Securities and Exchange Commission or as may be incidental to its activities as a corporation, cooperative, association or business entity.

Section 40. *Prohibitions.* -

1. No person, juridical or natural, shall engage in or hold itself out as engaged in microfinance, or shall use as part of its name the term "microfinance" or any other title or name which tends to give the public impression that it is engaged in microfinance activities unless it has secured authority for that purpose in accordance with this Code.
2. The use of "microfinance" or any other name or title or combination of names and titles or any other deviation from the requirements of this section shall not be made, except upon prior authorization by the relevant regulatory authority specified in this Code.

Section 41. *Access to Special Credit Window* - Duly accredited MFIs shall be given ready access to special credit facilities sponsored by or made available through government financial institutions at preferential rates.

Section 42. *Technical Assistance* - Microfinance institutions are entitled to access any form of technical assistance from the government, donors, and other support organizations—in facilitating the linkage between the poor households/microenterprises and microfinance institutions, community organizations and capacity building of the target clientele; social preparation activities, and those that will lead to the broadening and deepening of microfinance services such as: development of microfinance products, training in microfinance technologies, and upgrading of performance standards, operating

systems and procedures.

Section 43. *Tax Treatment of Duly Registered and Licensed NGO and Cooperative Microfinance Institutions* – The operations of duly registered and accredited NGO and cooperative microfinance institutions shall not be subject to any government taxes and fees imposed under the Internal Revenue Laws and other tax laws. Transactions of microfinance cooperatives and NGOs between its clients shall be exempt from gross receipts tax, value added tax, and documentary stamp tax. Provided, That, the amount that would have been paid as taxes and saved by the microfinance institution by virtue of its exemption to the aforementioned taxes shall be used by the microfinance institution for furtherance of its operations and meeting its social objectives.

Section 44. *Tax on Donations to Microfinance Institutions*. – Donations to microfinance institutions shall be fully deductible from the gross income of the donor subject to the provisions of Section 34(C) of Republic Act No. 8424, as amended, otherwise known as the “National Internal Revenue Code of 1997.” Donations to microfinance institutions shall be exempt from donor’s tax subject to the qualifications of Section 101 of the same.

CHAPTER 10

TRANSITORY PROVISIONS

Section 46. *Compliance Period*. – Entities engaged in microfinance activities shall, within one year from the effectivity of this Code, conform to the provisions of this Code.

Section 47. *Microfinance Accrediting Entity*. All concerned government agencies shall extend the necessary assistance to expedite the formation of the Accrediting Entity.

Section 48. *Pending Assessments and Cases relating to Taxes on Microfinance Activities of Cooperatives and NGOs*. – In recognition of the social value fostered by microfinance institutions in addressing poverty at the grassroots, increasing self-reliance among the poor and expanding opportunities for them toward improving their quality of life, the microfinance institutions accredited in accordance with this Code, which have been assessed by the Bureau of Internal Revenue prior to its enactment, shall be entitled to a tax amnesty. The tax amnesty shall cover gross receipts tax, value added tax, percentage tax, documentary stamps tax and other related national internal revenue taxes, with or without assessments duly issued or tax collection cases filed therefore, arising from microfinance loans extended by microfinance institutions organized as cooperatives and non-stock non-profit corporations to its members for the period preceding the effectivity of this Code. The Bureau of Internal Revenue shall cause all such pending tax assessments and tax collection cases to be withdrawn and it shall not issue any tax assessment for the collection of such taxes upon effectivity of this Code.

CHAPTER 11

FINAL PROVISIONS

Section 49. *Implementing Rules*. – Within six months after the approval of this Code, the Bangko Sentral ng Pilipinas, the Cooperative Development Authority and the Securities and Exchange Commission upon consultation with the microfinance sector, shall promulgate the rules and regulations implementing the provisions of this Code.

Section 50. *Penal Provisions*. – A fine of not less than Ten thousand pesos (P10,000.00) and not more than Fifty thousand pesos (P50,000.00) or imprisonment of not less than six months but not more than ten (10) years or both, at the discretion of the court, shall be imposed upon:

1. Any individual or individuals, or in case of an organization, its officers, directors.

trustees and managing officers, who shall knowingly and willingly:

- a. Engage in any activity sought to be regulated under this Code without a validly subsisting authority from the relevant regulatory authority;
- b. Hold themselves out to be a microfinance institution, either through advertisement in whatever form, whether in its stationery, commercial paper, or other document, or through other representations without authority;
- c. Make use of a trade or firm name containing the words "microfinance" or "MFI" or any other designation that would give the public the impression that it is engaged in microfinance as defined in this Code without authority;
- d. Knowingly and willingly make any statement in any application, report, or document required to be filed under this Code, which statement is false or misleading with respect to any material fact;
- e. Engage in other acts inimical or adverse to the microfinance industry as may be defined by the relevant regulator; and
- f. Violate the provisions of this Code.

2. Any officer, employee or examiner of the relevant regulatory authority directly charged with the implementation of this Code or of other government agencies who shall commit, connive, aid, or assist in the commission of acts enumerated under Subsection 1 of this Section.

Section 51. *Interpretation and Construction.* - In case of doubt as to the meaning of any provision of this Code or the regulations issued in pursuance thereof, the same shall be resolved liberally in favor of microfinance institutions.

In the resolution of controversies arising under this Code where no legal provision or jurisprudence applies, resort may be had to international best practices and/or generally accepted standards and norms in microfinance operations, administration, regulation, and supervision.

Section 52. *Repeals.* Except as expressly provided by this Code, all laws or parts thereof inconsistent with any provision of this Code shall be deemed repealed.

Section 53. *Separability.* - Should any part of this Code be declared unconstitutional, the rest of the provisions shall not be affected thereby.

Section 54. *Effectivity.* - This Code shall take effect fifteen (15) days from the publication in a newspaper of general circulation.

Approved: